Proposed Rules

Federal Register
Vol. 63, No. 193
Tuesday, October 6, 1998

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

Rural Business-Cooperative Service

Rural Utilities Service

Farm Service Agency

7 CFR Part 1924

RIN 0575–AC11

Manufactured Housing Thermal Requirements

AGENCIES: Rural Housing Service, Rural Business-Cooperative Service, Rural Utilities Service, Farm Service Agency, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Housing Service (RHS), a part of the former Farmers Home Administration (FmHA), and now part of the Rural Development Mission Area of the U.S. Department of Agriculture, proposes to amend its regulations regarding the thermal requirements for manufactured homes. The intended effect is to make the references to thermal requirements for manufactured homes consistent with requirements for the U.S. Department of Housing and Urban Development (HUD) zones that correspond to the RHS climatic zones. Since HUD increased its energy requirements for manufactured homes, RHS has compared these new requirements with the RHS thermal requirements. Our analysis indicates that the thermal performance of a unit built to the HUD requirements is roughly comparable to the thermal performance of a unit built to the requirements of the RHS climatic zones. This will reduce the burden on the manufactured housing industry, RHS field personnel, and most importantly RHS customers.

DATES: Comments must be submitted on or before December 7, 1998.

ADDRESSES: Submit written comments via the U.S. Postal Service, in duplicate, to the Regulations and Paperwork Management Branch, Attention: Richard Gartman, Rural Development, U.S. Department of Agriculture, Stop 0742, 1400 Independence Ave., SW, Washington, DC 20250–0742. Submit written comments via Federal Express Mail, in duplicate, to the Regulations and Paperwork Management Branch, Attention: Richard Gartman, USDA–Rural Development, 3rd Floor, 300 E Street, SW., Washington, DC 20546. Also, comments may be submitted via the Internet by addressing them to ''comments@rus.usda.gov'' and must contain ''thermal'' in the subject line. All comments will be available for public inspection during regular work hours at the 300 E Street, SW. address listed above.

FOR FURTHER INFORMATION CONTACT: Samuel J. Hodges III, Architect, Program Support Staff, Rural Housing Service, U.S. Department of Agriculture, Stop 0761, Washington, DC 20250–0761, Telephone: (202) 720–9653.

SUPPLEMENTARY INFORMATION:

Classification

This rule has been determined to be significant and was reviewed by the Office of Management and Budget under Executive Order 12866.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the head of the Agency certifies that this rule will not have a significant economic impact on a substantial number of small entities. Manufacturers, large and small, will no longer have to conform with the energy requirements of two Federal agencies. As required by federal law, manufacturers will continue to follow the Federal Manufactured Housing Construction and Safety Standard (FMHCSS) requirements. Notwithstanding the above, a regulatory impact analysis was prepared and determined that no significant economic impact will occur on a substantial number of small entities. To the contrary, the rule will be of substantial benefit by reducing the number of regulations and different standards the industry must meet.

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 issuing 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, Pub. L. 91–190, an Environmental Impact Statement is not required.

Intergovernmental Consultation

This action affects the following programs as listed in the Catalog of Federal Domestic Assistance:

10.405 Farm Labor Housing Loans and Grants
10.410 Very Low to Moderate Income Housing Loans
10.415 Rural Rental Housing Loans

All of the affected programs, except 10.410 Very Low to Moderate Income Housing Loans, are subject to the provisions of Executive Order 12372 that requires intergovernmental consultation with State and local officials prior to making individual loans.

Civil Justice Reform

This proposed rule has been reviewed under Executive Order 12998, Civil Justice Reform. If this proposed rule is adopted: (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 bringing suit.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act (44 U.S.C. 3507), the information collection requirements included in this rule have been approved through 7 CFR part 1924, subpart A. The assigned OMB number is 0575–0042. This rule does not revise or impose any new information collection or recordkeeping requirements from those approved by the Office of Management and Budget.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 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,

RHS 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, and 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 RHS 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 today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Discussion

Subsection 502(e)(1) of the Housing Act of 1949, 42 U.S.C. 1472(e)(1), establishes standards for manufactured homes which will be financed with RHS single family housing loans under section 502 of the Housing Act of 1949. Subsection 502(e)(1)(c) provides that manufactured homes must meet the energy conservation requirements applicable to other non-manufactured housing financed by RHS single family housing loans until the agency established energy conserving requirements under section 502(e)(2). The purpose of this regulation is to establish energy conserving requirements specifically designed for manufactured homes pursuant to section 502(e)(2).

