

# Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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## DEPARTMENT OF AGRICULTURE

### Rural Housing Service

#### 7 CFR Part 1924

RIN 0575-AC60

#### Surety Requirements

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

**ACTION:** Direct 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.

**DATES:** This rule is effective April 7, 2005, unless we receive written adverse comments or written notices of intent to submit adverse comments on or before March 8, 2005. If we receive such comments or notices, we will publish a timely document in the **Federal Register** withdrawing the direct final rule.

**ADDRESSES:** You may submit adverse comments or notice of intent to submit adverse comments to this rule by any of the following methods:

- Agency Web site: <http://rdinit.usda.gov/regs/>. Follow the instructions for submitting comments on the Web site.

- E-Mail: [comments@usda.gov](mailto:comments@usda.gov). Include the RIN number (0575-AC60) in the subject line of the message.

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

- Mail: Submit written comments via the U.S. Postal Service to the Branch Chief, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, STOP 0742, 1400 Independence Avenue, SW., Washington, DC 20250-0742.

- Hand Delivery/Courier: Submit written comments via Federal Express Mail or another mail courier service requiring a street address to the Branch Chief, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, 300 7th Street, SW., 7th Floor, Suite 701, Washington, DC 20024.

All written comments will be available for public inspection during regular work hours at the 300 7th Street, SW., address listed above.

#### 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@usda.gov](mailto:michel.mitias@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, 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, 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.

**Direct Final Rule**

It is the policy of the Rural Housing Service (RHS) to publish rules determined to be non-controversial and unlikely to result in adverse comments as direct final rules. RHS policy for direct final rules was published on March 27, 2003, at 68 FR 14889. No adverse comments are anticipated on the changes in this rule. Adverse comments suggest that the rule should not be adopted or that a change should be made to the rule. Unless an adverse comment is received within 60 days from the date of publication, this rule will be effective 90 days from the date of publication. If RHS receives one or more written adverse comments within 60 days from the date of publication, a document withdrawing the direct final rule prior to its effective date will be published in the **Federal Register** stating that adverse comments were received.

**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 agencies 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 remove the 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 and 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: December 12, 2004.

**Russell T. Davis,**

*Administrator, Rural Housing Service.*

[FR Doc. 05–325 Filed 1–6–05; 8:45 am]

**BILLING CODE 3410–XV–P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 23**

[Docket No. CE215, Special Condition 23–154–SC]

**Special Conditions; The New Piper Aircraft, Inc.; PA–46–350P and PA–46–500TP; Protection of Systems for High Intensity Radiated Fields (HIRF)**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final special conditions; request for comments.

**SUMMARY:** These special conditions are issued to The New Piper Aircraft, Inc.; Vero Beach, Florida, for a type design change for the PA–46–350P and PA–46–500TP model airplanes. These airplanes will have novel and unusual design features when compared to the state of technology envisaged in the applicable airworthiness standards. These novel and unusual design features include the installation of electronic flight instrument system (EFIS) displays Model 700–00006–003 Entegra, manufactured by Avidyne Corporation, Inc., for which the applicable regulations do not contain adequate or appropriate airworthiness standards for the protection of these systems from the effects of high intensity radiated fields (HIRF). These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to the airworthiness standards applicable to these airplanes.

**DATES:** The effective date of these special conditions is December 23, 2004. Comments must be received on or before February 7, 2005.

**ADDRESSES:** Comments may be mailed in duplicate to: Federal Aviation Administration, Regional Counsel, ACE–7, Attention: Rules Docket Clerk, Docket No. CE215, Room 506, 901 Locust, Kansas City, Missouri 64106. All comments must be marked: Docket No. CE215. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

**FOR FURTHER INFORMATION CONTACT:** Wes Ryan, Aerospace Engineer, Standards Office (ACE–110), Small Airplane