§ 630.1115 Limitations on the use of donated annual leave.

Donated annual leave transferred to a leave recipient under this subpart may not be—

(a) Included in a lump-sum payment under 5 U.S.C. 5551 or 5552;

(b) Recredited to a former employee who is reemployed by a Federal agency; or

(c) Used to establish initial eligibility for immediate retirement or acquire eligibility to continue health benefits into retirement under 5 U.S.C. 6302(g).

§ 630.1116 Termination of a disaster or emergency.

The disaster or emergency affecting the employee as an emergency leave recipient terminates at the earliest occurrence of the following conditions.

(a) When the employing agency determines that the disaster or emergency has terminated;

(b) When the employee's Federal service terminates;

(c) At the end of the biweekly pay period in which the employee, or his or her personal representative, notifies the emergency leave recipient's agency that he or she is no longer affected by such disaster or emergency;

(d) At the end of the biweekly pay period in which the employee's agency determines, after giving the employee or his or her personal representative written notice and an opportunity to answer orally or in writing, that the employee is no longer affected by such disaster or emergency; or

(e) At the end of the biweekly pay period in which the employee's agency receives notice that OPM has approved an application for disability retirement for the emergency leave recipient under the Civil Service Retirement System or the Federal Employees' Retirement System, as appropriate.

§ 630.1117 Procedures for returning unused donated annual leave to emergency leave donors and leave banks.

(a) When a disaster or emergency is terminated, any unused annual leave donated to the emergency leave transfer program must be returned by the employing agency to the emergency leave donors, and if annual leave was donated by any leave bank(s) it must be returned to the leave bank(s).

(b) Each agency must determine the amount of annual leave to be restored to any leave bank and/or to each of the emergency leave donors who, on the date leave restoration is made, is employed in the Federal service. The amount of unused annual leave to be returned to each emergency leave donor and/or leave bank must be proportional to the amount of annual leave donated by the employee or the leave bank to the emergency leave transfer program for such disaster or emergency, and must be returned according to the procedures outlined in § 630.911(b). Any unused annual leave remaining after the distribution will be subject to forfeiture.

(c) Annual leave donated to an emergency leave transfer program for a specific disaster or emergency may not be transferred to another emergency leave transfer program established for a different disaster or emergency.

(d) At the election of the emergency leave donor, the employee may choose to have the agency restore unused donated annual leave by crediting the restored annual leave to the emergency leave donor's annual leave account in either the current leave year or the first pay period of the following leave year.

§ 630.1118 Protection against coercion.

(a) An employee may not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any emergency leave donor or emergency leave recipient for the purpose of interfering with any right such employee may have with respect to donating, receiving, or using annual leave under this subpart.

(b) For the purpose of paragraph (a) of this section, the term ''intimidate, threaten, or coerce'' includes promising to confer or conferring any benefit (such as appointment or promotion or compensation) or effecting or threatening to effect any reprisal (such as deprivation of appointment, promotion, or compensation).

[FR Doc. E8–26220 Filed 11–3–08; 8:45 am]
BILLING CODE 6325–39–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

7 CFR Part 1980

RIN 0575–AC73

Income Limit Modification

AGENCY: Rural Housing Service, USDA.

ACTION: Direct final rule.

SUMMARY: The Rural Housing Service (RHS) is amending its exiting income limit structure for the Single Family Housing Guaranteed Loan Program (SFHGLP). The effect of this action is to provide more efficient service to lenders, investors and Agency staff by modifying the existing Rural Development eight (8) tiered income structure into a simplified two (2) tiered structure. This modification will simplify program requirements and the qualification process.

DATES: This rule is effective January 20, 2009, unless we receive written adverse comments or written notices of intent to submit adverse comments on or before January 5, 2009.

FOR FURTHER INFORMATION CONTACT: Joaquín Tremols, Acting Director, Single Family Housing Guaranteed Loan Division, USDA, Rural Development, 1400 Independence Avenue, SW., Room 2250, Stop 0784, Washington, DC 20250, telephone (202) 720–1465, *e-mail: joaquin.tremols@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION:

Classification

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

Civil Justice Reform

This final rule has been reviewed under Executive Order 12988, 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 the regulations of the National Appeals Division of USDA at (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 date.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1996 (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 this rule. This 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 Rural Development 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 not required.