The section 502(e) criteria for energy conserving requirements for RHS financed manufactured housing require that the requirements: ''(A) reduce the operating costs for a borrower by maximizing the energy savings and be cost-effective over the life of the manufactured home or the term of the loan, whichever is shorter, taking into account variations in climate, types of energy used, the cost to modify the home to meet such requirements, and the estimated value of the energy saved over the term of the mortgage; and (B) be established so that the increase in the annual loan payment resulting from the added energy conserving requirements in excess of those required by the standards prescribed under title VI of the Housing and Community Development Act of 1974 [42 U.S.C. 5401 et seq.] shall not exceed the projected savings in annual energy costs.''

The agency is adopting the energy conserving standards established by HUD under title VI of the Housing and Community Development Act of 1974 and, as hereinafter discussed, has determined that these zoned standards maximize energy savings and are cost-effective to the borrower. Under this rule manufactured homes will no longer be required to meet the RHS thermal requirements applicable to non-manufactured single family housing financed by RHS. Exhibit D of 7 part 1924, subpart A, adopts the HUD thermal design zone requirements for the Federal Manufactured Home Construction and Safety Standards (FMHCCS) that correspond to the RHS climatic zones.

The existing RHS requirements for a manufactured unit are: (1) The unit must meet the Federal Manufactured Housing Constructions and Safety Standards, and (2) the unit must meet the same RHS thermal requirements as are applicable to other, non-manufactured single family housing, financed by RHS prior to the National Energy Policy Act of 1992. Since HUD increased its energy requirements for manufactured homes (58 FR 54975, Oct. 25, 1993, effective Oct. 25, 1994), RHS has compared these new requirements with the RHS thermal requirements to evaluate the differences.

Our analysis indicates that the thermal performance of a unit built to the HUD requirements is roughly comparable to the thermal performance of a unit built to the requirements of the corresponding RHS climatic zones. The table below lists the HUD zones that are roughly comparable to the RHS climatic zones.

RHS climate zone (degree-days)	HUD zones (state boundary)
0–1000	1
1001–2500	2
2501–4500	2
4501–6000	3
> 6000	3

The HUD increases in the thermal requirements of the building envelope are substantial. However, HUD's requirements are not based on climatic region; instead, they are based on state boundary. As an example, in the State of California there are 5 RHS climatic zones; whereas, HUD has identified the entire state as a single zone (HUD Zone 2). In California, the HUD-code home would be acceptable to RHS in climates with less than 4500 heating degree days. However, in colder climates of California, the HUD Zone 2 unit would not be adequate. The HUD Zone 3 requirements are roughly comparable to the RHS requirements for climatic zones greater than 4500 heating degree days. Similar comparisons can be made in other states.

On this basis, in order to simplify requirements we are proposing to amend our current energy requirements for manufactured housing to adopt the design requirements for the HUD zones that correspond to the RHS climatic zones.

There are many potential benefits to the manufactured housing industry, RHS, and most importantly, RHS customers:

1. Manufacturers will no longer have to conform with the energy requirements of two Federal agencies. As required by federal law, manufacturers will continue to follow the FMHCSS for non-thermal requirements.
2. Manufacturers will not have to retain qualified consultants to certify that designs conform with the existing RHS thermal requirements.
3. Manufacturers will no longer have to substantiate design conformance to RHS thermal standards.
4. Loan processing will be expedited since less paperwork will have to be reviewed by RHS loan approval officials.
5. RHS will reduce its regulatory requirements.
6. This will simplify on-site inspection by the RHS Community Development Managers (CDM). Since each local Office already knows their climatic zone, and since HUD requires the thermal zone for which a unit is built to be posted on a sticker in the unit, a CDM could quickly determine if a unit is acceptable by simply inspecting the HUD required sticker. RHS's current requirement for a separate certification sticker would be deleted.
7. The RHS customer will have a wider selection of manufactured homes to chose from.
8. The energy efficiency of the manufactured home will be roughly the same and in some cases exceed existing RHS thermal requirements.
9. The elimination of a separate energy efficiency requirement applicable only to RHS manufactured homes will make lending institutions more willing to guarantee RHS customer loans for manufactured homes.

List of Subjects in 7 CFR Part 1924

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

Therefore, chapter XVIII, title 7, Code of Federal Regulations is proposed to be amended 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 adding paragraph IV. G to read as follows:

Exhibit D to subpart A—Thermal Performance Construction Standards

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IV. Minimum Requirements

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G. *New Manufactured Housing*

The Uo Value Zone indicated on the ''Heating Certificate'' for comfort heating shall be equal to or greater than the HUD Zone listed in the following table:

RHS climate zones (winter degree days)	FMHCCS (HUD code) Uo value zones
0–1000	1
1001–2500	2
2501–4500	2
4501–6000	3
>6000	3

Example: If a manufactured home is to be located in a geographic area having between 2501 and 4500 RHS winter degree days, the Agency will accept a Uo value Zone 2 unit or Zone 3 unit constructed to the HUD FMHCCS.

