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DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Parts 1728 and 1755

Standards and Specifications for Timber Products Acceptable for Use by Rural Utilities Service Electric and Telecommunications Borrowers; Correction

AGENCY: Rural Utilities Service, USDA.

ACTION: Final rule; correction.

SUMMARY: The Rural Utilities Service published a final rule in the **Federal Register** on June 24, 2011, which amended its regulations on Electric and Telecommunications Standards and Specifications for Materials, Equipment and Construction, by codifying specifications for wood poles, stubs and anchor logs, wood crossarms (solid and laminated), transmission timbers and pole keys, and for quality control and inspection of timber products. The Agency also updated these specifications to conform with revisions to the American Wood Preservers' Association (AWPA) standards and follow agency policy on insurance requirements. The document inadvertently published incorrect percentages that would require rejection or re-inspection of the entire lot of poles. This document corrects these errors.

DATES: The correction is effective May 18, 2012.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Mr. H. Robert Lash, Transmission Branch, Electric Staff Division, Rural Utilities Service, U.S. Department of Agriculture, Room 1246, STOP 1569, 1400 Independence Ave. SW., Washington, DC 20250–1569; telephone: (202) 720–0486, or, email: *Bob.Lash@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION:

Need for Correction

As published, the final rule describes in detail the responsibilities and procedures pertaining to the quality control for crossarms as specified in 7 CFR 1728.202. In this section, RUS inadvertenly requires a 5 percent rejection or re-inspection of the entire lot of poles. The Agency is correcting this percentage inaccuracy in §§ 1728.202(f)(3)(i)(B), 1728.202(f)(3)(i)(C) and 1728.202(f)(3)(ii)(A) by replacing it with a 15 percent rejection or re-inspection of the entire lot of poles. The correct percentage of 15 appeared in the proposed rule and the Agency did not receive any adverse comments regarding it.

List of Subjects in 7 CFR Parts 1728 and 1755

7 CFR Part 1728

Electric power, Incorporation by reference, Loan programs—energy, Reporting and recordkeeping requirements, Rural areas.

7 CFR Part 1755

Incorporation by reference, Loan programs—communications, Reporting and recordkeeping requirements, Rural areas, Telephone.

For reasons set forth in the preamble, chapter XVII of title 7 of the Code of Federal Regulations, is amended as follows:

PART 1728—ELECTRIC STANDARDS AND SPECIFICATIONS FOR MATERIALS AND CONSTRUCTION

■ 1. The authority citation for part 1728 continues to read as follows:

Authority: 7 U.S.C. 901 *et seq.;* 1921 *et seq.,* 6941 *et seq.*

■ 2. In § 1728.202, revise paragraphs (f)(3)(i)(B), (f)(3)(i)(C), and (f)(3)(ii)(A) to read as follows:

§ 1728.202 Bulletin 1728H–702, Specification for Quality Control and Inspection of Timber Products.

* * * * *

(f) * * *

(3) * * *

(i) * * *

(B) Re-treat the charge if more than 15 percent of the borings are found to be nonconforming.

(C) Re-treat all nonconforming poles if 15 percent or fewer fail the requirement.

(ii) * * *

(A) For Group B poles 45 feet and shorter, bore each pole and re-treat only those found to be nonconforming, unless more than 15 percent fail; in that case, re-treat the entire lot.

* * * * *

Dated: May 9, 2012.

Jonathan Adelstein,

Administrator, Rural Utilities Service.

[FR Doc. 2012–12025 Filed 5–17–12; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Rural Housing Service

Rural Business-Cooperative Service

Rural Utilities Service

Farm Service Agency

7 CFR Part 1942

RIN 0575–AC78

Community Facility Loans

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

ACTION: Final rule.

SUMMARY: The Rural Housing Service (Agency) is amending regulations on Community Facility Loans, to maintain consistency with standard industry contracts and to make minor revisions to streamline processing applications. These revisions are needed to conform to market and industry changes by updating, clarifying, and modifying the regulatory requirements for community facility construction and development. The amendments to the regulation will streamline current processes and provide for faster reviews of alternate construction contract methods (such as Design/Build and Construction Management) by the Agency's National Office.

