

(c) This endorsement can only be used to temporarily increase the value reported on your initial or revised plant inventory value report for the crop year. If you expand your nursery growing facilities (e.g. newly acquired growing location or structure), you must revise your plant inventory value report.

\* \* \* \* \*

#### 5. Premium

(a) The premium for this endorsement is determined by multiplying the peak amount of insurance by the appropriate premium rate and by the premium adjustment factor.

*Example of Peak Endorsement Total Premium Calculation:* Assume a grower reports a peak amount of insurance on a basic unit of \$100,000 with a 65 percent coverage level, a price election of 1.00, and a share of 1.000. The base premium rate is \$0.051. The proration factors for the Peak Endorsement starting month and month following the month containing the coverage termination date are 0.68 and 0.52, respectively, as stated in the actuarial documents, which results in a premium adjustment factor of 0.16 (0.68—0.52). The total premium amount for the Peak Endorsement is \$530.00 ( $\$100,000 \times 0.65 \times 1.00 \times 1.000 \times \$0.051 \times 0.16$ ).

\* \* \* \* \*

#### 7. Liability limit.

The peak amount of insurance is limited to the basic unit value you declare under the Nursery Crop Insurance Provisions.

4. Add § 457.164 to read as follows:

#### **§ 457.164 Nursery rehabilitation endorsement.**

##### *Nursery Crop Insurance*

##### *Optional Rehabilitation Endorsement*

In return for payment of the additional premium designated in the actuarial documents, this endorsement is attached to and made a part of your Nursery Crop Insurance Provisions subject to the terms and conditions herein. In the event of a conflict between the Nursery Crop Insurance Provisions and this endorsement, this endorsement will control.

#### 1. Eligibility.

(a) You must have purchased additional coverage under the Nursery Crop Insurance Provisions, and you must comply with all terms and conditions contained in the applicable Nursery Crop Insurance Provisions and endorsements.

(b) You must elect this endorsement at the time of application for the initial crop year your field grown nursery plants will be insured under the Nursery Crop Insurance Provisions or by

October 1st if your field grown plants are already insured under the Nursery Crop Insurance Provisions.

(c) All field grown nursery plants insured under the Nursery Crop Insurance Provisions must be insured under this endorsement. Nursery plants produced in standard nursery containers are not covered under this endorsement.

#### 2. Coverage.

(a) Rehabilitation costs covered by this endorsement are limited to expenditures for labor and materials for pruning and setup (righting, propping, and staking) of field grown plants requiring rehabilitation that:

(1) Are damaged by an insured cause of loss specified in section 10 of the Nursery Crop Insurance Provisions; and

(2) Have a reasonable expectation of recovery.

(b) A rehabilitation payment may be made under this endorsement only if:

(1) Verifiable records are provided showing actual expenditures for rehabilitation;

(2) Rehabilitation procedures are performed directly following occurrence of damage before additional deterioration of the damaged plants occurs;

(3) We determine it is practical to rehabilitate the damaged plants; and

(4) The total actual rehabilitation costs for the basic or optional unit is, at least, the lesser of 2.0 percent of field market value A or \$5,000.

(c) The maximum amount of the rehabilitation payment for each basic or optional unit will be the lesser of:

(1) Your total actual rehabilitation costs multiplied by the under report factor contained in the Nursery Crop Insurance Provisions; or

(2) An amount equal to 7.5 percent of the value (based on the lower of the Plant Price Schedule price or the lowest wholesale price listed in the insured's nursery catalog or price list) of all your insurable field grown plants that were rehabilitated subsequent to an insured cause of loss, multiplied by the under report factor described in the Nursery Crop Insurance Provisions, multiplied by the coverage level percentage you elect, multiplied by your price election, and multiplied by your share. Insurable, rehabilitated plants that have not recovered from damage that occurred prior to attachment of this endorsement will have a reduced value in accordance with section 6(f) of the Nursery Crop Insurance Provisions.

(d) Only one rehabilitation payment will be paid on insurable plants that are rehabilitated on each basic or optional unit during any crop year regardless of

the number of losses that occur on the unit during the insurance period.

