

**List of Subjects in 7 CFR Part 301**

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

**PART 301—DOMESTIC QUARANTINE NOTICES**

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 7 CFR part 301 and that was published at 65 FR 4865–4866 on February 2, 2000.

**Authority:** 7 U.S.C. 147a, 150bb, 150dd, 150ee, 150ff, 161, 162, and 164–167; 7 CFR 2.22, 2.80, and 371.2(c).

Done in Washington, DC, this 12th day of May 2000.

**Craig A. Reed,**

*Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 00–12437 Filed 5–16–00; 8:45 am]

**BILLING CODE 3410–34–U**

**DEPARTMENT OF AGRICULTURE****Rural Utilities Service****7 CFR Part 1710**

**RIN 0572–AB52**

**General and Pre-Loan Policies and Procedures Common to Insured and Guaranteed Loans**

**AGENCY:** Rural Utilities Service, USDA.

**ACTION:** Direct final rule.

**SUMMARY:** The Rural Utilities Service (RUS) is amending its regulations to allow flexibility in determining whether a borrower needs to solicit bids from all sources for new or replacement generation. It is also deleting the requirement that borrowers seek bids if RUS financial assistance is requested from all sources for generation projects of 10 megawatts or more or for modifications to existing plants if it results in an increase in capacity of 10 percent. RUS will review each project on a case by case basis and determine whether there is a need for a borrower to seek bids from all sources for the project.

**DATES:** This rule will become effective July 3, 2000 unless we receive written adverse comments or written notice of intent to submit adverse comments on or before June 16, 2000. 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. Parties interested in commenting on this action should do so at this time.

**ADDRESSES:** Submit adverse comments or notice of intent to submit adverse comments to F. Lamont Heppe, Jr., Director, Program Development and Regulatory Analysis, Rural Utilities Service, U.S. Department of Agriculture, Stop 1522, 1400 Independence Avenue, SW, Washington, DC 20250–1522. Telephone: (202) 720–9550. RUS requires a signed original and three copies of all comments (7 CFR 1700.4). Comments will be available for public inspection during regular business hours (7 CFR 1.27(b)).

**FOR FURTHER INFORMATION CONTACT:** Wei M. Moy, Chief, Power Resources & Planning Branch, Power Supply Division, Rural Utilities Service, U.S. Department of Agriculture, Stop 1568, 1400 Independence Avenue, SW, Washington, DC 20250–1568. Telephone: (202) 720–1438. FAX (202) 720–1401. E-mail: [wmoy@rus.usda.gov](mailto:wmoy@rus.usda.gov).

**SUPPLEMENTARY INFORMATION:****Executive Order 12866**

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

**Executive Order 12988**

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. RUS 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 § 212(e) of the Department of Agriculture Reorganization Act of 1994 (7 USC 6912(e)) administrative appeal procedures, if any, must be exhausted before an action against the Department or its agencies may be initiated.

**Regulatory Flexibility Act Certification**

RUS has determined that this rule will not have a significant impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The RUS electric program provides loan and loan guarantees to borrowers at interest rates and terms that are more favorable than those generally available from the private sector. Small entities are not subjected to any requirements which are not applied equally to large entities. RUS borrowers, as a result of obtaining

federal financing, receive economic benefits that exceed any direct economic costs associated with complying with RUS regulations and requirements.

**Information Collection and Recordkeeping Requirements**

This rule contains no additional information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

**Catalog of Federal Domestic Assistance**

The program described by this rule is listed in the Catalog of Federal Domestic Assistance programs under No. 10.850, Rural Electrification Loans and Loan Guarantees. This catalog is available on a subscription basis from the United States Government Printing Office, Washington, DC 20402–9325, telephone number (202) 512–1800.

**Executive Order 12372**

This rule is excluded from the scope of Executive Order 12372, Intergovernmental Consultation, which may require consultation with State, local and tribal governments or the private sector. See the final rule related notice entitled “Department Programs and Activities Excluded from Executive Order 12372” (50 FR 47034).

**Unfunded Mandates**

This rule contains no Federal mandates (under the regulatory provision of title II of the Unfunded Mandates Reform Act) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of section 202 and 205 of the Unfunded Mandates Reform Act.

**National Environmental Policy Act Certification**

The Administrator of RUS 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.