DATES: This rule is effective July 17, 2012.

FOR FURTHER INFORMATION CONTACT: William Downs, Technical Support Branch, Program Support Staff, Rural Housing Service, U.S. Department of

Agriculture, STOP 0761, 1400 Independence Avenue SW., Washington, DC 20250–0761; Telephone: 202–720–1499; Fax: 202–690–4335; Email: *william.downs@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION:

Classification

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

Civil Justice Reform

This rule has been reviewed in accordance with Executive Order 12988, Civil Justice Reform. Except where specified, all State and local laws and regulations that are in direct conflict with this rule will be preempted. Federal funds carry Federal requirements. Applications for funding under this program are voluntary. Applicants who apply and are selected for funding must comply with the requirements applicable to the Federal program funds. This rule is not retroactive. It will not affect agreements entered into prior to the effective date of this rule. Before any judicial action may be brought regarding the provisions of this rule, the administrative appeal provisions of 7 CFR parts 11 and 780 must be exhausted.

Regulatory Flexibility Act

The Administrator of the Agency has determined that this rule will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). New provisions included in this rule will not impact a substantial number of small entities to a greater extent than large entities. The construction requirements and policies being revised will apply equally to all applicants, regardless of size of the applicant organization. Further, these changes will give all applicants greater flexibility in developing projects. Therefore, a regulatory flexibility analysis was not performed.

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, Rural Development must prepare, to the extent practicable, 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. With certain exceptions, section 205 of UMRA requires Rural Development to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost effective or least burdensome alternative that achieves the objectives of the rule. This rule contains no Federal mandates for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the Unfunded Mandates Reform Act of 1995.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, ''Environmental Program.'' The Agency has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and, in accordance with the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.,* an Environmental Impact Statement is not required.

Programs Affected

The programs affected are listed in the Catalog of Federal Domestic Assistance under Numbers 10.766 Community Facilities Loans and Grants.

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.

Intergovernmental Review

The Agency conducts intergovernmental consultation in the manner delineated in RD Instruction 1940–J, ''Intergovernmental Review of Rural Development Programs and Activities,'' and in 7 CFR part 3015, subpart V. The changes being considered are not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. An intergovernmental review for this revision is not required or applicable.

Paperwork Reduction Act

The information collection and record keeping requirements contained in this regulation have been approved by OMB in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The assigned OMB control number is 0575–0042.

E-Government Act Compliance

The Agency is 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. For information pertinent to E-GOV compliance related to this proposed rule, please contact William Downs, 202–720–1499.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

This executive order imposes requirements on Rural Development in the development of regulatory policies that have tribal implications or preempt tribal laws. Rural Development has determined that the proposed rule does not have a substantial direct effect on one or more Indian tribe(s) or on either the relationship or the distribution of powers and responsibilities between the Federal Government and Indian tribes. Thus, this final rule is not subject to the requirements of Executive Order 13175. If a tribe determines that this rule has implications of which Rural Development is not aware and would like to engage in consultation with Rural Development on this rule, please contact Rural Development's Native American Coordinator at (202) 690–1681 or *AIAN@wdc.usda.gov.*

Background

The change removes restrictive language in 7 CFR part 1942, subpart A that limits projects using alternate construction methods to loans only, and will allow grant funds to be used with design/build and other alternate construction methods. When the regulation was written in the 1970's design/build and construction management were unique forms of contracting that were not commonly used. It was determined that the Agency would not allow grant funds to be used for alternate construction methods. Over time, design/build and construction management became more common in the construction industry. The success or failure rate of such contracting methods has proven to be no greater than the traditional design/bid/build method. Therefore, the Agency has

determined that the funding source—loans or grants—should have no determination on the construction method used. Further, these changes streamline processing by allowing contracts up to $250,000 to be reviewed by the State Office. The present regulation, which went into effect in the 1970's, requires all projects over $100,000 be reviewed by the National Office. Additional language is added to describe alternate construction methods: Design/build, construction management constructor, construction management advisor, and fast tracking. Presently, only a definition is given. The new language will help field staff and applicants understand when a project qualifies as an alternate construction method. None of the changes are statutory requirements, and the Agency has determined that these changes better reflect current conditions within the construction industry, and will better streamline processing for applicants.