#### 3. Cancellation.

This endorsement will continue in effect until canceled. It may be canceled by you or us for any succeeding crop year by giving written notice to the other party on or before the cancellation date, contained in the Nursery Crop Insurance Provisions, preceding the crop year for which the cancellation of this endorsement is to be effective.

Signed in Washington, DC, on August 3, 2004.

**Ross J. Davidson, Jr.,**

*Manager, Federal Crop Insurance Corporation.*

[FR Doc. 04-18059 Filed 8-6-04; 8:45 am]

BILLING CODE 3410-08-P

## DEPARTMENT OF AGRICULTURE

### Rural Utilities Service

### 7 CFR Parts 1775, 1777, 1778, and 1780

### Rural Housing Service

### Rural Business-Cooperative Service

### Rural Utilities Service

### Farm Service Agency

### 7 CFR Part 1942

### Rural Housing Service

### 7 CFR Part 3570

### Rural Business-Cooperative Service

### Rural Utilities Service

### 7 CFR Part 4274

RIN 0572-AB96

### Definition Clarification of State Nonmetropolitan Median Household Income (SNMHI)

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

**ACTION:** Proposed rule.

**SUMMARY:** The Rural Housing Service (RHS), Rural Business-Cooperative Service (RBS), and the Rural Utilities Service (RUS), agencies delivering the United States Department of Agriculture's Rural Development Housing, Business, and Utilities Programs, are proposing to amend their regulations to reflect the clarification of the definition of SNMHI. The definition will in essence state "the median

household income of the state's non-metropolitan counties and portions of metropolitan counties outside of cities, towns or places of 50,000 or more population." This minor modification will enable Rural Development to serve more communities across rural America. The loan and grant eligibility or priority scoring will be positively impacted for Rural Development Housing, Business, and Utilities Programs.

**DATES:** Comments must be received by RUS or bear a postmark or equivalent, no later than September 8, 2004.

**ADDRESSES:** You may submit comments by any of the following methods:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- Agency Web site: <http://www.usda.gov/rus/index2/Comments.htm>. Follow the instructions for submitting comments.
- E-mail: [RUSComments@usda.gov](mailto:RUSComments@usda.gov). Include in the subject line of the message "Definition Clarification of State Non-metropolitan Median Household Income (SNMHI)."
- Mail: Addressed to Richard Annan, Acting Director, Program Development and Regulatory Analysis, Rural Utilities Service, United States Department of Agriculture, 1400 Independence Avenue, SW., STOP 1522, Washington, DC 20250-1522.
- Hand Delivery/Courier: Addressed to Richard Annan, Acting Director, Program Development and Regulatory Analysis, Rural Utilities Service, United States Department of Agriculture, 1400 Independence Avenue, SW., Room 5168-S, Washington, DC 20250-1522.

**Instructions:** All submissions received must include that agency name and the subject heading "Definition Clarification of State Non-metropolitan Median Household Income (SNMHI)." All comments received must identify the name of the individual (and the name of the entity, if applicable) who is submitting the comment. All comments received will be posted without change to <http://www.usda.gov/rus/index2/Comments.htm>, including any personal information provided.

**FOR FURTHER INFORMATION CONTACT:** Linda Scott, Loan Specialist, Water Programs Division, Rural Utilities Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 2235-S, Stop 1570, Washington, DC 20250-1570. Telephone (202) 720-9639. E-mail: [Linda.Scott@usda.gov](mailto:Linda.Scott@usda.gov).

**SUPPLEMENTARY INFORMATION:**

#### Executive Order 12866

This rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget (OMB).

#### Catalog of Federal Domestic Assistance

The programs described by this rule are listed in the Catalog of Federal Domestic Assistance Programs under numbers 10.760—Water and Waste Disposal Systems for Rural Communities; 10.761—Technical Assistance and Training Grants; 10.762—Solid Waste Management Grants; 10.763—Emergency Community Water Assistance Grants; 10.766—Community Facilities Loans and Grants; 10.767—Intermediary Relending Program; and 10.770—Water and Waste Disposal Loans and Grants (Section 306C). This catalog is available on a subscription basis from the Superintendent of Documents, the United States Government Printing Office, Washington, DC, 20402-9325, telephone number (202) 512-1800.

