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DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Part 1778

Rural Housing Service

Rural Business-Cooperative Service

Rural Utilities Service

Farm Service Agency

7 CFR Parts 1942, 1944, 1948, 1951, and 1980

Rural Housing Service

7 CFR Parts 3560, 3565 and 3570

Rural Business-Cooperative Service

Rural Utilities Service

7 CFR Part 4274

Intergovernmental Review

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

ACTION: Final rule.

SUMMARY: The U. S. Department of Agriculture ("Department") is amending several regulations, which make reference to RD Instruction 1940-J, Intergovernmental Review." This action is necessary since the affected regulations refer to RD Instruction 1940-J, which is being rewritten and replaced by RD Instruction 1970-I. The intended effect is to simplify and update the regulations and to ensure the Department's field offices have current guidance on intergovernmental review of proposed projects being reviewed pursuant to the National Environmental Policy Act.

EFFECTIVE DATE: [insert date of publication in the Federal Register.]

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SUPPLEMENTARY INFORMATION:

Classification

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

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), 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, 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 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." The Agencies have determined that this final action does not constitute a major Federal action significantly affecting

the quality of human environment, and in accordance with the National Environmental Policy Act of 1969, 42 U.S.C. 4321 et seq., an Environmental Impact Statement is not required.

Executive Order 13132, 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.

Programs Affected

The Programs impacted by this action, and associated Catalog of Federal Domestic Assistance numbers, are as follows:

10.415 - Rural Rental Housing - Direct Loans

10.420 - Self-Help Technical Assistance Grants

- 10.433 - Housing Preservation Grants
- 10.438 - Rural Rental Housing Program - Guaranteed Loans
- 10.441 - Technical and Supervisory Assistance Grants
- 10.763 - Emergency and Imminent Community Water Assistance Grants
- 10.766 - Community Facilities Loans and Grants
- 10.767 - Intermediary Relending Program
- 10.768 - Business and Industrial Loans

Paperwork Reduction Act

This rule does not revise or impose any new information collection requirements from those approved by OMB.

E-Government Act Compliance

The Agencies are 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.

Discussion of Final Rule

The Department is updating Agency regulations regarding intergovernmental reviews conducted pursuant to the National Environmental Policy Act ("NEPA," 40 CFR 1500-1508). To accomplish this goal, existing RD Instruction 1940-J, "Intergovernmental Review," is being rewritten and replaced by RD Instruction 1970-I. Because several regulations make reference to RD Instruction 1940-J, revisions are needed to change all references from 1940-J to 1970-I. The intended effect is to simplify and update the regulations and to ensure the Department's field offices have current guidance on intergovernmental review of proposed projects being reviewed pursuant to NEPA.

List of Subjects

7 CFR Part 1778

Community development, Community facilities, Grant programs - Housing and Community development, Intergovernmental relations - Grant programs, Loan programs-Housing and community development, Rural areas, Waste treatment and disposal, Water supply, Watersheds

7 CFR Part 1942

Community development, Community facilities, Loan programs—
Housing and community development, Loan security, Rural
areas, Waste treatment and disposal - Domestic, Water
supply - Domestic.

7 CFR Part 1944

Grant programs - Housing and community development, Home
improvement, Loan programs - Housing and community
development, Low and moderate income housing - Rental,
Mobile homes, Mortgages, Nonprofit organizations, Reporting
requirements, Rural housing, Subsidies.

7 CFR Part 1948

Business and industry, Coal, Community development,
Community facilities, Energy, Grant programs, Housing and
community development, Housing, Planning, Rural area,
Transportation.

7 CFR Part 1951

Loans Programs—Agriculture, Rural areas.

7 CFR Part 1980

Loan programs—Business and industry - Rural development,
Rural areas

7 CFR Part 3560

Accounting, Administrative practice and procedure, Aged,
Conflict of interests, Government property management,
Grant programs—Housing and community development,
Insurance, Loan programs—Agriculture, Loan programs—Housing
and community development, Low and moderate income housing,
Migrant labor, Mortgages, Nonprofit organizations, Rent
subsidies, Rural areas.

7 CFR Part 3565

Conflict of interests, Environmental impact statements,
Fair housing, Hearing and appeal procedures.

7 CFR Part 3570

Accounting Administrative practice and procedure, Conflicts
of interests, Environmental impact statements, Fair
Housing, Grant programs - Housing and community
development, Loan programs - Housing and community
development, Rural areas, Subsidies.

7 CFR Part 4274

Community development, Economic development, Loan programs—
Business, Rural areas.