In conjunction with this rule, the Agency is revising Agency Guide documents used with American Institute of Architects (AIA) contracts for construction to reflect their updated contracts. Contracts referenced in the present regulation will be replaced with the new updated contracts. New Guides will be added for AIA contracts for Design/Build and Construction Management. A new Guide will be added listing the Agency requirements for review of alternate contract methods, to assist field staff and applicants.

A proposed rule was published in the **Federal Register** on April 22, 2011 (76 FR 22631) to address issues mentioned above. No comments were received, and there have been no changes implemented in this rule that were not addressed in the proposed rule.

List of Subjects in 7 CFR Part 1942

Community development, Community facilities, Loan programs—Housing and community development, Loan security, Rural areas.

For the reasons set forth in the preamble, Chapter XVIII, Title 7 of the Code of Federal Regulations is amended as follows:

PART 1942—ASSOCIATIONS

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

Authority: 7 U.S.C. 1926; 7 U.S.C. 1927, 7 U.S.C. 7901, and Pub. L. 110–246.

Subpart A—Community Facility Loans

■ 2. Section 1942.9 is amended by revising the section heading, paragraph (b) introductory text and paragraph (b)(1) to read as follows:

§ 1942.9 Planning, bidding, contracting, and constructing.

* * * * *

(b) *Contract approval.* The State Director or designee is responsible for approving all construction contracts using legal advice and guidance of OGC as necessary. The National Office must concur with the use of a contracting method under § 1942.18(l) of this subpart exceeding $250,000. When an applicant requests such concurrence, the State Director will submit the following to the National Office:

(1) State Director's and Rural Development engineer/architect's comments and recommendations, and if noncompetitive negotiation per § 1942.18(k)(4) is accepted by the Agency, submit an evaluation of previous work of the proposed construction firm.

* * * * *

■ 3. Section 1942.18, paragraph (l) is revised to read as follows:

§ 1942.18 Community facilities—Planning, bidding, contracting constructing.

* * * * *

(l) *Alternate contracting methods.* The services of the consulting engineer or architect and the general construction contractor shall normally be procured from unrelated sources in accordance with paragraph (j)(7) of this section. Alternate contracting methods which combine or rearrange design, inspection or construction services (such as design/build or construction management/constructor) may be used with Rural Development written approval.

(1) The owner will request Rural Development approval by providing the following information to the State Office for review and approval by the State Architect:

(i) The owner's written request to use an unconventional contracting method with a description of the proposed method.

(ii) A proposed scope of work describing in clear, concise terms the technical requirements for the contract. This would include a nontechnical statement summarizing the work to be performed by the contractor, the expected results, the sequence in which the work is to be performed, and a proposed construction schedule.

(iii) A proposed firm-fixed-price contract for the entire project which provides that the contractor shall be responsible for any extra cost which may result from errors or omissions in the services provided under the contract and compliance with all Federal, State, and local requirements effective on the contract execution date.

(iv) An evaluation of the contractor's performance on previous similar projects in which the contractor acted in a similar capacity.

(v) A detailed listing and cost estimate of equipment and supplies not included in the construction contract but which are necessary to properly operate the facility.

(vi) Evidence that a qualified construction inspector who is independent of the contractor has or will be hired.

(vii) Preliminary plans and outline specifications. However, final plans and specifications must be completed and reviewed by Rural Development prior to the start of construction.

(viii) The owner's attorney's opinion and comments regarding the legal adequacy of the proposed contract documents and evidence that the owner has the legal authority to enter into and fulfill the contract.