#### Executive Order 12372

The programs described by this rule that are subject to the requirements of Executive Order 12372, "Intergovernmental Review of Federal Programs," as implemented under USDA's regulations at 7 CFR part 3015, are 10.760—Water and Waste Disposal Systems for Rural Communities; 10.763—Emergency Community Water Assistance Grants; 10.766—Community Facilities Loans and Grants; 10.767—Intermediary Relending Program; and 10.770—Water and Waste Disposal Loans and Grants (Section 306C).

#### Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. RUS has determined that this rule meets the applicable standards provided in section 3 of the Executive Order. In addition all State and local laws and regulations that are in conflict with this rule will be preempted; no retroactive effect will be given to the rule; and, in accordance with section 212 (e) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6912 (e)) administrative appeal procedures, if any are required, must be exhausted prior to initiating any action against the Department or its agencies.

#### Regulatory Flexibility Act Certification

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601-612). The undersigned has determined and certified by signature of

this document that this rule will not have a significant economic impact on a substantial number of small entities since this rulemaking action does not involve a new or expanded program.

#### Information Collection and Recordkeeping Requirements

This rule contains no new reporting or recordkeeping burdens under OMB control numbers 0572-0109, 0572-0110, 0572-0112, 0572-0121, 0575- that would require approval under the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35).

#### National Environmental Policy Act Certification

The Administrator of RUS has determined that this rule will not significantly affect the quality of the human environment as defined by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Therefore, this action does not require an environmental impact statement or assessment.

#### Unfunded Mandates

This rule contains no Federal mandates (under the regulatory provision 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 section 202 and 205 of the Unfunded Mandates Reform Act of 1995.

#### 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 states is not required.

#### Background

Pursuant to 44 U.S.C. 3504(e)(3) and 31 U.S.C. 1104(d) and Executive Order No. 10253 (June 11, 1951), the Office of Management and Budget (OMB) defines Metropolitan Statistical Areas, Micropolitan Statistical Areas, Combined Statistical Areas, and New England City and Town Areas for use in Federal statistical activities. Once-a-decade OMB performs a comprehensive review of statistical area standards and definitions and publishes a list which includes counties where Metropolitan Statistical Areas are located. The entire county in which a metropolitan statistical area is located is determined

by OMB to be a metropolitan area, and, therefore, is not eligible for Rural Development assistance. (OMB issues periodic updates of the areas between decennial censuses based on Census Bureau data.) Because pockets of rural areas in need of Rural Development's financial assistance are located within these counties, Rural Development is proposing to define State Nonmetropolitan Median Household Income to include the portions of such metropolitan counties outside of cities, towns or places of 50,000 or more population.

The purpose of the proposed rule, with respect to the Water and Environmental Programs (WEP), is to create a standard definition of SNMHI to be used in priority scoring for WEP Technical Assistance and Training Grants, Section 306 Water and Waste Disposal Loans and Grants, and Emergency and Imminent Community Water Assistance Grants, and for loan and grant eligibility determinations for Water and Waste Loans and Grants. Standardizing the definition of SNMHI will allow for more efficient administration of these WEP loan and grant programs consistent with the purposes of the Consolidated Farm and Rural Development Act (codified at 7 U.S.C. 1921 *et seq.*).

The proposed rule also amends the Intermediary Relending Program (IRP) and Community Facilities (CF) loan and grant regulations by adding a definition of SNMHI. The term is actually used to help determine loan funding priority for the IRP and CF programs. The proposed change, for the IRP and CF programs, merely recognizes a test which is already being used and whose parameters have not been changed by inclusion of the definition.

