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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

RIN 3206-AH59

Prevailing Rate Systems; Abolishment of San Joaquin, California, Nonappropriated Fund Wage Area; Correction

AGENCY: Office of Personnel Management.

ACTION: Final rule; correction amendment.

SUMMARY: This document contains a correction of the final rule abolishing the San Joaquin, California, nonappropriated fund (NAF) Federal Wage System (FWS) wage area.

EFFECTIVE DATE: February 21, 1997.

FOR FURTHER INFORMATION CONTACT: Frank Derby, (202) 606-2848.

SUPPLEMENTARY INFORMATION: This document contains a correction of a regulation that was published as an interim rule on September 17, 1996 (61 FR 48817) and adopted as final without changes on January 22, 1997 (62 FR 3195). The effective date section had an incorrect date for the conversion of NAF wage employees from the San Joaquin, CA, NAF wage schedule to the Sacramento, CA, NAF wage schedule.

List of Subjects in 5 CFR Part 32

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

Office of Personnel Management.

James B. King,

Director.

Accordingly, 5 CFR Part 532 is corrected by making the following correcting amendment:

PART 532—PREVAILING RATE SYSTEMS

1. The authority citation for part 532 continues to read as follows:

Authority: 5 U.S.C. 5343, 5346; § 532.707 also issued under 5 U.S.C. 552.

2. On page 3195, second column, the second sentence of the effective date section is corrected to read: "Employees currently paid rates from the San Joaquin, CA, NAF wage schedule will continue to be paid from that schedule until their conversion to the Sacramento, CA, NAF wage schedule on April 19, 1997, the effective date of the next Sacramento, CA, wage schedule."

[FR Doc. 97-8719 Filed 4-4-97; 8:45 am]

BILLING CODE 6325-01-P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Rural Business-Cooperative Service

Rural Utilities Service

Farm Service Agency

7 CFR Parts 1901, 1940, 1951, 2003, and 3570

RIN 0575-AC10

Community Facilities Grant Program

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

ACTION: Interim rule with request for comments.

SUMMARY: The Rural Housing Service (RHS), formerly the Rural Housing and Community Development Service (RHCDS), a successor agency to the Farmers Home Administration (FmHA), promulgates a new regulation for Community Facilities Grants (CFG). This action implements legislation which authorizes grants for developing essential community facilities. RHS also amends its existing regulations that are to be utilized in administering Community Facilities grants. The intended effect of this action is to publish regulations and application processing procedures to implement this new grant program.

DATES: These interim regulations are effective April 7, 1997. Comments must be received on or before June 6, 1997.

ADDRESSES: Submit written comments in duplicate to the Director, Regulations and Paperwork Management Division, Rural Housing Service, U.S. Department of Agriculture, Stop 0743, 1400 Independence Ave. SW., Washington, DC 20250-0743. Comments may also be submitted via the Internet by addressing them to "comments@rus.usda.gov" and must contain "Grants" in the Subject. All comments will be made available for public inspection during regular work hours at the above address.

FOR FURTHER INFORMATION CONTACT: Jennifer Barton, Loan Specialist, Community Programs Division, Rural Housing Service, U.S. Department of Agriculture, Stop 3222, South Agriculture Building, 1400 Independence Avenue SW., Washington, DC 20250-3222, telephone (202) 720-1504.

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.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, "Environmental Program." It has been 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.

Civil Justice Reform

This interim rule has been reviewed under Executive Order 12988, Civil Justice Reform. In accordance with this rule: 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 in accordance with 7 CFR part 11 must be exhausted before bringing suit in court challenging action taken under this rule.

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, 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, 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.

Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. § 605(b), the Rural Housing Service (RHS) certifies that this rule will not have a significant economic impact on a substantial number of small entities due to the small amount of funds being infused into the economy. Because it also will not require small entities to do more than large entities to participate in the program, a Regulatory Flexibility Analysis has not been prepared.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995, the Agency announces its intention to seek Office of Management and Budget (OMB) approval of new reporting and recordkeeping requirements. These requirements have been approved by emergency clearance by OMB under OMB Control Number 0575-0173.

The Agency offers direct and guaranteed loans for the development of essential community facilities in rural areas. This rule will add a CFG program to the services currently available. Many rural communities have experienced significant economic stress over the years. The economies of most rural communities were dependent upon the agricultural sector. In many cases, the problems caused by the structural changes in agriculture have been exacerbated by other factors such as

isolation, inadequate child care, closing of many small manufacturing plants, and lack of health care. At the same time, rapidly developing technology, such as telecommunications, has brought new opportunities.

Unfortunately, many rural communities have suffered such severe economic constraints for so long that they are unable to provide their residents with the basic services needed to improve their quality of life. The Community Facilities (CF) programs assist these poorest rural communities with financial resources to develop or improve health care facilities, child care centers, schools, libraries, fire and rescue buildings and equipment, town halls, street improvements, and so on. When these basic services become available to residents, the community becomes stronger and better equipped to continue its economic and community development efforts.

The information requested by the Agency is vital to making prudent lending, monitoring, and servicing decisions. The Agency must determine that the applicant is eligible and the project is financially feasible before making a loan or awarding a grant. Annual audits and certain other management reports are required to ensure that the project remains viable and that the services are being provided. Other information may be required for servicing loans.