(2) The State Office may approve design/build or construction management/constructor projects if the contract amount is equal to or less than $250,000.

(3) If the contract amount exceeds $250,000, National Office prior concurrence must be obtained in accordance with § 1942.9(b) of this subpart. Additional information, such as plans and specifications, may be requested by the National Office.

(4) The Design/Build method of construction is one in which the architectural and engineering services, normally provided by an independent consultant to the owner, are combined with those of the General Contractor under a single source contract. These services are commonly provided by a Design/Build firm, a joint venture between an architectural firm and a construction firm, or a company providing pre-engineered buildings and design services.

(5) The Construction Management/constructor (CMc), acts in the capacity of a General Contractor and is actually responsible for the construction. This type of construction management is also referred to as Construction Manager ''At Risk.'' The construction contract is between the owner and the CMc. The CMc, in turn, may subcontract for some or all of the work.

(6) The National Office may approve other alternative contact methods, such as Construction Management/advisor (CMa), with a recommendation from the State Office. The recommendation shall indicate the circumstances which prove this method advantageous to the applicant and the Government. A CMa

acts in an advisory capacity to the owner, and the actual contract for construction is between the owner and a prime contractor or multiple prime contractors. When a contract for an architect and a CMa are being provided, it is important to make sure that separate professionals are not being paid to provide similar services. Further, paragraph (e)(3) of this section discourages separate contracts for construction.

(7) All alternate contracting method projects must comply with the requirements for ''maximum open and free competition'' in paragraph (j)(2) of this section. Choosing an alternate contracting method is not a way to avoid competition. Further information on procurement methods, which must be followed, is provided in paragraph (k) of this section.

* * * * *

Dated: April 4, 2012.

Dallas P. Tonsager,

Under Secretary, Rural Development.

Dated: April 2, 2012.

Michael T. Scuse,

Acting Under Secretary, Farm and Foreign Agriculture Services.

[FR Doc. 2012–11961 Filed 5–17–12; 8:45 am]

BILLING CODE 3410–XV–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2008–0177(b); FRL–9673–9]

Approval and Promulgation of Implementation Plans; Portion of York County, SC Within Charlotte-Gastonia-Rock Hill, NC–SC 1997 8-Hour Ozone Nonattainment Area; Ozone 2002 Base Year Emissions Inventory

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve the ozone 2002 base year emissions inventory portion of the state implementation plan (SIP) revision submitted by the South Carolina Department of Health and Environmental Control (SC DHEC) on April 29, 2010. The emissions inventory is included in the ozone attainment demonstration that was submitted for the 1997 8-hour ozone national ambient air quality standards (NAAQS) for the portion of York County, South Carolina that is within the bi-state Charlotte-Gastonia-Rock Hill 1997 8-hour ozone nonattainment area. The Charlotte-Gastonia-Rock Hill, North Carolina-South Carolina 1997 8-hour ozone nonattainment area (hereafter referred to as the ''bi-state Charlotte Area'') is comprised of Cabarrus, Gaston, Lincoln, Mecklenburg, Rowan, Union and a portion of Iredell (Davidson and Coddle Creek Townships) Counties in North Carolina; and a portion of York County in South Carolina. This action is being taken pursuant to section 110 of the Clean Air Act (CAA or Act). EPA will take action on the North Carolina submission for the ozone 2002 base year emissions inventory for its portion of the bi-state Charlotte Area in a separate action.

DATES: This direct final rule is effective July 17, 2012 without further notice, unless EPA receives adverse comment by June 18, 2012. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2008–0177, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: R4-RDS@epa.gov.*
3. *Fax:* (404) 562–9019.
4. *Mail:* ''EPA–R04–OAR–2008–0177,'' Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960.
5. *Hand Delivery or Courier:* Lynorae Benjamin, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R04–OAR–2008–0177. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *www.regulations.gov* or email, information that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Sara Waterson, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9061. Ms. Waterson can be reached via electronic mail at *waterson.sara@epa.gov.*