If a central air conditioning system is provided by the home manufacturer a ''Comfort Cooling Certificate'' must be permanently affixed to an interior surface of the unit that is readily visible. This certificate may be combined with the heating certificate on the data plate.

* * * * *

Dated: September 28, 1998.

Jill Long Thompson,

Under Secretary, Rural Development.

[FR Doc. 98–26761 Filed 10–5–98; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

[OH–243–FOR, #76]

Ohio Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; reopening of public comment period.

SUMMARY: OSM is reopening the public comment period on a proposed amendment to the Ohio regulatory program (Ohio program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of changes to provisions of the Ohio rules pertaining to permitting requirements, bond release, and performance standards. The amendment is intended to revise the Ohio program to be consistent with the corresponding Federal regulations.

DATES: We will accept written comments until 4:00 p.m., [E.D.T.], October 21, 1998.

ADDRESSES: You should mail or hand deliver written comments to George Rieger, Field Branch Chief, at the address listed below.

You may review copies of the Ohio program, the proposed amendment, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the proposed amendment by contacting OSM's Appalachian Regional Coordinating Center.

George Rieger, Field Branch Chief, Appalachian Regional Coordinating Center, Office of Surface Mining Reclamation and Enforcement, 3 Parkway Center, Pittsburgh, PA 15220, Telephone: (412) 937–2153

Ohio Division of Mines and Reclamation, 1855 Fountain Square Court, Columbus, Ohio 43224, Telephone: (614) 265–1076

FOR FURTHER INFORMATION CONTACT: George Rieger, Field Branch Chief, Appalachian Regional Coordinating Center, Telephone: (412) 937–2153. Internet: grieger@escgw.osmre.gov.

SUPPLEMENTARY INFORMATION:

I. Background on the Ohio Program

On August 16, 1982, the Secretary of the Interior conditionally approved the Ohio program. You can find background information on the Ohio program, including the Secretary's findings, the disposition of comments, and the conditions of approval in the August 10, 1982, **Federal Register** (42 FR 34688). You can find later actions concerning the Ohio program at 30 CFR 935.11, 935.12, 935.15, and 935.16.

II. Description of the Proposed Amendment

By letter dated December 30, 1997 (Administrative Record No. OH–2174–05), Ohio submitted a proposed amendment to its program in accordance with SMCRA and 30 CFR 732.17(c). Ohio proposed to amend the provisions of the Ohio Administrative Code (OAC) at: OAC 1501:13–4–05—Permit Application Requirements, OAC 1501:13–4–12—Special Categories of Mining, OAC 1501:13–4–14—Underground Permit Application Requirements, OAC 1501:13–7–05—Release of Performance Bond, and OAC 1501:13–9–04—Performance Standards. We announced receipt of the amendment in the January 23, 1998, **Federal Register** (63 FR 3507).

During our review of the amendment, we identified concerns with Ohio's rules at OAC 1501 at subsections 13–4–12, 13–4–05, 13–4–14, and 13–9–04. We notified Ohio of our concerns via electronic mail on May 5, 1998 (Administrative Record No. OH–2174–11). By letter dated June 2, 1998 (Administrative Record No. OH–2174–12), Ohio submitted revisions at OAC:

1501:13–4–05(H)(1)(c), (H)(2)(c), (H)(6)
1501:13–4–14(H)(1)(c), (H)(2)(c), (H)(6)
1501:13–9–04(H)(1)(c)(ii), (H)(1)(d)

to reference the criteria in Natural Resources Conservation Service's Technical Release No. 60 (TR 60), ''Earth Dams and Reservoirs.''

During a conference call on July 16, 1998 (Administrative Record No. OH–2174–13), we informed Ohio that one issue remained at OAC 1501:13–4–12. On September 4, 1998, Ohio telefaxed us revisions to subsection 13–4–12(E) (Administrative Record No. OH–2174–16). The revised language is: ''The aggregate total prime farmland acreage will not be decreased from that which existed prior to mining. Permanent water bodies, if any, to be constructed during mining and reclamation operations will be located within the post-reclamation non-prime farmland portions of the permit area. If the prime farmland acreage is to be restored in a location other than the premining location, the relocation must be approved by the Chief and the permittee must obtain the consent of all affected surface owner(s).''