The public burden for the CF loan programs has been previously approved by OMB. The Agency intends to establish a new information collection docket for 7 CFR part 3570, subpart B, which will contain only those additional items required for the CF grant program.

Public Burden in 7 CFR Part 3570, Subpart B

At this time, the Agency is requesting OMB clearance of the following burden:

Form RD 3570-3, "Agreement for Administrative Requirements for Community Facilities Grants." This document serves as the contract between the Agency and the grantee. The agreement sets forth the rights and responsibilities of both parties to the grant. The grantee reads and signs the form.

Paragraph 3570.11(c). This paragraph requires grant applicants to certify, in writing, that they are unable to finance the proposed project from their own resources, through commercial credit at reasonable rates and terms, or other funding sources without CFG program assistance. This helps meet the statutory intent that these grants are awarded

only to the neediest rural communities who have no other financial resources.

Estimate of Burden: Public reporting burden for this collection is estimated to range from 15 minutes to 1 hour per response.

Respondents: Associations, public entities, nonprofit corporations, and federally recognized Indian tribes seeking CFG funding to provide essential community facilities to the residents of the poorest rural communities.

Estimated Number of Respondents: 200.

Estimated Number of Responses per Respondent: 1.7.

Estimated Total Annual Burden on Respondents: 234 hours.

The subject regulation is published for public review and comment. Additional copies of the interim rule or copies of the referenced forms may be obtained from Barbara Williams, Regulations and Paperwork Management Division, at (202) 720-9734. Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All responses to this notice will be summarized, included in the request for OMB approval, and will become a matter of public record. Comments should be submitted to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, and to Barbara Williams, Regulations and Paperwork Management Division, U.S. Department of Agriculture, Rural Housing Service, Stop 0743, 1400 Independence Avenue SW., Washington, D.C. 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this rule.

Intergovernmental Review

This program is listed in the Catalog of Federal Domestic Assistance under number 10.766 and is subject to the

provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. The Agency has conducted intergovernmental consultation in the manner delineated in RD Instruction 1940-J.

Discussion of Interim Rule

It is the policy of the Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for public comment not withstanding the exemption of 5 U.S.C. 553 with respect to such rules.

The purpose of this rule is to implement section 763 of Pub. L. 104-127 which amends section 306(a) of the Consolidated Farm and Rural Development Act (CONACT). This statutory amendment created Community Facilities (CF) grants, and specifically authorized up to \$10 million per fiscal year for this program. In creating the CF grant program, Congress recognized that many rural poverty-stricken communities are not eligible for RHS's direct or guaranteed CF loan programs and, therefore, have no access to assistance for essential community facilities such as health care, public safety, and fire protection services.

Due to the recent natural disasters that have occurred in the southern and midwestern areas, many of our poorest rural communities are faced with devastation. Many communities are in emergency situations as a result of the tornadoes and flooding and need assistance in restoring basic services to their residents. These grant funds will help at a time when they are the most needed.

Background

However, this action is to comply with public law and any delay would be contrary to the public interest. Comments are being solicited on this interim final rule and will be considered in development of the final rule. The Department is making this action effective immediately upon publication in the **Federal Register**.

The CF grant program will work in conjunction with the CF loan programs. For those poverty-stricken communities, the grant program will provide the minimum amount sufficient for feasibility purposes to bridge the gap enabling communities to afford the Agency's loan programs. Failure to implement this rule as quickly as possible denies access to this essential program for these communities.

There is no historical data available to quantify benefits. However, the benefit to be derived from the program is the

opportunity to invest in essential community facilities in rural areas, thereby improving the availability and expertise of services in rural communities so rural residents can enjoy an improved quality of life.

The interim rule describes the procedures for applying for and obtaining this grant assistance. The Agency is providing for public comment to allow those who wish to suggest alternative rule provisions or courses of action in implementing this program an opportunity to express their views.

CFG funds shall be awarded to eligible associations, units of general local government, nonprofit corporations, and federally recognized Indian tribes. These same applicants are eligible to apply for other CF financial assistance.

The statute requires that CFG funds be used to provide the Federal share of the cost of developing specific essential community facilities in rural areas. The amount of the CFG funds for a facility shall not exceed 75 percent of the cost of developing the facility and provide for a graduated scale for the amount of the Federal share, with higher Federal shares for facilities in communities that have lower community population and income levels. The Agency has developed a scale to predetermine grant funding percentages based on population, project location, and the income of the community being served by the facility. The Agency has further determined that to better utilize limited funds available under the program, the maximum amount of grant assistance is further limited to the minimum amount sufficient for feasibility purposes to provide for facility operation and this amount shall not exceed 50 percent of a State's annual allocation or \$50,000, whichever is greater.

Eligibility

Grants may be made to associations, federally recognized Indian Tribes, nonprofit corporations, and public bodies serving rural areas. Rural area determinations will be made to ascertain the eligibility of the applicant and the proposed facility. The procedure established in this rule to determine eligible grant areas is based on density requirements used by the Agency in other programs.