For the reasons set forth in the preamble, Chapters XVII,
XVIII, XXXV, and XLII, of title 7 of the Code of Federal
Regulations are amended as follows:

**CHAPTER XVII - RURAL UTILITIES SERVICE, DEPARTMENT OF
AGRICULTURE**

**PART 1778 - EMERGENCY AND IMMINENT COMMUNITY WATER
ASSISTANCE GRANTS**

1. The authority citation for part 1778 continues to
read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C 1989; 16 U.S.C.
1005.

§ 1778.14 [Amended]

2. Section 1778.14(f) is amended by removing "1940-J"
and adding in its place "1970-I, 'Intergovernmental
Review,' available in any Agency office or on the Agency's
website".

Chapter XVIII - Rural Housing Service, Rural Business-Cooperatives Service, Rural Utilities Service and Farm Service Agency, Department of Agriculture

PART 1942 - ASSOCIATIONS

3. The authority citation for part 1942 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C 1989.

Subpart A - Community Facility Loans

§ 1942.5 [Amended]

4. Section 1942.5(b)(1)(ii)(B) is amended by removing "(FmHA Instruction 1940-J, available in any FmHA or its successor agency under Public Law 103-354 office.)" and adding in its place "(These requirements are set forth in U. S. Department of Agriculture regulations 7 CFR 3015, subpart V and RD Instruction 1970-I, 'Intergovernmental Review,' available in any Agency office or on the Agency's website.)".

Subpart C - Fire and Rescue and Other Small Community Facilities Projects

§ 1942.106 [Amended]

5. Section 1942.106(a) is amended by removing "in accordance with subpart J of part 1940 of this chapter" and adding in its place "requirements set forth in U. S. Department of Agriculture regulations 7 CFR 3015, subpart V and RD Instruction 1970-I, 'Intergovernmental Review,' available in any Agency office or on the Agency's website".

PART 1944 - HOUSING

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

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

Subpart I - Self-Help Technical Assistance Grants

§ 1944.409 [Amended]

7. Section 1944.409 is amended by removing "Under subpart J of 1940 of this chapter (available in any Agency office)," and adding in its place "These requirements are set forth in U. S. Department of Agriculture regulations 7 CFR 3015, subpart V and RD Instruction 1970-I, 'Intergovernmental Review,' available in any Agency office or on the Agency's website".

Subpart K - Technical and Supervisory Assistance Grants

§ 1944.526 [Amended]

8. Section 1944.526(c)(2), is amended by removing "(See FmHA Instruction 1940-J, available in any FmHA or its successor agency under Public Law 103-354 Office)" and adding in its place "(See RD Instruction 1970-I, 'Intergovernmental Review,' available in any Agency office or on the Agency's website.)".

§ 1944.529 [Amended]

9. Section 1944.529(b)(9) is amended by removing "(See FmHA Instruction 1940-J, available in any FmHA or its successor agency under Public Law 103-354 Office)" and adding in its place "See RD Instruction 1970-I, 'Intergovernmental Review,' available in any Agency office or on the Agency's website".

§ 1944.531 [Amended]

10. Section 1944.531(c)(3) is amended by removing "See FmHA Instruction 1940-J, available in any FmHA or its successor agency under Public Law 103-354 Office." and adding in its place "See RD Instruction 1970-I, 'Intergovernmental Review,' available in any Agency office or on the Agency's website".

Subpart N - Housing Preservation Grants

§ 1944.674 [Amended]

11. Section 1944.674(c) is amended by removing "Under FmHA Instruction 1940-J (available in any FmHA or its successor agency under Public Law 103-354 office) prospective..." and adding in its place "These requirements are set forth in U.S. Department of Agriculture regulations 7 CFR part 3015, subpart V, and RD Instruction 1970-I, 'Intergovernmental Review,' available in any Agency office or on the Agency's website. Prospective..."

PART 1948 - RURAL DEVELOPMENT

12. The authority citation for part 1948 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C 1932, note.

Subpart B - Section 601 Energy Impacted Area Development Assistance Program

13. The authority citation for subpart B of part 1948 continues to read as follows:

Authority: Section 601, Pub. L. 95-620, delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of

authority by the Asst Sec. for Rural Development 7 CFR
2.78.

§ 1948.79 [Amended]

14. Section 1948.79(k)(3) is amended by removing "See FmHA Instruction 1940-J, available in any FmHA or its successor agency under Public Law 103-354 office." and adding in its place "See RD Instruction 1970-I, 'Intergovernmental Review,' available in any Agency office or on the Agency's website".

