

# Rules and Regulations

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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; technical correction.

**SUMMARY:** The Rural Utilities Service, a Rural Development agency in the United States Department of Agriculture, published a final rule on October 14, 2021, effective date of publication, amending its regulations on Electric and Telecommunications Standards and Specifications for Materials, Equipment and Construction to keep RUS standards current with the technology advances and consistent with the industry practice. This document corrects inadvertent errors that were published in that final rule, replaces an incorporated standard inadvertently removed from the centralized index section, and updates the incorporation by reference of RUS Bulletin 1728F-700, RUS Specification for Wood Poles, Stubs and Anchor Logs.

**DATES:** Effective May 6, 2022.

*Incorporation by Reference:* The incorporation by reference of certain publications listed in this rule is approved by the Director of the Federal Register as of May 6, 2022. The incorporation by reference of certain other publications listed in this rule was approved by the Director of the Federal Register as of June 18, 2019 and October 14, 2021.

**ADDRESSES:** The material incorporated by reference is available at: <https://www.rd.usda.gov/resources/regulations/bulletins>.

#### FOR FURTHER INFORMATION CONTACT:

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Programs | Rural Utilities Service | Rural Development U.S. Department of Agriculture, 1400 Independence Ave. SW | Washington, DC 20250-1567 | Phone: 202-690-9032 | email: [Chendi.Zhang@usda.gov](mailto:Chendi.Zhang@usda.gov).

#### SUPPLEMENTARY INFORMATION:

##### Executive Order 12866

This final rule is exempt from the Office of Management and Budget (OMB) review for purposes of Executive Order 12866 and, therefore, has not been reviewed by OMB.

##### Executive Order 12372

This final 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 the Rural Utilities Service loans and loan guarantees from coverage under this order.

##### Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. The Rural Utilities Service 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 final rule will be preempted. No retroactive effect will be given to this final 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

This final rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on distribution of power and responsibilities among the various levels of government. Under Executive Order 13132, this final rule does not have sufficient federalism implications to require preparation of a Federalism Assessment.

#### Regulatory Flexibility Act Certification

The Rural Utilities Service has determined that the Regulatory

Flexibility Act is not applicable to this final rule since USDA Rural Utilities Service is not required by 5 U.S.C. 551 *et seq.* or any other provision of the law to publish a notice of proposed rulemaking with request to the subject matter of this rule.

#### Information Collection and Recordkeeping Requirements

This final rule contains no new reporting or recordkeeping burdens under OMB control number 0572-0076 that would require approval under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

#### Assistance Listings

The program described by this final rule is listed in the Assistance Listings (formerly the Catalog of Federal Domestic Assistance Programs) as No. 10.850, Rural Electrification Loans and Loan Guarantees. These Federal assistance program listings are available at the following [Sam.gov](https://sam.gov/content/assistance-listing/federal) website: <https://sam.gov/content/assistance-listing/federal>.

#### Unfunded Mandates

This final rule contains no Federal Mandates (under the regulatory provision of title II of the Unfunded Mandates Reform Act of 1995 [2 U.S.C. Chapter 25]) for State, local, and tribal governments, or the private sector. Thus, this final rule is not subject to the requirements of sections 202 and 205 of the Unfunded Mandates Reform Act of 1995.

#### National Environmental Policy Act

In accordance with the National Environmental Policy Act of 1969, Public Law 91-190, this final rule has been reviewed in accordance with 7 CFR part 1970 ("Environmental Policies and Procedures"). The Agency has determined that (i) this action meets the criteria established in 7 CFR 1970.53(f); (ii) no extraordinary circumstances exist; and (iii) the action is not "connected" to other actions with potentially significant impacts, is not considered a "cumulative action" and is not precluded by 40 CFR 1506.1. Therefore, the Agency has determined that the action does not have a significant effect on the human environment, and therefore neither an Environmental Assessment nor an Environmental Impact Statement is required.

## USDA Non-Discrimination Statement

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotope, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at <https://www.usda.gov/oascr/how-to-file-a-program-discrimination-complaint> and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed complaint form or letter to USDA by:

(1) *Mail*: U.S. Department of Agriculture, Office of Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, DC 20250-9410,

(2) *Email*: [OAC@usda.gov](mailto:OAC@usda.gov).

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## Background

### I. General Discussion

The Rural Utilities Service maintains bulletins that contain construction standards and specifications for materials and equipment and provide regulated specifications to RUS Electric Program borrowers for procurement of electric transmission and distribution line wood materials. These standards and specifications apply to systems constructed by electric and telecommunications borrowers in

accordance with the loan contract, and contain standard construction units, materials, and equipment units used on electric and telecommunications borrowers' systems. The following bulletins establish standards for the manufacture and inspection of wood utility poles, crossarms and pole keys: Bulletin 1728F-700 "RUS Specification for Wood Poles, Stubs and Anchor Logs", incorporated by reference at § 1728.97; Bulletin 1728H-701, "Specification for Wood Crossarms (Solid and Laminate), Transmission Timbers, and Pole Keys", codified at 7 CFR 1728.201; and Bulletin 1728H-702, "Specification for Quality Control and Inspection of Timber Products", codified at 7 CFR 1728.202.

### II. Purpose of the Regulatory Action

This Final rule; technical correction corrects inadvertent errors in the Final rule; response to comments published in the **Federal Register** (86 FR 57015) on October 14, 2021 (October final rule).

### III. Summary of Corrections

The updates and corrections to the October final rule are as follows:

*A. Bulletin 1728F-700 "RUS Specification for Wood Poles, Stubs and Anchor Logs" (Incorporated by Reference at § 1728.97)*

(The update and corrections detailed below describe changes to the text of the Bulletin, which does not appear in this Final rule; technical corrections, since the Bulletin is incorporated by reference.)

- Update the current date of issuance date.
- In paragraph 5(b), remove the incorrect entry of 2 years and replacing it with 1 year that no material treated with creosote, pentachlorophenol, DCOI or copper naphthenate shall be shipped for use on a RUS borrower's system later than 1 year following the original treatment date branded on the material; and
- Correct the requirements for Copper Naphthenate retentions in Table 8 in Appendix A.

*B. Bulletin 1728H-702, "Specification for Quality Control and Inspection of Timber Products" (Codified at 7 CFR 1728.202)*

- Add the annual requirement of submitting the lab certificate from the amendatory language, that was discussed in the Summary of Changes but inadvertently omitted from the amendatory language for § 1728.202 in the October final rule.

### C. Corresponding and Miscellaneous CFR Amendments

- Update the date of issuance for Bulletin 1728F-700, "RUS Specification for Wood Poles, Stubs and Anchor Logs", in § 1728.97 and 1755.97.
- Update the date of issuance for Bulletin 1728H-702, "Specification for Quality Control and Inspection of Timber Products", in § 1755.98.
- Add AWPA M3-16, "Standard for the Quality Control of Preservative Treated Products for Industrial" back into § 1728.97, from which it was inadvertently deleted.

### Incorporation by Reference

Bulletin 1728F-700, RUS Specification for Wood Poles, Stubs and Anchor Logs. This specification describes the minimum acceptable quality of wood poles, stubs, telephone pedestal stubs, and anchor logs (hereinafter called poles, except where specifically referred to as stubs or anchor logs) purchased by or for RUS borrowers. The requirements of this specification implement contractual provisions between RUS and borrowers receiving financial assistance from RUS.

RUS provides free online public access to view and download copies of Bulletin 1728-F 700. The RUS website to view and download this bulletin is: <http://www.rd.usda.gov/resources/regulations/bulletins>.

The following standards were previously approved for incorporation by reference and their use continues unchanged: AWPA A6, AWPA A9, and AWPA A83.

### List of Subjects

#### 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.*, and 6941 *et seq.*

- 2. Amend § 1728.97 by:

- a. Revising paragraph (a)(21); and
- b. Redesignating paragraphs (e)(10) and (11) as paragraphs (e)(11) and (12) and adding new paragraph (e)(10).

The revision and addition read as follows:

**§ 1728.97 Incorporation by reference of electric standards and specifications.**

\* \* \* \* \*

(a) \* \* \*

(21) Bulletin 1728F-700, RUS Specification for Wood Poles, Stubs and Anchor Logs (April 18, 2022), incorporation approved for §§ 1728.98 and 1728.202.

\* \* \* \* \*

(e) \* \* \*

(10) AWPA M3-16, Standard for the Quality Control of Preservative Treated Products for Industrial Use, Revised 2016, incorporation by reference approved for §§ 1728.201 and 1728.202.

\* \* \* \* \*

- 3. Amend § 1728.202 by:

- a. Removing paragraph (b)(10) introductory text;
- b. Adding paragraph (b)(10)(i);
- c. Revising the heading for table 1 to paragraph (b)(10) and revising the heading for note 1 to paragraph (b)(10); and
- d. Adding paragraphs (b)(10)(ii) and (iii).

The additions and revisions read as follows:

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

\* \* \* \* \*

(b) \* \* \*

(10)(i) Inspection agencies shall maintain their own properly equipped laboratory that, at a minimum, is able to run the referee methods listed in table 1 to this paragraph (b)(10) for retention analysis for all preservatives being

inspected. This laboratory shall be independent from any treating plant laboratory. Inspection Agencies may use one central laboratory. All XRF units maintained by third party inspection agencies as part of their RUS required laboratories shall be calibrated at least quarterly by said agency utilizing the referee method for each preservative treatment being analyzed or via comparison with a set of graduated treated wood standards. Each agency shall keep an up-to-date written record of these quarterly calibration results.

**Table 1 to Paragraph (b)(10)(i)**

\* \* \* \* \*

Note 1 to table 1 to paragraph (b)(10)(i): \* \* \*

(ii) Inspection agencies shall, on an annual basis, provide RUS Technical Standards Committee “A” with proof that the agency does have the required, fully equipped laboratory capable of running each of the referee methods of analysis as illustrated in table 1 to paragraph (b)(10)(i) of this section. AWPA A83 or AWPA A9 (both incorporated by reference at § 1728.97) shall be followed for Pentachlorophenol testing.

(iii) AWPA A30 (incorporated by reference at § 1728.97) or AWPA A9 shall be followed for DCOI testing. AWPA A6 (incorporated by reference at § 1728.97) shall be followed for Creosote testing and AWPA A9 shall be followed for XRF, as illustrated in table 1 to paragraph (b)(10)(i) of this section.

\* \* \* \* \*

**PART 1755—TELECOMMUNICATIONS STANDARDS AND SPECIFICATIONS FOR MATERIALS, EQUIPMENT AND CONSTRUCTION**

- 4. The authority citation continues to read as follows:

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

- 5. Amend § 1755.97 by revising paragraphs (a)(1) and (b)(13) to read as follows:

**§ 1755.97 Telephone standards and specifications.**

(a)(1) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. This material is available for inspection at the Rural Utilities Service (RUS) and at the National Archives and Records Administration (NARA). Contact the RUS at: 1400 Independence Ave. SW, Washington, DC, 202-692-0042; email: [comments@usda.gov](mailto:comments@usda.gov); Telephone number: 202-692-0042; <https://www.rd.usda.gov/resources/regulations/bulletins>. For information on the availability of this material at NARA, email: [fr.inspection@nara.gov](mailto:fr.inspection@nara.gov), or go to: [www.archives.gov/federal-register/cfr/ibr-locations.html](http://www.archives.gov/federal-register/cfr/ibr-locations.html). The material may be obtained from the following source(s):

\* \* \* \* \*

(b) \* \* \*

(13) Bulletin 1728F-700, RUS Specification for Wood Poles, Stubs and Anchor Logs, April 18, 2022.

\* \* \* \* \*

- 6. Amend § 1755.98 by revising paragraph (a) to read as follows:

**§ 1755.98 List of telecommunications specifications included in other 7 CFR parts.**

\* \* \* \* \*

Section	Issue date	Title
(a) 1728.202 .....	4.18.2022	RUS Specification for Quality Control and Inspection of Timber Products.
* .....	* .....	* .....

Christopher A. McLean,

Acting Administrator, Rural Utilities Service.

[FR Doc. 2022-09606 Filed 5-5-22; 8:45 am]

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