In accordance with section 306(a)(19)(B)(ii) of the CONACT, CFG funds may be used to pay up to 75 percent of the cost to develop the essential community facility. The remaining 25 percent becomes the applicant's responsibility. Other funding participation through either leveraging, local fundraising, other CF

financial assistance, or applicant contribution will enable CFG funds to reach a broader range of rural economic development efforts. The 25 percent requirement must be in accordance with 7 CFR part 3015, "Uniform Federal Assistance Regulations," 7 CFR part 3016, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," or 7 CFR part 3019, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations," as applicable. Under 7 CFR parts 3015, 3016, and 3019, matching funds, with certain exceptions, cannot come from another Federal grant program.

No Federal funds for this program will be granted to an applicant who has an outstanding delinquent Federal debt until the delinquent account has been paid in full. Funds will not be granted to an applicant if an outstanding judgment has been obtained by the United States in a Federal Court (other than in the United States Tax Court), which has been recorded, unless it has been paid in full or otherwise satisfied.

Definitions referenced in the interim final rule are based on working definitions used by the Agency or other Federal agencies for similar programs. The term "rural" and "rural area" and "primarily" were taken from related program regulations also under authority of the CONACT. The essential community facility must be located in a rural area and serve primarily rural areas. "Rural" and "Rural Area" in this context means a city, town, or unincorporated area that has a population of 25,000 inhabitants or less. "Primarily" refers to the majority of the residents and businesses being served by the facility which must be at least 51 percent rural.

Application Process

Since the Agency is adding CFG funds to the services it currently offers, applicants need only submit one application to apply for CF financial assistance. Application requirements include submission of an "Application for Federal Assistance" and other supporting documentation which is consistent with each program. The application process is a two-stage procedure to determine applicant eligibility, project priority status, and funding availability. The supporting documentation required is necessary for the Agency to determine if the applicant is eligible, if the proposed grant purposes are eligible, and to help the

Agency select the best applications for funding.

Project Selection

With respect to the CFG program, section 306(a)(19)(B)(iii) of the CONACT requires use of a graduated scale so that rural communities with low populations and low income levels receive more funds. The type of graduation used is left to the Agency to determine. Therefore, the Agency has determined that eligible projects are those located in rural communities with populations of 25,000 or less and serving primarily rural communities where the median household income of the area to be served is below the higher of the poverty line or 80 percent of the State nonmetropolitan median household income. Population and income are used to determine how much grant assistance an applicant is eligible for and to assign points to prioritize projects for funding selections. The Agency has developed graduated scales using the above criteria. Using these graduated scales, the rural communities with low populations and low income levels have the greatest chance of being selected for funding and will get the highest share of grant funds.

Projects will be selected based on a priority point system, set out in the regulation. Preference is given to projects located in rural areas with low populations and low income levels. A project located in a rural community with a population of 5,000 or less will receive 30 points, one with between 5,001 and 15,000 residents will be given 20 points, and one with up to the maximum 25,000 population will be awarded 10 points. A similar scale has been designed for the median household income of the project's service area. Eligible communities will have incomes below the poverty line or specific percentages of their State's nonmetropolitan median household income. Thirty points will be assigned to those projects serving communities with median household incomes below the higher of the poverty line or 60 percent of the Statewide figure, 20 points to those projects serving communities with median household incomes below the higher of the poverty line or 70 percent of the Statewide figure, and 10 points to those projects serving communities with median household incomes below the higher of the poverty line or 80 percent of the Statewide figure. Points will be added if the project is for health care or public safety and is identified in the State strategic plan. In cases of special need, discretionary points may be given for situations such as geographic

distribution of grant funds, loss of a community facility due to an accident or natural disaster, or for any projects leveraging funds from other sources. The Agency believes that this system will ensure that CFG assistance is awarded to the neediest, most rural communities as required by the authorizing legislation.

After each project has been rated, points will be totaled and ranked with all other applications in the State so that grants are awarded competitively. This selection method is considered the best method for the CFG program due to the large number of applications expected and the limited grant funds available.

The Agency monitors and evaluates each project it approves in accordance with 7 CFR parts 3015, 3016, and 3019. Monitoring typically involves site visits by Agency personnel, telephone conversations, and evaluation of the grantee's written activity reports. Activity reports are used to evaluate projects and must be in a measurable form. Termination of grant provisions is in accordance with 7 CFR parts 3015, 3016, and 3019. These provisions are consistent with other Agency programs.

Miscellaneous

Recipients are subject to all applicable Federal laws, Federal and United States Department of Agriculture (USDA) policies, regulations, and procedures applicable to Federal financial assistance. Requirements concerning civil rights, the environment, debarment and suspension, etc., have been listed in this rule. These restrictions are consistent with other Agency programs.

List of Subjects

7 CFR Part 1901

Civil rights, Compliance reviews, Fair housing, Minority groups.

7 CFR Part 1940

Administrative practice and procedure, Agriculture, Allocations, Grant Programs—Housing and community development, Loan programs—Agriculture, Rural areas.

7 CFR Part 1951

Account servicing, Grant programs—Housing and community development, Reporting requirements, Rural areas.

7 CFR Part 2003

Organization and functions (government agencies).

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.

Therefore, chapters XVIII and XXXV of title 7, Code of Federal Regulations, are amended as follows:

PART 1901—PROGRAM-RELATED INSTRUCTIONS

1. The authority citation for part 1901 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989; 40 U.S.C. 442; 42 U.S.C. 1480, 2942.

Subpart E—Civil Rights Compliance Requirements

2. Section 1901.204 is amended by adding a paragraph (a)(28) to read as follows:

§ 1901.204 Compliance reviews.

(a) * * *

(28) Community Facilities Grants in part 3570, subpart B, of this title.

* * * * *

PART 1940—GENERAL

3. The authority citation for part 1940 continues to read as follows:

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

Subpart L—Methodology and Formulas for Allocation of Loan and Grant Program Funds

4. Section 1940.592 is added to read as follows:

§ 1940.592 Community facilities grants.

(a) *Amount available for allocations.* See § 1940.552(a).

(b) *Basic formula criteria, data source, and weight.* See § 1940.552(b).

(1) The criteria used in the basic formula are:

(i) State's percentage of National rural population—50 percent.

(ii) State's percentage of National rural population with income below the poverty level—50 percent.

(2) Data source for each of these criterion is based on the latest census data available. Each criterion is assigned a specific weight according to its relevance in determining need. The percentage representing each criterion is multiplied by the weight factor and summed to arrive at a State factor (SF).

SF (criterion (b)(1)(i) × 50 percent) + (criterion (b)(1)(ii) × 50 percent)

(c) *Basic formula allocation.* See § 1940.552(c). States receiving administrative allocations do not receive formula allocations.

(d) *Transition formula.* The transition formula for Community Facilities Grants is not used.

(e) *Base allocation.* See § 1940.552(e). States receiving administrative allocations do not receive base allocations.

(f) *Administrative allocation.* See § 1940.552(f). States participating in the formula base allocation procedures do not receive administrative allocations.

(g) *Reserve.* See § 1940.552(g).

(h) *Pooling of funds.* See § 1940.522(h). Funds will be pooled at midyear and yearend. Pooled funds will be placed in the National Office reserve and will be made available administratively.

(i) *Availability of the allocation.* See § 1940.552(i).

(j) *Suballocation by State Director.* See § 1940.552(j).

(k) *Other documentation.* Not applicable.

PART 1951—SERVICING AND COLLECTIONS

5. The authority citation for part 1951 is revised to read as follows:

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

Subpart E—Servicing of Community and Insured Business Programs Loans and Grants

§ 1951.201 [Amended]

6. Section 1951.201 is amended by adding the words “and grants” after the words “Community Facility loans.”

PART 2003—ORGANIZATION

7. The authority citation for part 2003 is revised to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989; 42 U.S.C. 1480; Public Law 100–82.

Subpart A—[Amended]

8. Exhibit A of subpart A, paragraph 2, under the heading of Assistant Administrator—Community and Business Programs is amended by adding the words “and grants” after the words “community facility loans.”

9. Chapter XXXV, title 7, Code of Federal Regulations is amended by adding a new part 3570 to read as follows:

PART 3570—COMMUNITY PROGRAMS

Subpart A—[Reserved]

Subpart B—Community Facilities Grant Program

Sec.
3570.51 General.
3570.52 Purpose.
3570.53 Definition.
3570.54 Equal opportunity and fair housing.
3570.55–3570.56 [Reserved]

3570.57 Authorities, delegations, and redelegation.
3570.58–3570.59 [Reserved]
3570.60 Processing preapplications, applications, and completing grant dockets.
3570.61 Eligibility for grant assistance.
3570.62 Use of grant funds.
3570.63 Limitations.
3570.64 Determining the maximum grant assistance.
3570.65 Project selection priorities.
3570.66 [Reserved]
3570.67 Applications determined ineligible.
3570.68–3570.69 [Reserved]
3570.70 Other considerations.
3570.71 Application review, approval and obligation of funds.
3570.72–3570.75 [Reserved]
3570.76 Planning and performing development.
3570.77–3570.79 [Reserved]
3570.80 Grant closing and delivery of funds.
3570.81–3570.82 [Reserved]
3570.83 Audits.
3570.84 Grant servicing.
3570.85 Programmatic changes.
3570.86 Subsequent grants.
3570.87 Grant suspension, termination, and cancellation.
3570.88 Management assistance.
3570.89 [Reserved]
3570.90 Exception authority.
3570.91 Regulations.
3570.92 [Reserved]
3570.93 Regional Commission grants.
3570.94 Forms and exhibits
3570.95–3570.99 [Reserved]
3570.100 OMB control number.

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

Subpart A—[Reserved]

Subpart B—Community Facilities Grant Program

§ 3570.51 General.

(a) This subpart outlines Rural Housing Service (RHS) policies and authorizations and sets forth procedures for making essential Community Facilities (CF) grants authorized under section 306(a)(19) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(19)).

(b) Funds allocated for use in accordance with this subpart are also to be considered for use by Native American tribes within a State regardless of whether State development strategies include Indian reservations within the State's boundaries. Native American tribes residing on such reservations must have equal opportunity along with other rural residents to participate in the benefits of these programs.

