



Rural Development

PA AN No. 1281 (1940-G, 1970-I, 1794)
October 29, 2013

State Office

One Credit Union
Place, Suite 330
Harrisburg, PA 17110-
2996

Voice 717.237.2299
Fax 717.237.2191

TTY/TDD & Voice 711
TDD only
717.237.2261

www.rurdev.usda.gov/pa

TO: All Staff
Rural Development, Pennsylvania

FROM: Thomas P. Williams /s/ Trudy S. Moore, Acting
State Director

SUBJECT: Intergovernmental Review of Rural Development Programs and
Activities in Pennsylvania

PURPOSE/INTENDED OUTCOME:

The purpose of this Administrative Notice (AN) is to provide guidance on RD Instruction 1970-I *Intergovernmental Review* regarding intergovernmental review of Rural Development programs and activities and in support of RD Instruction 1940-G *Environmental Program* and 7 CFR 1794 *Environmental Policies and Procedures*.

For projects under certain program authorizations, Rural Development is required to provide opportunity for consultation by elected officials of State and local governments in accordance with Executive Order (E.O) 12372 *Intergovernmental Review of Federal Programs*. E.O. 12372 is intended to foster an intergovernmental partnership and strengthen Federalism, relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance and direct Federal development.

COMPARISON WITH PREVIOUS AN:

This AN replaces PA AN 1259 (1940-G, 1940-J, 1794), issued on January 5, 2011, which expired on January 31, 2012. It revises references and implementation procedures of RD Instruction 1940-J *Intergovernmental Review* with the replacement RD Instruction 1970-I *Intergovernmental Review*, corrects Local Development Districts contact information, adds a list of RD programs subject to Intergovernmental Review (IR), adds guidance on IR and Formally Classified Lands and adds an alternative consultation letter.

EXPIRATION DATE:
October 31, 2014

FILING INSTRUCTIONS:
**Preceding RD Instructions 1940-G,
1970-I and 7 CFR 1794**

USDA is an equal opportunity provider and employer.

If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form (PDF), found online at http://www.ascr.usda.gov/complaint_filing_cust.html, or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or email at program.intake@usda.gov.

IMPLEMENTATION RESPONSIBILITIES:

The preparer of the environmental review documents is responsible for:

- Initiating the consultation process for all proposals subject to IR as outlined in RD Instruction 1970-I and Exhibit A of this AN.
- Ensuring comments received are given due consideration as mitigation measures (if appropriate).
- Authorizing applicants to perform IR consultation in accordance with RD Instruction 1970-I.
- Ensuring that RD Instruction 1970-I Exhibit A (IR Consultation letter) and Exhibit A Attachment 1 is utilized to initiate consultation.
- Filing a copy of consultation letters, supporting documents, and response letters in environmental file (NEPA review documents) Position 3, Tab 9.

IMPLEMENTATION PROCESS:

Pennsylvania does not have a Single Point of Contact (SPOC); however the Agency must consult with local governments and regional planning agencies on land use planning, zoning and other resource areas.

The preparer should apply the following steps to ensure IR compliance in Pennsylvania:

1. Identify if Program or Action is subject to IR:

Attachment 3 of this AN provides a list of all Agency programs, as furnished by National Office, that require IR. If a program requires IR, keep in mind that the proposal may be an exempted action not subject to IR.

In cases where a Notice of Funding Availability (NOFA) indicates the program is subject to IR, verify that the rule indicates the program is subject to IR. The rule takes precedence over the NOFA.

IR is required for all existing and future Agency programs, except the following:

- All single family housing programs;
- Applications for non-construction type assistance such as refinancing of debt, transfers of ownership, purchase of equipment, provision of operating capital, vehicle purchases, minor amendments to previously approved proposals and technical assistance;
- Applications from federally-recognized Indian tribes (refer to 1970.406(a)(1) for more information);
- Loan servicing actions such as the disposition of inventory property held by the Secretary, transfers or assumptions;
- Programs where their codified rules specifically state that Executive Order 12372 is not applicable; and
- Programs which States and local governments through written notice to the Agency, have elected not to review or provide comment.

If it is determined that no IR is required, document this finding in the report by citing the applicable exemption.

2. Discuss IR Requirement with Applicant:

Once it is determined that a proposal is subject to IR, discuss with the applicant the goals and requirements of the IR process. Inform the applicant that the consultation process must be started **prior to application submission**. The local governing bodies are afforded a **60-day review period**, so completing this consultation as early as possible is critical to reducing delays.

3. Initiate Consultation:

Request letters should be formatted according to RD Instruction 1970-I Exhibit A and Attachment 1 or the Alternative letter format found in Attachment 1 of this AN. This format is similar to the format mentioned during the National Office's Land Use webinar (July 23, 2013). This alternative format was suggested to expedite the review process for the local government entities.

Send requests to local government entities such as County, Municipality, City, Borough, Township, School District, Special District, Council of Government, Watershed Organization, Regional and Interstate Governments, or any agency or instrument of local government. Begin by contacting the most local governing planning body where the project will be located. Keep in mind that not all communities have their own planning or review agency at a local level and therefore the next level of government should be contacted (i.e. County Planning Commission).

The Appalachia area within Pennsylvania has Local Development Districts (LDD); Attachment 2 of this AN contains a list of contact information for LDDs in Pennsylvania.

NOTE: If the Agency authorizes the applicant to initiate consultation, the applicant must state in the consultation letter that USDA Rural Development is funding the proposal and has authorized the applicant to perform consultation for Executive Order 12372 Intergovernmental Review of Federal Programs. The applicant should utilize the same letter format and supporting documents outlined in 1970-I Exhibit A and Attachment 1.

3. Review and Consider Responses:

If comments or recommendations are received, the Agency is not required to provide a written response to the local government body because Pennsylvania does not have an SPOC; however from a NEPA perspective, the Agency may consider addressing the comment or complying with a recommendation if it is considered reasonable. Recommendations may be incorporated as mitigation measures.

If a response is not received and there is no way to verify receipt of the request letter, the preparer should document any follow-up actions, such as telephone calls or emails, taken to obtain a response. Document the name and title of person, date of conversation, and comments in the environmental file.

4. Using IR for Formally Classified Lands:

IR should be initiated for any properties administered by Federal, State or local agencies or that has been given special protection through formal legislative designations. These include but are not limited to:

U.S. Fish and Wildlife, U.S. Department of Interior National Park Service, U.S. Department of Interior Bureau of Land Management, USDA Forest Service, USDA Natural Resources and Conservation Service, etc.

Pennsylvania Department of Environmental Protection, Pennsylvania Department of Conservation and Natural Resources, Pennsylvania Game Commission, Pennsylvania Fish and Boat Commission, etc.

Some examples of Formally Classified Lands are: Heritage Areas of Pennsylvania, Gettysburg National Military Park and Allegheny National Forest. Refer to the Natural Resources Management Guide for additional information on Formally Classified Lands within Pennsylvania.

5. Other Considerations:

Should the scope of the project change, the preparer should resend the IR consultation letters with an updated project description. If the proposal has not been funded and the IR response letters are over 2 years old, the preparer should resend the IR consultation letters to inform the entities of the current status of the proposal and seek updated comments.

If you have any questions concerning the Intergovernmental Review Process, please contact Kelly Herzog, State Environmental Coordinator at 717-237-2176 or Amanda Krugh, Assistant State Environmental Coordinator at 717-237-2289.

Attachments

Intergovernmental Review Consultation Alternative Letter Format
(place on Agency or applicant's letterhead)

(insert date)

Dear (insert name):

We are initiating the Executive Order 12372, "Intergovernmental Review of Federal Programs" process on behalf of the U.S. Department of Agriculture, Rural Development (Agency). The Agency is being asked to consider providing financial assistance for the proposal described in the attachments. To expedite your review process, please consider the following questions listed below. If answering "Yes" to any question please attach comments.

- 1) Is the proposal consistent with State or local government planning goals? **Yes No**
- 2) Does the proposal duplicate, run counter to, or need to be coordinated with other activities, or might be revised to increase its effectiveness? **Yes No**
- 3) Will the proposal contribute to achieving State or local government goals relating to natural and human resources or economic and community development? **Yes No**
- 4) Are there environmental impacts and alternatives that should be considered in the Agency's environmental review? **Yes No**
- 5) Will the proposal influence area growth or delivery of services, including any disproportionate effects on minority groups? **Yes No**
- 6) Will the proposal impact energy resource supply and demand? **Yes No**
- 7) Will the proposal displace people or businesses? **Yes No**
- 8) Is the proposal located in a Coastal Zone or Coastal Barrier Resource Area and is the proposal consistent with any State coastal management plan? **Yes No**

Please complete the gray signature box at the bottom of the page and return this letter directly to the Agency at (insert Agency address). If you choose not to respond within 60 days of this correspondence, the Agency will assume that you have chosen not to respond and may proceed with their decision. If you have any questions concerning this proposal, please contact (insert person's name and contact information who can answer questions on the proposal).

Sincerely,

(signature)
(typed name)

Signature
Print Name
Title
Date

Attachments: Proposal's Description and Maps
(include all items listed in 1970-I Exhibit A, Attachment 1)

Local Development Districts (LDD) in Appalachia Region of Pennsylvania

Northwest Pennsylvania Regional Planning and
Development Commission
395 Seneca Street
Oil City, Pennsylvania 16301
814-677-4800
Home page: <http://www.nwcommission.org>
*Counties: Clarion, Crawford, Erie, Forest, Lawrence,
Mercer, Venango, Warren*

Northern Tier Regional Planning and Development
Commission
312 Main Street
Towanda, Pennsylvania 18848
888-868-8800
email: info@northerntier.org
Home page: <http://www.northerntier.org>
*Counties: Bradford, Sullivan, Susquehanna, Tioga,
Wyoming*

Southwestern Pennsylvania Commission
Two Chatham Center, Suite 500
112 Washington Place
Pittsburgh, Pennsylvania 15219-3451
412-391-5590
email: comments@spcregion.org
Home page: <http://www.spcregion.org>
*Counties: Allegheny, Armstrong, Beaver, Butler, Fayette,
Greene, Indiana, Lawrence, Washington, Westmoreland*

SEDA—Council of Governments (SEDA-COG)
201 Furnace Road
Lewisburg, Pennsylvania 17837
570-524-4491
email: admin@seda-cog.org
Home page: <http://www.seda-cog.org>
*Counties: Centre, Clinton, Columbia, Juniata, Lycoming,
Mifflin, Montour, Northumberland, Perry, Snyder, Union*

North Central Pennsylvania Regional Planning and
Development Commission
651 Montmorenci Road
Ridgway, Pennsylvania 15853
814-773-3162
email: ncprpdc@ncentral.com
Home page: <http://www.ncentral.com>
*Counties: Cameron, Clearfield, Elk, Jefferson, McKean,
Potter*

Northeastern Pennsylvania Alliance
1151 Oak Street
Pittston, Pennsylvania 18640-3726
570-655-5581
email: info@nepa-alliance.org
Home page: <http://www.nepa-alliance.org>
*Counties: Carbon, Lackawanna, Luzerne, Monroe, Pike,
Schuylkill, Wayne*

Southern Alleghenies Planning and Development
Commission (SAP&DC)
3 Sheraton Drive
Altoona, Pennsylvania 16601
814-949-6500
email: sapdc@sapdc.org
Home page: <http://www.sapdc.org>
*Counties: Bedford, Blair, Cambria, Fulton, Huntingdon,
Somerset*

Table 1. List of RBS, RHS, RUS Programs subject to Intergovernmental Review according to codified Rule ^(1,2)						
<i>Updated October 12, 2012</i>						
C DFA #	Subject to EO 12372	Agency & Program	Program Title	Program No.	Rule	Division
RBS PROGRAMS -NOT SUBJECT TO INTERGOVERNMENTAL REVIEW						
10.778	NO	RBS	Research on the Economic Impact of Cooperatives		NoFA	Coop
10.856	NO	RBS	1890 Land Grant Institutions Rural Entrepreneurial Outreach Program		NoFA	Coop
10.350	NO	RBS	Technical Assistance to Cooperatives		4284-F	Coop
10.352	NO	RBS	Value-Added Producer Grants		4284-J	Coop
10.771	NO	RBS	Rural Cooperative Development Grants	RCDG	4284-F	Coop
10.866	NO	RBS	Repowering Assistance	9004	NoFA/4288	Energy
10.867	NO	RBS	Bioenergy Program For Advanced Biofuels or Advanced BioFuel Production	9005	NoFA/4288	Energy
10.868	NO	RBS	Rural Energy for America Program (REAP)	9007	4280-B	Energy
10.870	NO	RBS	Rural Microentrepreneur Assistance Program		4280-D	Sp. Lending
RBS PROGRAMS - SUBJECT TO INTERGOVERNMENTAL REVIEW						
10.767	YES	RBS	Intermediary Relending Program		4274-D and 1951-R	Sp. Lending
10.768	YES	RBS	Business and Industry Loans		4279A&-B	B&I

Table 1. List of RBS, RHS, RUS Programs subject to Intergovernmental Review according to codified Rule ^(1,2)

<i>Updated October 12, 2012</i>						
10.769; 10.783	YES	RBS	Rural Business Enterprise Grants	RBEG	1942-G	Sp. Lending
10.773	YES	RBS	Rural Business Opportunity Grants	RBOG	4284-G	Coop
10.854	YES	RBS	Rural Economic Development Loans and Grants (RDLEG)	RDLEG	4280-A or 1703	Sp. Lending
10.865	YES	RBS	Biorefinery Assistance	9003	4279-C/4287	Energy
RHS PROGRAMS - NOT SUBJECT TO INTERGOVERNMENTAL REVIEW						
10.410	NO	RHS-SFH	Very Low to Moderate Income Housing Loans	502	3550	SFH
10.417	NO	RHS-SFH	Very Low-Income Housing Repair Loans and Grants		3550	SFH
10.788	NO	RHS-SFH	Very Low to Moderate Income Housing Loans - Direct			SFH
10.789	NO	RHS-SFH	Very Low to Moderate Income Housing Loans Guaranteed			SFH
10.444	NO	RHS-SFH	Direct Housing - Natural Disaster Loans and Grants	504	3550	SFH
10.761	NO	RHS-SFH	Technical Assistance and Training Grants			SFH
10.447	NO ³	RHS-MFH	The Rural Development (RD) Multi-Family Housing Revitalization Demonstration Program (MPR)			MFH
10.448	NO ³	RHS-MFH	Rural Development Multi-Family Housing Rural Housing Voucher Demonstration Program			MFH
10.446	NO	RHS-CF	Rural Community Development Initiative		NOFA	CF
RHS PROGRAMS - SUBJECT TO INTERGOVERNMENTAL REVIEW						
10.766	YES	RHS-CF	Community Facilities Loans and Grants	Direct	1942-A	CF
10.780	YES	RHS-CF	Community Facilities Loans and Grants	Guaranteed /Grants	3570/3575-A/B	CF
10.405	YES	RHS-MFH	Farm Labor Housing Loans and Grants	514/516	3560	MFH

Table 1. List of RBS, RHS, RUS Programs subject to Intergovernmental Review according to codified Rule ^(1,2)

<i>Updated October 12, 2012</i>						
10.427	YES	RHS-MFH	Rural Rental Assistance Payments	521	3560	MFH
10.433	YES	RHS-MFH	Rural Housing Preservation Grants		1944 N	MFH
10.438	YES	RHS-MFH	Section 538 Rural Rental Housing Guaranteed Loans	538	10/4/1909 0:00	MFH
10.411	YES	RHS-SFH	Rural Housing Site Loans and Self_Help Housing Land Development Loans		3/19/1901 19:12	SFH
10.415	YES	RHS-MFH	Rural Rental Housing Loans	Direct 515/Guaranteed 538	3560/3565	MFH
10.420	YES	RHS-SFH	Rural Self-Help Housing Technical Assistance		1944-I	SFH
RUS PROGRAMS - NOT SUBJECT TO INTERGOVERNMENTAL REVIEW						
10.759	NO	RUS	Part 1774 Special Evaluation Assistance for Rural Communities and Households Program (SEARCH)		1774	
10.762	NO	RUS	Solid Waste Management Grants		1775	
10.787	NO	RUS	Broadband Initiatives Program		NOFA/1738	
10.850	NO	RUS	Rural Electrification Loans and Loan Guarantees		1710/1714/1717	
10.851	NO	RUS	Rural Telephone Loans and Loan Guarantees		1735	
10.857	NO	RUS	State Bulk Fuel Revolving Fund Grants		1709	
10.858	NO	RUS	Denali Commission Grants and Loans		1709	
10.859	NO	RUS	Assistance to High Energy Cost Rural Communities		NOFA/1709	
10.861	NO	RUS	Public Television Station Digital Transition Grant Program		NOFA/1740	
10.862	NO	RUS	Household Water Well System Grant Program		1776	
10.863	NO	RUS	Community Connect Grant Program		1759	

Table 1. List of RBS, RHS, RUS Programs subject to Intergovernmental Review according to codified Rule ^(1, 2)

<i>Updated October 12, 2012</i>						
10.864	NO	RUS	Grant Program to Establish a Fund for Financing Water and Wastewater Projects		7 CFR 3015/1783	
10.874	NO	RUS	Delta Health Care Services Grant Program		NOFA	
10.886	NO	RUS	Rural Broadband Access Loans and Loan Guarantees		1738	
RUS PROGRAMS - SUBJECT TO INTERGOVERNMENTAL REVIEW						
10.760	YES	RUS	Water and Waste Disposal Direct Loans and Grants		1780	
	YES	RUS	Water and Waste Guaranteed Loans		1779	
	YES	RUS	Water and Waste Disposal Systems Loans and Grants (Section 306C)		1777	
10.763	YES	RUS	Emergency Community Water Assistance Grants		1778	
10.855	YES	RUS	Distance Learning and Telemedicine Loans and Grants		NOFA/1703	
Notes:						
¹ Please Note: Recognized Indian Tribes are NOT subject to the intergovernmental review process (1970 Subpart I – 1970.403)						
² Please refer to 7 CFR 1970 (§ 1970.403 Policy) for other programs that are exempt from Intergovernmental Review besides those listed as such in condified Rules						
³ Changed from Intergovernmental Review "Required" to "Not Required" since September 2012 version (updated Oct 12, 2012)						
⁴ Contact Juliet Bochicchio with any comments/updates at 202-205-8242 or juliet.bochicchio@wdc.usda.gov						