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## DEPARTMENT OF AGRICULTURE

### Rural Housing Service

#### 7 CFR Part 1924

RIN 0575-AC63

#### Surety Requirements

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

**ACTION:** Final rule.

**SUMMARY:** The Rural Housing Service is amending its regulations to change the threshold for surety requirements guaranteeing payment and performance from a \$100,000 contract amount to the maximum Rural Development Single Family Housing area lending limit. This limit will vary by locality. This will liberalize the requirement for surety and take into account the increased construction cost of single family homes in Rural Development's Single Family Housing Program. This will ease the burden on small contractors for whom obtaining surety is difficult and expensive, thereby reducing costs to our single family housing borrowers.

On August 26, 2005 (70 FR 50222), the Rural Housing Service proposed to change the surety requirements for Single Family Housing loans under Section 502 of the Housing Act of 1949 (42 U.S.C. 1472). The rule, open for comment for a period of 60 days, received two comments regarding its implementation in Rural Housing procedure. The first comment is in favor of this final rule, thus reinforcing the idea that reducing costs for the contractor by raising the threshold at which surety is required, ultimately benefits the borrower through greater cost savings. The second comment does not favor the proposed rule. The essence of this argument is based upon protecting federal funds, by providing surety (performance and payment bonds). The cost of surety places a greater financial burden on the

borrower, as well as making it more difficult for small contractors in rural areas to service RHS borrowers. RHS oversees the construction process until the project is complete, insuring that Federal funds are properly disbursed for the adequate amount of completed construction demonstrated by the contractor. In addition, surety requirements are not entirely eliminated in Single Family Housing. If the borrower requests surety or the loan official feels that additional security is needed for a specific project, then surety will be provided.

**DATES:** *Effective Date:* June 1, 2006.

#### 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 Rural Housing Service 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.

##### Paperwork Reduction Act

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

##### 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." RHS 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, Pub. L. 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, and Number 10.415, Rural Rental Housing Loans. Rural Rental Housing Loans will be affected for those construction contracts above the applicable Rural Development area loan limit.

##### Intergovernmental Review

RHS 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. Rural Rental Housing Loans Program, Number 10.415, conducts intergovernmental reviews on a case-by-case basis. An intergovernmental review for this revision is not required or applicable.

##### Background

RHS administers the Direct Single Family Housing Loan and Grant program pursuant to 7 CFR part 3550,

designed to assist very low and low-income households to obtain modest, decent, safe, and sanitary housing for use as permanent residences in rural areas. Direct loans may be used to buy, build, or improve the applicant's permanent residence. RHS regulations in 7 CFR part 1924, subpart A, contain requirements for construction which is funded with direct RHS loans, including direct single family housing loans. The regulation also applies to larger direct funded construction projects by other programs in the Rural Development mission area. This regulation was originally promulgated on March 13, 1987 in 52 FR 41833. One of the requirements in this regulation is that for construction work performed by the contract method (where the borrower contracts with a builder for the construction), the builder must obtain a surety bond guaranteeing payment and performance in the amount of the contract when the contract exceeds \$100,000. This amount has remained unchanged since 1987. In 1987, a single family house constructed and financed under the direct single family housing loan program would not exceed \$100,000. Since 1987, construction costs for single family houses financed by RHS have dramatically increased so that now construction costs frequently exceed \$100,000. The requirement that builders obtain surety bonds when the construction contract exceeds \$100,000 has made it difficult for contractors to compete for direct single family housing projects financed by RHS. While the regulation contains internal exceptions for the \$100,000 requirement, none of these exceptions satisfactorily resolves the cost burden for builders of direct single family housing.

The revision to 7 CFR 1924.6(a)(3)(i)(A) will facilitate the process of construction by raising the threshold when the contractor must acquire surety bonds. The purpose of this regulation is to revise the existing surety bond requirement for direct funded single family housing. The new threshold will be when the contract exceeds the applicable RHS area single family housing loan limit as established pursuant to 7 CFR 3550.63. The limit for any particular area is available from any Rural Development office.

The provisions in 7 CFR 1924.6(a)(3)(i) that require payment and performance bonds when construction is under this threshold amount remain unchanged. RHS has determined that changing the threshold for payment and performance bonds provides for more flexibility, is locality based, borrowers are adequately protected, and housing costs are reduced.

#### List of Subjects in 7 CFR Part 1924

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

■ For the reasons set forth in the preamble, chapter XVIII, title 7, of the Code of Federal Regulations is 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. Section 1924.6 is amended by revising paragraph (a)(3)(i)(A) to read as follows:

##### § 1924.6 Performing development work.

\* \* \* \* \*

(a) \* \* \*

(3) \* \* \*

(i) \* \* \*

(A) The contract exceeds the applicable Rural Development Single Family Housing area loan limit as per 7 CFR 3550.63. (Loan limits are available at the local Rural Development field office.)

\* \* \* \* \*

Dated: March 30, 2006.

**Russell T. Davis,**

*Administrator, Rural Housing Service.*

[FR Doc. 06-4089 Filed 5-1-06; 8:45 am]

**BILLING CODE 3410-XV-P**

#### NUCLEAR REGULATORY COMMISSION

#### 10 CFR Part 72

RIN 3150-AH93

#### List of Approved Spent Fuel Storage Casks: NUHOMS® HD Addition

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Direct final rule.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is amending its regulations to add the NUHOMS® HD cask system to the list of approved spent fuel storage casks. This direct final rule allows the holders of power reactor operating licenses to store spent fuel in this approved cask system under a general license.

**DATES:** The final rule is effective July 17, 2006, unless significant adverse

comments are received by June 1, 2006. A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. If the rule is withdrawn, timely notice will be published in the **Federal Register**.

**ADDRESSES:** You may submit comments by any one of the following methods. Please include the following number (RIN 3150-AH93) in the subject line of your comments. Comments on rulemakings submitted in writing or in electronic form will be made available for public inspection. Because your comment will not be edited to remove any identifying or contact information, the NRC cautions you against including personal information such as social security numbers and birth dates in your submission.

Mail comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Rulemakings and Adjudications Staff.

E-mail comments to: [SECY@nrc.gov](mailto:SECY@nrc.gov). If you do not receive a reply e-mail confirming that we have received your comments, contact us directly at (301) 415-1966. You may also submit comments via the NRC's rulemaking Web site at <http://ruleforum.llnl.gov>. Address questions about our rulemaking Web site to Carol Gallagher (301) 415-5905; e-mail [cag@nrc.gov](mailto:cag@nrc.gov). Comments can also be submitted via the Federal eRulemaking Portal <http://www.regulations.gov>.

Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. Federal workdays [telephone (301) 415-1966].

Fax comments to: Secretary, U.S. Nuclear Regulatory Commission at (301) 415-1101.

Publicly available documents related to this rulemaking may be viewed electronically on the public computers located at the NRC's Public Document Room (PDR), O-1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. Selected documents, including comments, can be viewed and downloaded electronically via the NRC rulemaking Web site at <http://ruleforum.llnl.gov>.

Publicly available documents created or received at the NRC after November 1, 1999, are available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/NRC/ADAMS/index.html>. From this site, the public can gain entry into the NRC's Agencywide Document Access and