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DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Part 1792

RIN 0572-AC01

Seismic Safety

AGENCY: Rural Utilities Service, USDA.

ACTION: Direct final rule.

SUMMARY: The Rural Utilities Service, an agency which administers the U.S. Department of Agriculture's Rural Development Utilities Programs (hereinafter "USDA Rural Development" or the "Agency,") is amending its regulations to update the seismic safety requirements of the Agency. These amendments will provide Agency borrowers (including Rural Telephone Bank borrowers), grant recipients, and the public with updated rules for compliance with seismic safety requirements for new building construction using loan, grant, or guaranteed funds of the Agency, or funds provided through lien accommodations or subordinations approved by the Agency.

DATES: This rule will become effective November 30, 2006, unless we receive written adverse comments or a written notice of intent to submit adverse comments on or before November 15, 2006. If we receive such comments or notice, we will publish a timely document in the **Federal Register** withdrawing the rule. Comments received will be considered under the proposed rule published in this edition of the **Federal Register** in the proposed rule section. A second public comment period will not be held.

Written comments must be received by USDA Rural Development or carry a postmark or equivalent no later than November 15, 2006.

ADDRESSES: Submit adverse comments or notice of intent to submit adverse

comments by either of the following methods:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov> and, in the lower "Search Regulations and Federal Actions" box, select "Rural Utilities Service" from the agency drop-down menu, then click on "Submit." In the Docket ID column, select RUS-06-Agency-0049 to submit or view public comments and to view supporting and related materials available electronically. Information on using *Regulations.gov*, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's "User Tips" link.

- Postal Mail/Commercial Delivery: Please send your comment addressed to Richard Annan, Director, Program Development and Regulatory Analysis, USDA Rural Development, 1400 Independence Avenue, STOP 1522, Room 5159, Washington, DC 20250-1522. Please state that your comment refers to Docket No. RUS-06-Agency-0049.

Other Information: Additional information about Rural Development and its programs is available on the Internet at <http://www.rurdev.usda.gov/index.html>.

FOR FURTHER INFORMATION CONTACT: Mr. Donald Heald, Structural Engineer, Transmission Branch, Electric Staff Division, USDA Rural Development, 1400 Independence Avenue, SW., STOP 1569, Washington, DC 20250-1569. Telephone: (202) 720-9102. Fax: (202) 720-7491.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

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).

Executive Order 12372

This rule is excluded from the scope of Executive Order 12372, Intergovernmental Consultation, which may require consultation with State and local officials. A notice of final rule entitled "Department Programs and Activities Excluded from Executive Order 12372," (50 FR 47034) exempted Agency loans and loan guarantees from coverage under this order.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. The Agency 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 this 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, must be exhausted before an action against the Department or its agencies may be initiated.

Executive Order 13132, Federalism

This rule will 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. Therefore, consultation with States is not required.

Regulatory Flexibility Act Certification

The Agency certifies 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.*). Therefore, no further analysis is required. This rule serves to update the existing regulation and should result in modest cost savings and ease the regulatory compliance burden for affected applicants.

Information Collection and Recordkeeping Requirements

The reporting and recordkeeping requirements contained in the rule have been approved by the Office of Management and Budget (OMB) under OMB Control Number 0572-0099, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35).

National Environmental Policy Act Certification

The Administrator of the Agency 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.

Catalog of Federal Domestic Assistance

The programs covered by this rule are listed in the Catalog of Federal Domestic Assistance programs under numbers 10.850, Rural Electrification Loans and Loan Guarantees; 10.851, Rural Telephone Loans and Loan Guarantees; 10.852, Rural Telephone Bank Loans; 10.857, Rural Broadband Access Loans and Loan Guarantees, 10.760, Water and Waste Disposal System for Rural Communities; 10.764, Resource Conservation Development Loans, and 10.765, Watershed Protection and Flood Prevention Loans.

This catalog is available on a subscription basis from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402-9325. Telephone: (202) 512-1800.

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 sections 202 and 205 of the Unfunded Mandates Reform Act.

Background

In the mid eighties, the Federal Emergency Management Agency (FEMA) contracted the Building Seismic Safety Council (BSSC) to develop the National Earthquake Hazards Reduction Program (NEHRP) Provisions for new buildings. One of the primary goals of the program is to reduce or mitigate losses from earthquakes. The NEHRP *Recommended Provisions for Seismic Regulations for New Buildings and Other Structures* are recommended provisions that have been adopted in recent times by model codes and standards. The first edition of the NEHRP Provisions was dated 1985. The document is updated on a 3-year cycle. The 2000 edition of the NEHRP provisions is the fifth update of the document.

Executive Order 12699, Seismic Safety of Federal and Federally Assisted or Regulated New Building Construction, requires that all new federally owned, leased, assisted, and other regulated buildings be designed and constructed in accordance with the appropriate seismic standards. The Interagency Committee on Seismic Safety in Construction (ICSSC) has recommended the use of building codes which are substantially equivalent to the *2000 National Earthquake Hazards Reduction Program Provisions for the*

Development of Seismic Regulations for New Buildings (commonly called the NEHRP Provisions).

The National Institute of Standards and Technology (NTIS) had previously contracted to evaluate the equivalency of the latest edition of the NEHRP Provisions available at the time and the latest editions of national building codes and standards. The four previous comparisons involved the *BOCA National Building Code (BOCA/NBC)*, the *Standard Building Code (SBC)*, the *Uniform Building Code (UBC)*, ASCE 7, *Minimum Design Loads for Buildings and Other Structures (ASCE 7)* and *CABO One- and Two-Family Dwelling Code (OTFDC)*, the *International Building Code (IBC)*, and the *International Residential Code (IRC)*.

NTIS contracted to determine whether or not the seismic and material design provisions of the *International Building Code (IBC)*, 2003 edition; the *NFPA 5000 Building Construction and Safety Code*, 2003 edition; the *International Residential Code for One- and Two-Family Dwellings*, 2003 edition, and ASCE 7-02, *Minimum Design Loads for Buildings and Other Structures*, are substantially equivalent to, or exceed, the 2000 NEHRP Provisions.

For purposes of USDA Rural Development, the following documents have been found to be substantially equivalent to the 2000 NEHRP: *International Building Code (IBC)*, 2003 edition; the *NFPA 5000 Building Construction and Safety Code*, 2003 edition, and ASCE 7-02, *Minimum Design Loads for Buildings and Other Structures*. Although these documents were found to be equivalent in intent and equivalent in design values, there were some exceptions within each document. Because of the structure of our agency requirements, it is recommended that the above documents be accepted as substantially equivalent.

List of Subjects in 7 CFR Part 1792

Buildings and facilities, Electric power, Grant programs, Loan programs, Reporting and recordkeeping requirements, Rural area, Seismic safety, Telephone.

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

PART 1792—COMPLIANCE WITH OTHER FEDERAL STATUTES, REGULATIONS, AND EXECUTIVE ORDERS

■ 1. The authority citation for part 1792 is revised to read as follows:

Authority: 7 U.S.C. 901 *et seq.*, 1921 *et seq.*, 6941 *et seq.*; 42 U.S.C. 7701 *et seq.*; E.O. 12699 (3 CFR, 1990 Comp., p. 269).

■ 2. Section 1792.103 is amended by revising paragraphs (a) and (b) to read as follows:

§ 1792.103 Seismic design and construction standards for new buildings.

(a) In the design and construction of federally assisted buildings, the borrowers and grant recipients must utilize the seismic provisions of the most recent edition of those standards and practices that are substantially equivalent to or exceed the seismic safety level in the 2000 edition of the NEHRP Recommended Provisions for the Development of Seismic Regulation for New Buildings.

(b) Each of the following model codes or standards provides a level of seismic safety substantially equivalent to that provided by the 2000 NEHRP Recommended Provisions and are appropriate for federally assisted new building construction:

(1) *2003 NFPA 5000 Building Construction and Safety Code*. Copies of the book are available from the NFPA (National Fire Protection Association), 1 Batterymarch Park, Quincy, MA 02269-7471. Telephone: (617) 770-3000. Fax: (617) 770-0700.

(2) 2002 American Society of Civil Engineers (ASCE) 7, *Minimum Design Loads for Buildings and Other Structures*. Copies are available from the American Society of Civil Engineers, Publications Marketing Department, 1801 Alexander Bell Drive, Reston, VA 20191-4400. E-mail: marketing@asce.org. Telephone: (800) 548-2723. Fax: (703) 295-6211.

(3) *2003 International Code Council (ICC) International Building Code (IBC)*. Copies of the book or CD-ROM are available from the International Conference of Building Officials, 4051 West Flossmoor Rd., Country Club Hill, IL 60478. Telephone: (800) 786-4452. Fax: (800) 214-7167.

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Dated: September 27, 2006.

James M. Andrew,

Administrator, Rural Utilities Service.

[FR Doc. E6-17065 Filed 10-13-06; 8:45 am]

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