(c) Any processing or servicing activity conducted pursuant to this subpart involving authorized assistance to Agency employees, members of their families, close relatives, or business or

close personal associates is subject to the provisions of part 1900, subpart D, of this title. Applications for assistance are required to identify any relationship or association with an RHS employee.

(d) Copies of all forms referenced in this subpart are available in the Agency's National Office or any Rural Development field office.

(e) An outstanding judgment obtained against an applicant by the United States in a Federal Court (other than in the United States Tax Court) shall cause the applicant to be ineligible to receive any grant or loan until the judgment is paid in full or otherwise satisfied. Agency grant funds may not be used to satisfy the judgment.

(f) Grants made under this subpart will be administered under, and are subject to parts 3015, 3016, and 3019 of this title, as appropriate, and established Agency guidelines.

(g) The income data used to determine median household income must be that which accurately reflects the income of the population to be served by the proposed facility. The median household income of the service area and the nonmetropolitan median household income for the State will be determined using income data from the most recent decennial Census of the United States.

§ 3570.52 Purpose.

The purpose of the Community Facilities grant program is to assist in the development of essential community facilities in rural areas. The Agency will authorize grant funds on a graduated basis. Eligible applicants located in small communities with low populations and low median household incomes may receive a higher percentage of grant funds. The amount of grant funds provided for a facility shall not exceed 75 percent of the cost of developing the facility.

§ 3570.53 Definitions.

Agency. The Rural Housing Service (RHS), an agency of the U.S. Department of Agriculture, or a successor agency.

Approval Official. An official who has been delegated loan or grant approval authorities within applicable programs, subject to certain dollar limitations.

Community facility (CF) (essential). The term “facility” refers to both the physical structure financed and the resulting service provided to rural residents. An essential community facility must:

- (1) Serve a function customarily provided by a local unit of government;
- (2) Be a public improvement needed for the orderly development of a rural community;

(3) Not include private affairs or commercial or business undertakings (except for limited authority for industrial parks);

(4) Be within the area of jurisdiction or operation for the public bodies eligible to receive assistance or a similar local rural service area of a not-for-profit corporation; and

(5) Be located in a Rural area, county, or multi-county area depending on the type of essential community facility.

Grantee. An entity with whom the Agency has entered into a grant agreement under this program.

Instructions. Agency internal procedure available in any Rural Development Office and variously referred to as Rural Development Instruction, RD Instruction, and FmHA Instruction.

Nonprofit Corporations. Any organization or entity that is eligible for RHS financial assistance in accordance with 7 CFR § 1942.17(b)(1)(B)(ii).

Processing office. The office designated by the State program official to accept and process applications for CF projects.

Project cost. The cost of completing the proposed community facility. (Facilities previously constructed will not be considered in determining project costs.) Total project costs will include only those costs eligible for CF assistance.

Poverty line. The level of income for a family of four, as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

Public body. Any State, county, city, township, incorporated town or village, borough, authority, district, economic development authority, or Native American tribe on a Federal or State reservation, or other federally recognized Indian tribe in rural areas.

RHS. The Rural Housing Service, an agency of the United States Department of Agriculture, or a successor agency.

Rural areas. The terms "rural" and "rural area" mean any city, town, or unincorporated area with a population of 25,000 inhabitants or less according to the latest decennial Census of the United States.

RUS. The Rural Utilities Service, an agency of the United States Department of Agriculture, or a successor agency.

Service area. The area reasonably expected to be served by the facility financed by the Agency.

State. The term "State" means each of the 50 States, the Commonwealth of Puerto Rico, Guam, the Virgin Islands of the United States, American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the

Republic of Palau, and the Federated States of Micronesia.

State Director. The term "State Director" means, with respect to a State, the Director of the Rural Development State Office.

Statewide nonmetropolitan median household income. The median household income of all rural areas of a State.

Strategic plan. A plan developed by each State for Rural Development initiatives and the type of assistance required. Plans shall identify goals, methods, and benchmarks for measuring success in carrying out the plan.

§ 3570.54 Equal opportunity and fair housing.

The Agency will administer the program in accordance with equal opportunity and fair housing legislation and applicable Executive Orders. Federal statutes provide for extending RHS financial assistance without regard to race, color, religion, sex, national origin, age, disability, and marital or familial status. The participant must possess the capacity to enter into legal contracts under State and local statutes. All activities under this subpart shall be accomplished in accordance with title VI of the Civil Rights Act of 1964, the Civil Rights Act of 1968 (Fair Housing Act), the Rehabilitation Act of 1973, and all other Federal laws and Executive Orders prohibiting discrimination in Federal programs. To file a complaint, write the Secretary of Agriculture, U.S. Department of Agriculture, 1400 Independence Avenue SW., Washington, DC 20250, or call 1-800-245-6340 (voice) or (202) 720-1127 (TDD).

§§ 3570.55–3570.59 [Reserved]

§ 3570.60 Processing preapplications, applications, and completing grant dockets.

(a) Preapplications and applications for grants will be developed in accordance with applicable portions of §§ 1942.2, 1942.104, 1942.105, and 1980.851 of this title. For combination proposals, only one preapplication package and one application package should be prepared and submitted.

(b) Financial information contained in preliminary engineering and architectural reports will be prepared without considering grant assistance.

(c) The application package will be reviewed by the processing office for eligibility, the maximum amount of grant funds allowable, and scored for selection priority.

§ 3570.61 Eligibility for grant assistance.

The essential community facility must primarily serve rural areas with

populations of 25,000 or less, where the median household income in the areas to be served by the proposed facility is below the higher of the poverty line or 80 percent of the State nonmetropolitan median household income.

(a) **Eligible applicant.** An applicant must be:

(1) A public body, such as a municipality, county, district, authority, or other political subdivision of a State;

(2) A nonprofit corporation or an association. Applicants other than utility-type applicants must have significant ties with the local rural community. Such ties are necessary to ensure to the greatest extent possible that a facility under private control will carry out a public purpose and continue to primarily serve rural areas. Ties may be evidenced by items such as:

(i) Association with, or controlled by, a local public body or bodies, or broadly based ownership and control by members of the community; or

(ii) Substantial public funding through taxes, revenue bonds, or other local Government sources or substantial voluntary community funding, such as would be obtained through a community-wide funding campaign; or

(3) A federally recognized Indian tribe on a Federal or State reservation.

(b) **Eligible facilities.** Essential community facilities:

(1) Must be located in rural areas, except for utility-type services, such as telecommunications or hydroelectric, serving both rural and nonrural areas. In such cases, RHS funds may be used to finance only that portion serving rural areas, regardless of facility location.

(2) Must be necessary for orderly community development and consistent with the State's strategic plan.

(c) **Credit elsewhere.** Applicants must be unable to finance the proposed project from their own resources, through commercial credit at reasonable rates and terms, or other funding sources without grant assistance under this subpart and certify to such status in writing.

(d) **Economic feasibility.** All projects financed under the provisions of this section must be based on satisfactory sources of revenues. The amount of CF grant assistance must be the minimum amount sufficient for feasibility purposes which will provide for facility operation and maintenance, reasonable reserves, and debt repayment.

(e) **Legal authority and responsibility.** Each applicant must have, or will obtain, the legal authority necessary for construction, operation, and maintenance of the proposed facility. The applicant shall be responsible for operating, maintaining, and managing

the facility and providing for its continued availability and use at reasonable rates and terms. This responsibility shall be the applicant's even though the facility may be operated, maintained, or managed by a third party under contract or management agreement.

§ 3570.62 Use of grant funds.

Grant funds up to 75 percent of the cost of developing specific essential community facilities in rural areas may be used:

(a) To supplement financial assistance authorized in accordance with part 1942, subparts A and C, and part 1980, subpart I of this title. Funding for the balance of the project shall consist of other CF financial assistance, applicant contribution, or loans and grants from other sources.

(b) To assist in developing essential community facilities in rural areas as contained in §§ 1942.17(d)(1), 1942.112, and 1980.813 of this title.

§ 3570.63 Limitations.

(a) Grant funds may not be used to:

(1) Pay any annual recurring costs, including purchases or rentals that are generally considered to be operating and maintenance expenses;

(2) Construct or repair electric generating plants, electric transmission lines, or gas distribution lines to provide services for commercial sale;

(3) Refinance existing indebtedness;

(4) Pay interest;

(5) Pay for facilities located in cities or towns in excess of 25,000, except as noted in § 3570.61(b)(1);

(6) Pay any costs of a project when the median household income of the population to be served by the proposed facility is above the higher of the poverty line or 80 percent of the nonmetropolitan median household income of the State;

(7) Pay project costs when other loan funding for the project is not equal to, or less than, the current intermediate interest rate for CF loans (as contained in part 1810, subpart A, Exhibit B of this title, available in any Rural Development office);

(8) Pay an amount greater than 75 percent of the cost to develop the facility;

(9) Pay costs to construct facilities to be used for commercial rental where the applicant has no control over tenants and services offered;

(10) Construct facilities primarily for the purpose of housing State, Federal, or quasi-Federal agencies; and

(11) Pay for any purposes restricted by §§ 1942.17(d)(2), 1942.112(b), and 1980.814 of this title.

(b) Grant assistance will be provided on a graduated scale with higher grant funds going to small communities with the lowest median household income.

Grant assistance is limited to the following percentages of eligible project costs:

(1) 75 percent when the proposed project is:

(i) Located in a rural community having a population of 5,000 or less; and

(ii) The median household income of the population to be served by the proposed facility is below the higher of the poverty line or 60 percent of the State nonmetropolitan median household income.

(2) 55 percent when the proposed project is:

(i) Located in a rural community having a population of 15,000 or less; and

(ii) The median household income of the population to be served by the proposed facility is below the higher of the poverty line or 70 percent of the State nonmetropolitan median household income.

(3) 35 percent when the proposed project is:

(i) Located in a rural community having a population of 25,000 or less; and

(ii) The median household income of the population to be served by the proposed facility is below the higher of the poverty line or 80 percent of the State nonmetropolitan median household income.