The 30-day comment period for this proposed regulation is needed to make an equitable adjustment in eligibility and priority criteria to coincide with the beginning of Fiscal Year (FY) 2005. When the Census Bureau released the new median household income data based on the 2000 census, a number of rural communities across the country became ineligible for grants and low interest loans. These communities' median household income increased at a much faster rate than the indicator rate used by the agency, giving the appearance that the communities were relatively wealthier when compared to the state's median household income. However, the agency's median household income indicator was faulty since it did not account for a change in the definition of metropolitan counties from the 1990 census to the 2000 census. Based upon a review of

applications on hand and using the 2000 census median household income data for non-metropolitan counties, there was approximately a 25 percent reduction in the number of communities eligible for a grant and a 50 percent reduction in the number of communities eligible for a reduced interest rate. An Administrative Notice is in effect until September 30, 2004, enabling Rural Development program areas to continue using the 1990 census data for eligibility and scoring purposes for these communities with applications on hand as of October 1, 2003, provided that the loan and/or grant are funded before the end of FY 2004. After that date, all applications must be processed using the 2000 census data. By having this definition modification in effect as of October 1, 2004, the negative impact to numerous rural communities will be greatly reduced, and they will continue to be eligible for Rural Development financial assistance.

#### List of Subjects

##### 7 CFR Part 1775

Business and industry; Community development; Community facilities; Grant program—housing and community development; Reporting and recordkeeping requirements; Rural areas; Waste treatment and disposal; Water supply; Watersheds.

##### 7 CFR Part 1777

Community development; Community facilities; Grant programs—housing and community development; Loan programs—housing and community development; Reporting and recordkeeping requirements; Rural areas; Waste treatment and disposal; Water supply; Watersheds.

##### 7 CFR Part 1778

Community development; Community facilities; Grant programs—housing and community development; Reporting and recordkeeping requirements; Rural areas; Waste treatment and disposal; Water supply; Watersheds.

##### 7 CFR Part 1780

Community development; Community facilities; Grant programs—housing and community development; Loan programs—housing and community development; Reporting and recordkeeping requirements; Rural areas; Waste treatment and disposal; Water supply; Watersheds.

##### 7 CFR Part 1942

Community development; Community facilities; Loan program—Housing and community development;

Loan security; Reporting and recordkeeping requirements; Rural Areas; Waste treatment and disposal—Domestic; Water supply—Domestic.

##### 7 CFR Part 3570

Accounting; Administrative practice and procedure; Conflicts of interests; Environmental impact statements; Foreclosure; 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; Reporting and recordkeeping requirements; Rural areas.

For reasons set forth in the preamble, RUS proposes to amend 7 CFR chapters XVII, XVIII, and XXIV as set forth below:

#### CHAPTER XVII—Rural Utilities Service, Department of Agriculture

#### PART 1775—TECHNICAL ASSISTANCE AND TRAINING GRANTS

1. The authority citation for part 1775 continues to read as follows:

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

2. Amend § 1775.4 by adding a definition for “Statewide Nonmetropolitan Median Household Income” in alphabetical order to read as follows:

##### § 1775.4 Definitions.

\* \* \* \* \*

*Statewide Nonmetropolitan Median Household Income (SNMHI).* Median household income of the State's nonmetropolitan counties and portions of metropolitan counties outside of cities, towns or places of 50,000 or more population.

#### PART 1777—SECTION 306C WWD LOANS AND GRANTS

3. The authority citation for part 1777 continues to read as follows:

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

4. Amend § 1777.4 by adding a definition for “Statewide Nonmetropolitan Median Household Income” in alphabetical order to read as follows:

##### § 1777.4 Definitions.

\* \* \* \* \*

*Statewide Nonmetropolitan Median Household Income (SNMHI).* Median household income of the State's nonmetropolitan counties and portions

of metropolitan counties outside of cities, towns or places of 50,000 or more population.

#### **PART 1778—EMERGENCY AND IMMINENT COMMUNITY WATER ASSISTANCE GRANTS**

5. 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.

6. Amend § 1778.4 by adding a definition for “Statewide Nonmetropolitan Median Household Income” in alphabetical order to read as follows:

##### **§ 1778.4 Definitions.**

\* \* \* \* \*

*Statewide Nonmetropolitan Median Household Income (SNMHI).* Median household income of the State’s nonmetropolitan counties and portions of metropolitan counties outside of cities, towns or places of 50,000 or more population.

#### **PART 1780—WATER AND WASTE LOANS AND GRANTS**

7. The authority citation for part 1780 continues to read as follows:

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

##### **Subpart A—General Policies and Requirements**

8. Amend § 1780.3(a) by revising the definition for “Statewide Nonmetropolitan Median Household Income” to read as follows:

##### **§ 1780.3 Definitions and grammatical rules of construction.**

(a) \* \* \*

*Statewide nonmetropolitan median household income* means the median household income of the State’s nonmetropolitan counties and portions of metropolitan counties outside of cities, towns or places of 50,000 or more population.