Federalism Assessment—Executive Order 13132

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 States 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. 601–602) the undersigned has determined and certified by signature of this document that this rule will not have a significant impact on a substantial number of lenders or 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 on loans made to individuals.

Intergovernmental Consultation

This program/activity is excluded from 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 10.410, Very low- to Moderate-Income Housing Loans (Section 502 Rural Housing Loans).

Paperwork Reduction Act

This rule does not revise or impose any new information collection or recordkeeping requirements.

E-Government Act Compliance

The RHS 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.

Background

On April 10, 2008 [73 FR 19433], RHS published an advanced notice of proposed rule making with request for comments on the existing income limits structure.

Instead of eligible adjusted income based on households ranging from 1–8 persons according to 7 CFR § 1980.345(a) and RD Instruction 1980–D, Exhibit C, a two-tier income structure consisting of a 1–4 member household and a 5–8 member household is adopted. The new adjusted income limit for the 1–4 member household, for example, would be the current adjusted income limit for the 4-member household. The present add-on income limits for larger households will remain unchanged. Eight percent is added to the limit for each person in excess of 8 persons. The present eight-tier income limits (1–8 persons) are cumbersome, and the proposed consolidation is expected to simplify program delivery as well as allow the agency to serve additional qualified homebuyers. The SFHGLP is in partnership with many State Housing Agencies throughout the United States. The majority of these agencies already maintain a two-tier income structure, and this change would allow a seamless integration of the respective programs. This policy would not apply to other Rural Development housing programs. RHS therefore adopts a two-tier income structure, and current policy on determining moderate income according to statutory requirements and raising the income limit for families in excess of 8 persons. RD Instruction 1980–D, Exhibit C, listing the specific dollar limits for areas by state is being revised to adopt the two-tier system also. Moderate income figures continue to be provided by the United States Department of Housing and Urban Development (HUD). Rural Development only modifies the HUD figures for the state of Alaska to comply with Public Law 110–5, Section 754 (February 15, 2007). That law provides in the case of a high-cost isolated rural area in Alaska not connected to a road system, the maximum level for single family housing assistance will be 150 percent of the median household income level in the nonmetropolitan area of the state, and 115 percent of all other eligible areas of the state. RHS considers this rule to be noncontroversial and unlikely to result in adverse comments.

Discussion of Comments

Rural Development received comments from 429 respondents. Comments were from mortgage lenders, mortgage brokers, secondary market sources, realtors, employee groups, builder organizations and agency employees, and various other interest groups.

There were 420 respondents in favor of the income limit modification and that it was:

1. Beneficial to the homebuyer as the change would allow an increased number of families to participate in the program, allowing more families to be able to obtain the American dream of homeownership, and that this program improvement is needed because it is the only true 100% loan program available to non-veterans. (383 comments)

2. Beneficial to the lender in that it would simplify the process and make the lending limits more consistent with the state housing agencies across the country and all were pleased with the two-level income modification. (174 comments)

3. Beneficial to the rural area itself as the change would bring much needed workers and their families to underserved areas, create more homeownership opportunities for working middle class families in rural America, provide a positive change to the much troubled housing and mortgage industry in rural America, help build and stimulate a more robust and solid economy in the rural areas and lastly, open the rural housing market to more individuals. (94 comments)

Nine respondents simply stated that the proposed change would be for the good of the program.

Six respondents thought the proposed change would be beneficial in one or more of the above categories; however, they had additional concerns.

One respondent commented that both the lender and the borrower would benefit from the proposed changes, but was concerned that there should also be an increase in our funding levels.

Response: The SFHGLP depends on appropriated funds each year to continue the program. The Administration each year proposes a budget to the United States Congress.

After considering the Administration's budget, Congress appropriates funding and sends an appropriation bill to the President for review and concurrence. Any increase in funding is beyond the scope of this regulation. No action is taken based upon this comment.

One respondent commented that the borrower would benefit from the program but that the income limits were overly restrictive because they are too low.

Response: Section 502(h)(3) of the Housing Act of 1949, as amended, however, requires that the program be delivered only to low- and moderate-income borrowers whose incomes do not exceed 115 percent of the median income of the area as determined by the Secretary. This limit is met if the borrower's income does not exceed 115 percent of the median family income of the United States under Section 751 of Public Law 106–387 (October 28, 2000). In certain areas of Alaska, the limit is 150 percent of the median household income level in the nonmetropolitan areas of the state pursuant to § 754 of Public Law 110–5 (February 15, 2007). No action, therefore, can be taken to exceed the statutory limits.

Two respondents stated that rural areas would greatly benefit from the proposed changes, but that we should have no income limits at all.

Response: Once again, the Housing Act of 1949, as amended, requires that the program be delivered only to low- and moderate-income borrowers. By statute, the income limits cannot be made higher than low- and moderate-income levels. No action is taken based upon these comments.

One respondent commented that the Agency should consider the possibility of refinancing any type of loan into our program.

Response: Under Section 502(h)(14) of the Housing Act of 1949, as amended, only Section 502 Guaranteed and Direct loans may be refinanced with a Section 502 Guarantee. Refinance limitations are statutory and beyond the scope of this rule. No action is taken based upon this comment.

One respondent commented that the Agency is too strict with debt-to-income ratios and should be more flexible in this regard.

Response: USDA Rural Development already allows lenders to exceed the baseline ratio thresholds with documented compensating factors and Agency concurrence. This comment also is beyond the scope of this rule making. No action is taken based on this comment.

One respondent stated that borrowers would benefit from the program, but was hoping RHS would still allow income adjustments for day care expenses, a $480 deduction for dependents.

Response: This proposed income limit change will not affect eligible deductions currently allowed, and the adjustment referred by the commentator will still be permissible. No action is taken based on this comment.

Of the entire 429 comments received, each one had one or more positive comments. There were no negative responses.

Dated: October 23, 2008.

Russell T. Davis,

Administrator, Rural Housing Service.

[FR Doc. E8–25849 Filed 11–3–08; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

7 CFR Part 3560

Direct Multi-Family Housing Loans and Grants

AGENCY: Rural Housing Service, USDA.

ACTION: Final rule.

SUMMARY: The Agency is revising its existing regulation governing Rural Rental Housing loans and grants. This action is necessary to provide editorial corrections to 7 CFR Part 3560, subpart N, ''Housing Preservation.'' The intended effect is to ensure the Agency's field offices have correct guidance on processing prepayment requests.

DATES: *Effective Date:* November 4, 2008.

FOR FURTHER INFORMATION CONTACT: Cynthia Reese-Foxworth, Senior Loan Specialist, Multi-Family Housing Portfolio Management Division, Office of Rental Housing Preservation, U.S. Department of Agriculture, STOP 0782, 1400 Independence Avenue, SW., Washington, DC 20250, telephone: (202) 720–1940.

SUPPLEMENTARY INFORMATION:

Classification

This action is not subject to the provisions of Executive Order 12866 since it involves only minor grammatical corrections and clarifications. This action is not published for prior notice and comment under the Administrative Procedure Act since it involves only minor grammatical corrections and clarifications and publication for comment is unnecessary and contrary to the public interest.

Programs Affected

The Catalog of Federal Domestic Assistance programs impacted by this action are as follows:

10.405—Farm Labor Housing Loans and Grants.

10.415—Rural Rental Housing Loans.

Intergovernmental Consultation

Programs with Catalog of Federal Domestic Assistance numbers 10.405 and 10.415 are subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Civil Justice Reform

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. In accordance with this rule: (1) Unless otherwise specifically provided, 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 except as specifically prescribed in the rule; and (3) administrative proceedings of the National Appeals Division (7 CFR part 11) must be exhausted before litigation against the Department is instituted.

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 effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, the Agencies 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 agencies 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 the private sector. Thus, the rule is not subject to the requirements of section 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.''