(4) Grant assistance cannot exceed the applicable percentages contained in this section and may be further limited due to the availability of grant funds or by the maximum grant assistance allowable determined in accordance with § 3570.64.

§ 3570.64 Determining the maximum grant assistance.

(a) *Responsibility.* State Directors are responsible for determining the applicant's eligibility for grant assistance. A "Worksheet for Computing Maximum Grant Assistance" (available in any Rural Development office) will be used to record the maximum allowable grant for each Community Facilities project.

(b) *Maximum grant assistance.* Grant assistance cannot exceed the lower of:

(1) Qualifying percentage of eligible project cost determined in accordance with § 3570.63(b);

(2) Minimum amount sufficient to provide for economic feasibility as determined in accordance with § 3570.61(d); or

(3) Either 50 percent of the annual State allocation or \$50,000, whichever is

greater, unless an exception is made by the RHS Administrator in accordance with § 3570.90.

§ 3570.65 Project selection priorities.

Applications are scored on a priority basis. Points will be distributed as follows:

(a) *Population priorities.* The proposed project is located in a rural community having a population of:

(1) 5,000 or less—30 points;

(2) Between 5,001 and 15,000—20 points; or

(3) Between 15,001 and 25,000—10 points.

(b) *Income priorities.* The median household income of the population to be served by the proposed project is:

(1) Below the higher of the poverty line or 60 percent of the State nonmetropolitan median household income—30 points;

(2) Below the higher of the poverty line or 70 percent of the State nonmetropolitan median household income—20 points; or

(3) Below the higher of the poverty line or 80 percent of the State nonmetropolitan median household income—10 points.

(c) *Other priorities.* Points will be assigned for one or more of the following initiatives:

(1) Project is identified in the State strategic plan—10 points;

(2) Project is for health care—10 points;

(3) Project is for public safety—10 points.

(d) *Discretionary.* (1) The State Director may assign up to 15 points to a project, in addition to those that may be scored under paragraphs (a) through (c), of this section. These points are to address unforeseen exigencies or emergencies, such as the loss of a community facility due to an accident or natural disaster or the loss of joint financing if Agency funds are not committed in a timely fashion. In addition, the points will award projects benefitting from the leveraging of funds in order to improve compatibility and coordination between the Agency and other agencies' selection systems and for those projects that are the most cost effective.

(2) In selecting projects for funding at the National Office level, additional points will be awarded based on the priority assigned to the project by the State Office. These points will be awarded in the manner shown below. Only the three highest priority projects for a State will be awarded points. The Administrator may assign up to 30 additional points to account for geographic distribution of funds,

emergency conditions caused by economic problems or natural disasters, and leveraging of funds.

Priority	Points
1	5
2	3
3	1

§§ 3570.66–3570.69 [Reserved]

§ 3570.70 Other considerations.

Each application must contain the comments, necessary certifications, and recommendations of appropriate regulatory or other agency or institution having expertise in the planning, operation, and management of similar facilities as required by part 1942, subparts A and C, and part 1980, subpart I, of this title. Proposals for facilities financed in whole or in part with Agency funds must be coordinated with appropriate Federal, State, and local agencies as required by the following:

- (a) Intergovernmental review.
- (b) Civil rights compliance requirements.
- (c) Environmental requirements.
- (d) Governmentwide debarment and suspension.
- (e) Restrictions on lobbying.
- (f) Excess capacity or transfer of employment.
- (g) National Historic Preservation Act of 1966.
- (h) Uniform Relocation Assistance and Real Property Acquisition.
- (i) Floodplains and wetlands.
- (j) Flood or mudslide hazard area precautions.
- (k) Civil Rights Impact Analysis.

§§ 3570.71–3570.75 [Reserved]

§ 3570.76 Planning and performing development.

Planning and performing development will be handled in accordance with §§ 1942.9, 1942.18, and 1942.126 of this title.

§§ 3570.77–3570.79 [Reserved]

§ 3570.80 Grant closing and delivery of funds.

(a) The Agency's policy is that grant funds will not be disbursed from the Treasury until they are actually needed by the applicant and all borrower funds and other CF financial assistance are expended.

(1) Agency or other loan funds will be disbursed before the disbursement of any Agency grant funds except when:

- (i) Interim financing of the total estimated amount of loan funds needed during construction is arranged;
- (ii) All interim funds have been disbursed; and

(iii) Agency grant funds are needed before any other loan can be closed.

(2) If grant funds are available from other agencies and are transferred for disbursement by RHS, these grant funds will be disbursed in accordance with the agreement governing such other agencies' participation in the project.

(3) Any grant funds remaining will be handled in accordance with § 1942.17(p)(6) of this title.

(b) If the grant is made in connection with other CF financial assistance, grant closing must occur simultaneously with loan closing.

(c) Agency grant funds will be disbursed in accordance with §§ 1942.17(p)(2) and 1942.123 of this title.

(d) Payment for construction will be made in accordance with §§ 1942.17(p)(5) and 1942.127 of this title.

(e) An "Agreement for Administrative Requirements for Community Facilities Grants" will be signed by the grantee. For grants that supplement Agency loan funds, the grant should be closed simultaneously with the closing of the loan. However, when grant funds will be disbursed before loan closing, as provided in paragraph (a)(1) of this section, the grant will be closed not later than the delivery date of the first advance of grant funds.