**Background**

Section 1710.254 provides that RUS will consider providing financial assistance to borrowers for the construction of generation facilities and the modification of existing generation facilities only if certain conditions are met. The requirements also apply to financial assistance for all new generation facilities of 10 megawatts or more and for modifications to existing

generation facilities that would result in an increase of generation capacity of 10 percent or more. This section provides that all loan requests for any type of addition of generation capacity, including replacement and modification of existing capacity, will be accepted by RUS only when the applicant has satisfactorily completed the investigation of possible alternative sources of power. The applicant is required to search out and attempt to utilize capacity available from RUS borrowers and other organizations before developing plans for additional generation capacity. The applicant must solicit power and energy purchase proposals from all reasonable potential sources of power by the issuance of a formal Request for Proposals (RFP) to all sources. The applicant is also required to evaluate all alternative proposals received on an economic, present value basis, giving consideration to cost-effectiveness, reliability of service, the short and long-term financial viability of the supplier, and the financial risk to the borrower and its creditors. After evaluating all proposals, the applicant is to negotiate final proposals with entities submitting the best acceptable offers. This entire process is required to determine if there are other entities that could supply the additional power and energy needs of the applicant without RUS financial assistance.

This process is very time consuming, costly and, in many cases, is not needed. The entire process can take more than a year in some cases. At the conclusion of the process, the business opportunities and the best approach to meet the applicant's specific need may no longer be available or no longer available at the projected cost.

The electric energy industry in the United States is experiencing ongoing deregulation. This has increased competition in the industry and the need for RUS borrowers to be able to meet the power needs of their members and the power needs of the rural consumers in a timely, cost effective manner. Presently, there is an abundance of public information and reports assessing market conditions of various regions of the country, utility market trends, market forecasts, and projected projects for various markets. As such, in certain cases, an RFP is not needed nor is the expense and time involved in the solicitation useful or justified.

The rapidly changing and increasingly competitive environment of the electric utility industry requires borrowers to make certain decisions regarding the need for generation facilities and the type of facilities

needed in a very short time frame to enable them to meet their power supply needs in the most reliable and economical manner. The borrower's intended use of the generation facilities is critical to any determination as to need and cost. An example of this is the installation of peaking generation facilities to meet peak loads. Due to reliability problems, growing demand and the high cost of power and energy experienced by some electric utilities during peak demand periods in recent years, there is an increasing need for peaking generation units. The gas turbine manufacturers are unable to keep up with the demand. As a result, RUS borrowers must be able to take full advantage of any business opportunities in order to maintain their competitiveness and be able to obtain peaking units to meet their peak loads. Due to the time consuming process required by the existing requirements of § 1710.254, this can and has been an impediment to the borrowers obtaining capacity to meet peaking requirements in a reliable and economical manner.

Another concern of the borrowers and RUS is that the process required by § 1710.254 is expensive, especially when the sole reason to issue an RFP is to meet the requirements of this regulation. To meet these requirements, some borrowers have had to hire consultants to assist them in the RFP and evaluation process. This has added to the time necessary to complete the process and added to the cost. For projects such as upgrades or modifications to existing generation facilities, which result in an increase in generation capacity, the economics and the actual need are generally clear, hence, the RFP requirement contained in § 1710.254 and the associated costs are an unnecessary expense in most cases.

#### List of Subjects in 7 CFR 1710

Electric power, Electric utilities, Loan programs-energy, Reporting and recordkeeping requirements, Rural areas.

Accordingly, 7 CFR chapter XVII is amended as follows:

#### PART 1710—GENERAL AND PRE-LOAN POLICIES AND PROCEDURES COMMON TO INSURED AND GUARANTEED ELECTRIC LOANS

1. The authority citation for part 1710 continues to read as follows:

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

2. Amend § 1710.254 by revising paragraphs (a)(2), (b), (c), (d), and (e) to read as follows:

#### § 1710.254 Alternative sources of power.

(a) \* \* \*

(2) If a borrower already owns and operates the types of facilities included in a loan request, then a loan for the purposes contained in paragraph (a)(1) of this section, as well as for the construction of transmission facilities by a distribution borrower, will be considered and evaluated by RUS in terms of whether the proposed facilities constitute an effective and economical means of meeting the power requirements of the consumers. A borrower shall contact RUS as soon as practicable in order for RUS to review information submitted by the borrower and advise the borrower, in writing, whether there is a need for the borrower to investigate and seek alternative sources of power. RUS will determine, based on information provided by the borrower or otherwise available, whether there is a need to investigate alternative sources of power or whether RUS will require information or other methods of determining the need for the generation capacity. RUS will base its determination on whether RUS is able to conclude that the project is needed, the borrower would incur delays and costs in pursuing an RFP, or that an RFP is not likely to produce new alternatives to the project.

(b) Loan requests for the addition of generation capacity, including replacement of existing capacity, will be accepted by RUS when the applicant has completed the requirements established by RUS, in a manner satisfactory to RUS. The investigations of alternative sources of power must be coordinated in advance with RUS. This section applies to RUS financed generation capacity whether owned solely by the borrower, owned on an undivided ownership basis with other utilities or substantially controlled by the borrower.

(c) The applicant may be required to seek and utilize capacity available from RUS borrowers and other organizations before developing plans for additional generation capacity. RUS may require, on a case by case basis, that the applicant, among other things:

(1) Solicit power and energy purchase proposals from all reasonable potential sources of power, such as other electric cooperatives, investor-owned utilities, municipal utility organizations, and Federal and state power authorities.

(2) Solicit proposals from independent power producers, including co-generators, to determine

the terms and conditions under which these producers can supply the additional power and energy needs of the applicant, without RUS financial assistance. Such solicitations should be placed in at least three national newspapers or trade publications, and they meet all planning, coordination or other requirements imposed by state authorities, as well as the environmental requirements of RUS.

(d) When solicitations are received in accordance with paragraph (c) of this section, the applicant will evaluate all alternative proposals on an economic, present-value basis, giving consideration to cost-effectiveness, reliability of service, the short-term and long-term financial viability of the supplier, and the financial risk to the borrower and its creditors. The applicant will keep RUS fully informed on these evaluations and provide supporting information and analysis as requested by RUS.

(e) After evaluation of all proposals received in accordance with paragraph (c) of this section, and having informed RUS of the results, the applicant may be required to negotiate final proposals with the entities submitting the best acceptable offers. Contracts requiring RUS approval will either be approved in advance by the Administrator or contain a provision that the contract is not valid until approved, in writing, by the Administrator. The Administrator will approve the contracts in a timely manner provided that the borrower has met all applicable requirements, including, among other matters, evidence that the alternative source of power selected is an economical and effective alternative.

\* \* \* \* \*

Dated: May 5, 2000.

**Jill Long Thompson,**

*Under Secretary, Rural Development.*

[FR Doc. 00-11986 Filed 5-16-00; 8:45 am]

BILLING CODE 3410-15-P

## DEPARTMENT OF AGRICULTURE

### Farm Service Agency

#### 7 CFR Part 1951

RIN 0560-AF91

#### Disaster Set-Aside Program—Second Installment Set-Aside

**AGENCY:** Farm Service Agency, USDA.

**ACTION:** Interim rule.

**SUMMARY:** The Farm Service Agency (FSA) is amending the disaster set-aside program requirement to allow FSA to

set aside portions of loan installments that could not be made as scheduled due to a natural disaster, as declared by the President or Secretary of Agriculture, or because of low commodity prices received during the 1999 crop year. In addition, disaster set-aside eligibility requirements are amended to require borrowers to develop a positive cash flow projection which will at least permit the borrower to pay all operating and family living expenses and meet scheduled payments on all debts for the next business accounting year. These provisions will allow the agency to service the loans of farmers who have experienced losses due to a natural disaster or low commodity prices in an efficient and timely manner while ensuring the future viability of the operation.

**DATES:** The effective date for this rule is May 17, 2000. Comments on this rule must be submitted by July 17, 2000 to be assured consideration.

**ADDRESSES:** Submit written comments to Director, Farm Loan Programs, Loan Servicing and Property Management Division, United States Department of Agriculture, Farm Service Agency, STOP 0523, 1400 Independence Avenue, SW, Washington, DC 20250-0523.

**FOR FURTHER INFORMATION CONTACT:** Michael Cumpton, telephone (202) 690-4014; electronic mail: mike—cumpton@wdc.fsa.usda.gov.

#### SUPPLEMENTARY INFORMATION:

##### Executive Order 12866

This rule has been determined to be significant and was reviewed by the Office of Management and Budget under Executive Order 12866.

##### Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*), the undersigned certifies that this rule will not have a significant economic impact on a substantial number of small entities. New provisions included in this rule will not impact a substantial number of small entities to a greater extent than large entities. Large entities are subject to these rules to the same extent as small entities. Therefore, a regulatory flexibility analysis was not performed.

##### Environmental Impact Statement

It is the determination of FSA that this action is not a major Federal action significantly affecting the environment. Therefore, in accordance with the National Environmental Policy Act of 1969, and 7 CFR part 1940, subpart G,

an Environmental Impact Statement is not required.

##### Executive Order 13132

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.

##### Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988, Civil Justice Reform. In accordance with this rule: (1) 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; and (3) administrative proceedings in accordance with 7 CFR part 11, and 7 CFR part 780 if the decision is made by the FSA county committee or personnel subordinate to the county committee, must be exhausted before bringing suit in court challenging action taken under this rule.

##### Executive Order 12372

For reasons contained in the notice related to 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), the programs to which this rule pertains are excluded from the scope of E.O. 12372, requiring intergovernmental consultation with State and local officials.

##### The Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104-4, requires Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments or the private sector of \$100 million or more in any 1 year. When such a statement is needed for a rule, section 205 of the UMRA requires FSA to prepare a written statement, including a cost benefit assessment, for proposed and final rules with "Federal mandates" that may result in such expenditures for State, local, or tribal governments, in the aggregate, or to the private sector. UMRA generally requires agencies to consider alternatives and adopt the most cost effective or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates, as defined under title II of the UMRA, for State, local, and tribal governments or the private sector. Thus,