§ 1948.80 [Amended]

15. Section 1948.80(g) is amended by removing "(See FmHA Instruction 1940-J, available in any FmHA or its successor agency under Public Law 103-354 office." and adding in its place "(See RD Instruction 1970-I, 'Intergovernmental Review,' available in any Agency office or on the Agency's website.)".

§ 1948.84 [Amended]

16. 1948.84(c) is amended by removing "See FmHA Instruction 1940-J, available in any FmHA or its successor agency under Public Law 103-354 office." and adding in its place "(See RD Instruction 1970-I, 'Intergovernmental

Review,' available in any Agency office or on the Agency's website.)".

§ 1948.84 [Amended]

17. Section 1948.84(i)(2) is amended by removing "See FmHA Instruction 1940-J, available in any FmHA or its successor agency under Public Law 103-354 office." and adding in its place "(See RD Instruction 1970-I, 'Intergovernmental Review,' available in any Agency office or on the Agency's website.)".

PART 1951 - SERVICING AND COLLECTIONS

18. The authority citation for part 1951 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C 1932 note.; 7 U.S.C. 1989; 31 U.S.C. 3716; 42 U.S.C. 1480;

Subpart R - Rural Development Loan Servicing

§ 1951.872 [Amended]

19. Section 1951.872(a) is amended by removing "FmHA or its successor agency under Public Law 103-354

Instruction 1940-J, "Intergovernmental Review of Farmers Home Administration or its successor agency under Public Law 103-354 Programs and Activities," available in any FmHA or its successor agency under Public Law 103-354 office." and adding in its place "the requirements set forth in U.S. Department of Agriculture regulations 7 CFR part 3015, subpart V, and RD Instruction 1970-I, 'Intergovernmental Review,' available in any Agency office or on the Agency's website".

PART 1980 - GENERAL

20. The authority citation for part 1980 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C 1989. Subpart E also issued under 7 U.S. C. 1932(a).

Subpart E - Business and Industrial Loan Programs

§ 1980.451 [Amended]

21. Section 1980.451(f)(8) is amended by removing "See FmHA or its successor agency under Public Law 103-354 Instruction 1940-J, available in any FmHA or its successor

agency under Public Law 103-354 Office." and adding in its place "See RD Instruction 1970-I, 'Intergovernmental Review,' available in any Agency office or on the Agency's website".

Part 3560 - Direct Multi-Family Housing Loans and Grants

22. The authority citation for part 3560 continues to read as follows:

Authority: 42 U.S.C. 1480

Subpart A - General Provisions and Definitions

§ 3560.4 [Amended]

23. Section 3560.4(a) is amended by removing "RD Instruction 1940-J, available in any Rural Development Office." and adding in its place "RD Instruction 1970-I, 'Intergovernmental Review,' available in any Agency office or on the Agency's website".

PART 3565 - GUARANTEED RURAL RENTAL HOUSING PROGRAM

24. The authority citation for part 3565 continues to read as follows:

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

Subpart A - General Provisions

§ 3565.9 [Amended]

25. Section 3565.9(a) is amended by removing "RD Instruction 1940-J, available in any Rural Development office." and adding in its place "RD Instruction 1970-I, 'Intergovernmental Review,' available in any Agency office or on the Agency's website".

PART 3570 - COMMUNITY PROGRAMS

26. The authority citation for part 3570 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989

Subpart B - Community Facilities Grant Program

§ 3570.69 [Amended]

27. Section 3570.69 is amended by removing "RD Instruction 1940-J (available in any Rural Development

office)" and adding in its place "7 CFR 3015, subpart V and RD Instruction 1970-I, 'Intergovernmental Review,' available in any Agency office or on the Agency's website".

PART 4274 -- DIRECT AND INSURED LOANMAKING

28. The authority citation for part 3570 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1932 note.; 7
U.S.C. 1989

Subpart D - Intermediary Relending Program (IRP)

§ 4274.337 [Amended]

29. Section 4274.337(a) is amended by removing "(See RD Instruction 1940-J (available in any Rural Development State Office))." and adding in its place "These requirements are set forth in U.S. Department of Agriculture regulations 7 CFR part 3015, subpart V, and RD Instruction 1970-I, 'Intergovernmental Review,' available in any Agency office or on the Agency's website".

Date: December 6, 2011.

Dallas Tonsager,
Under Secretary
Rural Development

_____/s/_____
December 8, 2011

Michael Scuse
Date

Acting Under Secretary
Farm and Foreign Agriculture Services

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