\* \* \* \* \*

**CHAPTER XVIII—Rural Housing Service, Rural Business—Cooperative Service, and Farm Service Agency, Department of Agriculture**

#### **PART 1942—ASSOCIATIONS**

9. The authority citation for part 1942 continues to read:

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

##### **Subpart A—Community Facility Loans**

10. Amend subpart A by adding a new § 1942.21 to read as follows:

##### **§ 1942.21 Statewide Nonmetropolitan Median Household Income.**

Statewide Nonmetropolitan Median Household Income includes counties and portions of metropolitan counties outside of cities, towns or places of 50,000 or more population.

**CHAPTER XXXV—Rural Housing Service, Department of Agriculture**

#### **PART 3570—COMMUNITY PROGRAMS**

11. The authority citation for part 3570 continues to read:

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

##### **Subpart B—Community Facilities Grant Program**

12. Amend § 3570.53 by revising the definition for “State nonmetropolitan median household income” to read as follows:

##### **§ 3570.53 Definitions.**

\* \* \* \* \*

*State nonmetropolitan median household income.* The median household income of the State’s nonmetropolitan counties and portions of metropolitan counties outside of cities, towns or places of 50,000 or more population.

\* \* \* \* \*

**CHAPTER XLII—Rural Business—Cooperative Service, Rural Utilities Service, Department of Agriculture**

#### **PART 4274—DIRECT AND INSURED LOANMAKING**

13. The authority citation for part 4274 continues to read:

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

##### **Subpart D—Intermediary Relending Program (IRP)**

14. Amend § 4274.302 (a) by adding a definition for “Statewide Nonmetropolitan Median Household Income” in alphabetical order to read as follows:

##### **§ 4274.302 Definitions and abbreviations.**

(a) \* \* \*

*Statewide Nonmetropolitan Median Household Income (SNMHI).* Median household income of the State’s nonmetropolitan counties and portions of metropolitan counties outside of cities, towns or places of 50,000 or more population.

\* \* \* \* \*

Dated: July 16, 2004.

**Gilbert G. Gonzalez,**

*Under Secretary, Rural Development.*

[FR Doc. 04–18087 Filed 8–6–04; 8:45 am]

**BILLING CODE 3410–15–P**

#### **NATIONAL MEDIATION BOARD**

##### **29 CFR Part 1210**

##### **Administration of Arbitration Programs**

**AGENCY:** National Mediation Board.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The NMB has been considering changes to its rules and procedures to facilitate the more timely resolution of grievances (“minor disputes”) among grievants and carriers in the railroad industry. Because of its role in the administration of this program, the NMB has solicited public input on the factors that it should consider in accomplishing this goal. In particular, because of the NMB’s statutory responsibility for the appointment and compensation of neutral arbitrators (“referees”) to resolve deadlocks within NRAB divisions, and the NMB’s overall statutory responsibility for the administrative processing of grievances to facilitate the timely resolution of disputes in the rail industry through PLBs and SBAs, the NMB has been considering what initiatives it may undertake to further the resolution of minor disputes on a more timely and expeditious basis. The Board is today proposing to establish a new Part 1210 to its rules appearing at 29 CFR, Chapter X, to accomplish these goals.

**DATES:** Comments must be in writing and must be received by September 8, 2004.

**ADDRESSES:** Submit written comments to: Roland Watkins, Director of Arbitration/NRAB Administrator, National Mediation Board, 1301 K Street, NW., Suite 250 “East, Washington, DC 20005. Attn: NMB Docket No. 2003–01N. You may submit your comments via letter, or electronically through the Internet to the following address: [arb@nmb.gov](mailto:arb@nmb.gov). If you submit your comments electronically, please put the full body of your comments in the text of the electronic message and also as an attachment readable in MS Word. Please include your name, title, organization, postal address, telephone number, and e-mail address in the text of the message. Comments may also be submitted via facsimile to (202) 692–5086. Please cite NMB Docket No. 2003–01N in your comment.