§§ 3570.81–3570.82 [Reserved]

§ 3570.83 Audit requirements.

Audits will be conducted in accordance with § 1942.17(q)(4) of this title. The audit requirements apply only to the years in which grant funds are received. Audits must be prepared in accordance with Generally Accepted Government Auditing Standards (GAGAS) using the publication, "Standards for Audit of Governmental Organizations, Programs, Activities, and Functions."

§ 3570.84 Grant servicing.

Grants will be serviced in accordance with part 1951, subparts E and O of this title.

§ 3570.85 Programmatic changes.

The grantee shall obtain prior approval for any change to the objectives of the project. (For construction projects, a material change in approved space utilization or functional layout shall be considered such a change.) Failure to obtain prior approval of changes to the approved project or budget can result in suspension, refund, or termination of grant funds.

§ 3570.86 [Reserved]

§ 3570.87 Grant suspension, termination, and cancellation.

Grants may be suspended or terminated for cause or convenience in accordance with parts 3015, 3016, or 3019 of this title, as applicable.

§ 3570.88 Management assistance.

Grant recipients will be supervised, to the extent necessary, to ensure that facilities are constructed in accordance with approved plans and specifications and to ensure that funds are expended for approved purposes.

§ 3570.89 [Reserved]

§ 3570.90 Exception authority.

The Administrator may, in individual cases, make an exception to any non-statutory requirement or provision of this subpart if the Administrator determines that application of the requirement or provision would adversely affect the Government's financial interest and shows how the adverse impact will be eliminated or minimized if the exception is made. Requests for exceptions must be made in writing by the approval official.

§ 3570.91 Regulations.

Grants under this part will be in accordance with parts 3015, 3016, or 3019, as applicable, of this title and any conflicts between those parts and this part will be resolved in favor of the applicable parts 3015, 3016, or 3019, as applicable.

§ 3570.92 [Reserved]

§ 3570.93 Regional Commission Grants.

(a) Grants are sometimes made by Federal Regional Commissions for projects eligible for RHS assistance. RHS has agreed to administer such funds in a manner similar to administering RHS assistance.

(b) The transfer of funds from a Regional Commission to RHS will be based on specific applications determined to be eligible for an authorized purpose in accordance with the requirements of RHS and the Regional Commission.

(c) The Appalachian Regional Commission (ARC) is authorized under the Appalachian Regional Development Act of 1965, as amended, to serve the Appalachian region. ARC grants are handled in accordance with the ARC Agreement (RUS Bulletin 1780–25) which applies to all ARC grants administered by RHS. Therefore, a separate Project Management Agreement between RHS and ARC is not needed for each ARC grant.

(d) Other Federal Regional Commissions are those authorized under Title V of the Public Works and Economic Development Act of 1965. Grants by these commissions are handled in accordance with a separate Project Management Agreement between the respective Regional Commission and RHS for each Commission grant administered by RHS (guide 1 of part 1942, subpart G). The agreement should be prepared by the RHS State Director and the appropriate Commission official when the State Director receives a notice from the Commission of the amount of the grant to be made.

(e) When the Agency has funds in the project, no charge will be made for administering grant funds.

(f) When RHS has no loan or grant funds in the project, an administrative charge will be made pursuant to the Economy Act of 1932, as amended (31 U.S.C. 1535). A fee of 5 percent of the first \$50,000 and 1 percent of any amount over \$50,000 will be paid RHS by the commission.

§§ 3570.94–3570.99 [Reserved]

§ 3570.100 OMB control number.

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0575–0173.

Dated: March 28, 1997.

Inga Smulkstys,

Deputy Under Secretary, Operations and Management, Rural Development.

Dated: March 28, 1997.

Dallas R. Smith,

Acting Under Secretary, Farm and Foreign Agricultural Service.

[FR Doc. 97–8743 Filed 4–4–97; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–NM–105–AD; Amendment 39–9988; AD 97–07–14]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A320 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD),

applicable to certain Airbus Model A320 series airplanes, that requires modification of an area on the front spar of the wing center section by installing shims and new fasteners to reinforce pressure floor fittings. This amendment is prompted by a report from the manufacturer indicating that full-scale fatigue testing on the test model revealed fatigue cracking in this area. The actions specified by this AD are intended to prevent fatigue cracking in this area, which can reduce the structural integrity of fuselage frame 36 and the wing center section.

DATES: Effective May 12, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 12, 1997.

ADDRESSES: The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tim Backman, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2797; fax (206) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Airbus Model A320 series airplanes was published in the **Federal Register** on January 21, 1997 (62 FR 2982). That action proposed to require modification of an area on the front spar of the wing center section by installing shims and new fasteners to reinforce pressure floor fittings.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The commenter supports the proposed rule.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that 5 Airbus Model A320 series airplanes of U.S. registry will be affected by this AD, that it will take approximately 13 work hours per airplane to accomplish the required actions, and that the average labor rate is \$60 per work hour. Required parts will cost approximately \$576 per airplane. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be \$6,780, or \$1,356 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the 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. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows: