

# Rules and Regulations

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

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## DEPARTMENT OF AGRICULTURE

### Rural 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.

**DATES:** *Effective Date:* December 27, 2011.

#### FOR FURTHER INFORMATION CONTACT:

Annie Goode, Environmental Protection Specialist, Technical Support Branch, Program Support Staff, Rural Housing Service, Rural Development, U.S. Department of Agriculture, Mail Stop 0761, 1400 Independence Avenue SW., Washington, DC 20250, telephone: (202) 720-9653.

#### 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), Public Law 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 Web site".

### **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 Web site.)".

### **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 Web site".

### **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 Web site".

### **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 Web site.)”.

#### **§ 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 Web site)”.

#### **§ 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 Web site)”.

### **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 Web site. 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, Put. 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 Web site)”.

#### **§ 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 Web site.)”.

#### **§ 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 Web site.)”.

#### **§ 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 Web site.)”.

### **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 Web site”.

### **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 Web site)”.

### **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 Web site”.

### **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 Web site”.

### **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 Web site”.

**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 Web site”.

Dated: December 6, 2011.

**Dallas Tonsager,**

*Under Secretary, Rural Development.*

Dated: December 8, 2011.

**Michael Scuse,**

*Acting Under Secretary, Farm and Foreign Agriculture Services.*

[FR Doc. 2011–33025 Filed 12–23–11; 8:45 am]

**BILLING CODE 3410–XV–P**

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 71**

[Docket No. FAA–2011–1238; Airspace Docket No. 11–AAL–20]

**Revocation and Establishment of Compulsory Reporting Point; Alaska**

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

**ACTION:** Final rule.

**SUMMARY:** This action modifies a low altitude and a high altitude Alaskan compulsory reporting point in the vicinity of Kodiak, Alaska. The FAA is removing the MARLO compulsory reporting point and establishing CJAYY

in the same location, to avoid confusion with a reporting fix of the same name. The boundaries, altitudes, and operating requirements remain the same.

**DATES:** Effective date 0901 UTC, April 5, 2012. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

**FOR FURTHER INFORMATION CONTACT:**

Colby Abbott, Airspace, Regulations and ATC Procedures Group, Office of Mission Support Services, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–8783.

**SUPPLEMENTARY INFORMATION:****History**

The FAA has determined that the low and high altitude Alaska reporting point MARLO has the same name as another reporting point fix that is in use by another country and is contained in the aeronautical database. To overcome possible confusion and flight safety issues, the FAA is changing the name of the low and high altitude MARLO compulsory reporting point in the vicinity of Kodiak, Alaska, to become the CJAYY compulsory reporting point by removing MARLO and establishing CJAYY in the same location. The latitude and longitude information used to define the reporting point, as well as the intersection description information, are unchanged. Accordingly, since this is an administrative change and does not affect the boundaries, altitudes, or operating requirements of the airspace, notice and public procedures under Title 5 U.S.C. 553(b) are unnecessary.

**The Rule**

The FAA amends Title 14 Code of Federal Regulations (14 CFR) part 71 by removing the low and high altitude MARLO Alaskan compulsory reporting point in the vicinity of Kodiak, Alaska, and establishing the low and high altitude CJAYY Alaskan compulsory reporting point in the same location.

Alaskan Low Altitude Reporting Points are listed in paragraph 7004 of FAA Order 7400.9V dated August 9, 2011, and effective September 15, 2011, which is incorporated by reference in 14 CFR 71.1. Alaskan High Altitude Reporting Points are listed in paragraph 7005 of FAA Order 7400.9V dated August 9, 2011, and effective September 15, 2011, which is incorporated by reference in 14 CFR 71.1. The reporting points listed in this document will be revised subsequently in the Order.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA’s authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency’s authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends Low and High Altitude Compulsory Reporting Points in Alaska.

**Environmental Review**

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with 311a, FAA Order 1050.1E, “Environmental Impacts: Policies and Procedures.” This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

**List of Subjects in 14 CFR Part 71**

Airspace, Incorporation by reference, Navigation (air).

**Adoption of the Amendment**

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows: