

program under section 1207 of the Food, Conservation, and Energy Act of 2008 (Pub. L. 110–246, referred to commonly as the “2008 Farm Bill”).

(b) CCC will prescribe forms used in administering Economic Adjustment Assistance to Users of Upland Cotton.

#### **§ 1427.101 Eligible upland cotton.**

(a) For purposes of this subpart, eligible upland cotton is baled upland cotton, regardless of origin, that is opened by an eligible domestic user on or after August 1, 2008, and is either:

(1) Baled lint, including baled lint classified by USDA’s Agricultural Marketing Service as Below Grade;

(2) Loose samples removed from upland cotton bales for classification purposes that have been rebaled;

(3) Semi-processed motes that are of a quality suitable, without further processing, for spinning, papermaking, or production of non-woven fabric; or

(4) Re-ginned (processed) motes.

(b) Eligible upland cotton must not be:

(1) Cotton for which a payment, under the provisions of this subpart, has been made available;

(2) Raw (unprocessed) motes, pills, linters, or other derivatives of the lint cleaning process; or

(3) Textile mill wastes.

#### **§ 1427.102 Eligible domestic users.**

(a) For purposes of this subpart, a person regularly engaged in the business of opening bales of eligible upland cotton for the purpose of spinning, papermaking, or processing of non-woven cotton fabric in the United States, who has entered into an agreement with CCC to participate in the upland cotton user program, will be considered an eligible domestic user.

(b) Applications for payment under this subpart must contain documentation required by the provisions of the Upland Cotton Domestic User Agreement and other instructions that CCC issues.

#### **§ 1427.103 Upland cotton Domestic User Agreement.**

(a) Payments specified in this subpart will be made available to eligible domestic users who have entered into an Upland Cotton Domestic User Agreement with CCC and who have complied with the terms and conditions in this subpart, the Upland Cotton Domestic User Agreement, and instructions issued by CCC.

(b) Upland Cotton Domestic User Agreements may be obtained from Contract Reconciliation Division, Kansas City Commodity Office (KCCO), P.O. Box 419205, Stop 8758, Kansas City, Missouri 64141–6205. In order to

participate in the program authorized by this subpart, domestic users must execute the Upland Cotton Domestic User Agreement and forward the original and one copy to KCCO.

#### **§ 1427.104 Payment rate.**

(a) Beginning August 1, 2008 and ending July 31, 2012, the payment rate for purposes of calculating payments as specified in this subpart will be 4 cents per pound.

(b) Beginning August 1, 2012, the payment rate for purposes of calculating payments as specified in this subpart will be 3 cents per pound.

#### **§ 1427.105 Payment.**

(a) Payments specified in this subpart will be determined by multiplying:

(1) The payment rate, determined as specified in § 1427.104, by

(2) The net weight (gross weight minus the weight of bagging and ties), determined as specified in paragraph (b) of this section, of eligible upland cotton bales an eligible domestic user opens during the immediately preceding calendar month.

(b) For the purposes of this subpart, the net weight will be determined based on the net weight of the cotton used, but not to exceed the last available certified weight;

(c) For the purposes of this subpart, eligible upland cotton will be considered consumed by the domestic user on the date the bale is opened for consumption.

(d) Payments specified in this subpart will be made available upon application for payment and submission of supporting documentation, as required by the CCC-issued provisions of the Upland Cotton Domestic User Agreement.

(e) All payments received by the agreement holder must be used for purposes as specified in section 1207 of the Food, Conservation, and Energy Act of 2008 (Pub. L. 110–246, referred to commonly as the 2008 Farm Bill). Authorized expenditures include acquisition, construction, installation, modernization, development, conversion, or expansion of land, plant, buildings, equipment, facilities, or machinery. Such capital expenditures must be directly attributable and certified as such by the user for the purpose of manufacturing upland cotton into eligible cotton products in the United States.

■ 24. Amend § 1427.160 as follows:

■ a. Amend paragraph (a) by removing the words “2002 through 2007” and adding, in their place, “2008 through 2012.”

■ b. Revise paragraph (b) to read as set forth below.

■ c. Amend paragraph (c) by removing the second sentence.

#### **§ 1427.160 Applicability.**

\* \* \* \* \*

(b) Loan rates and the forms that are used in administering the recourse seed cotton loan program for a crop of cotton are available in FSA State and county offices. Loan rates will be based on the base quality loan rate for upland cotton and the national average loan rate for extra long staple cotton.

\* \* \* \* \*

#### **Subpart F—[Removed and Reserved]**

■ 25. Remove and reserve Subpart F.

■ 26. Amend § 1427.1203 as follows:

■ a. Amend paragraphs (a)(1) and (a)(2) by removing the date “October 1, 1999” and adding, in its place, the date “June 18, 2008.”

#### **Subpart H—[Removed]**

■ 27. Remove Subpart H.

Signed at Washington, DC, on October 30, 2008.

**Thomas B. Hofeller,**

*Acting Executive Vice President, Commodity Credit Corporation.*

[FR Doc. E8–26343 Filed 10–31–08; 4:15 pm]

**BILLING CODE 3410–05–P**

## **DEPARTMENT OF AGRICULTURE**

### **Rural Utilities Service**

#### **7 CFR Part 1735**

#### **RIN 0572–AC13**

### **General Policies, Types of Loans, Loan Requirements—Telecommunications**

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

**ACTION:** Direct final rule.

**SUMMARY:** The Rural Utilities Service, an agency delivering the United States Department of Agriculture (USDA) Rural Development Utilities Program, hereinafter referred to as Rural Development and/or the Agency, amends its regulations for the Telecommunications Loan Program (Loan Program). The Agency has reviewed its criteria for approving loans and has determined that modifications to the Loan Program regulations are required in order to ensure that some financially sound applicants are not excluded from the Loan Program.

The Agency is proposing to amend its regulations to modify the Times Interest Earned Ratio (TIER) requirements that

an applicant must comply with when receiving a loan. This direct final rule is part of an ongoing Agency project to update Agency policies to enable borrowers to provide reliable, modern telecommunications service at reasonable costs in rural areas, while maintaining the security and feasibility of the Government's loans.

**DATES:** This rule is effective December 22, 2008, without further action, unless the Agency receives adverse comments or, submits in writing intent to submit an adverse comment, by December 5, 2008. Written adverse comments or, intent to submit an adverse comment, must be received by Rural Development or carry a postmark or equivalent no later than December 5, 2008. If adverse comments are received, the Agency will publish a timely **Federal Register** document withdrawing this rule.

**ADDRESSES:** Submit adverse comments by either of the following methods:

- **Federal eRulemaking Portal:** Go to <http://www.regulations.gov> and in the "Search Documents" box, enter RUS-08-Telecom-0002, and select GO>>. To submit a comment, choose "Send a comment or submission," under the Docket Title. In order to submit your comment, the information requested on the "Public Comment and Submission Form," must be completed. 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 "How to Use this Site" link.

- **Postal Mail/Commercial Delivery:** Please send your comment addressed to Michele Brooks, Director, Program Development and Regulatory Analysis, USDA Rural Development, STOP 1522, Room 5159, 1400 Independence Avenue, Washington, DC 20250-1522. Please state that your adverse comment refers to Docket No. RUS-08-Telecom-0002.

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

**FOR FURTHER INFORMATION CONTACT:** Jerry H. Brent, Director, Northern Division, Telecommunications Program, USDA Rural Development, STOP 1595, 1400 Independence Avenue, SW., Washington, DC 20250-1595, Telephone (202)720-1025, Facsimile (202) 690-4654. E-mail address: [jerry.brent@usda.gov](mailto:jerry.brent@usda.gov).

#### SUPPLEMENTARY INFORMATION:

##### Executive Order 12866

This direct final 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).

##### Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance (CFDA) Program number assigned to the Rural Development Utilities Telecommunications Loans and Loan Guarantees Program is 10.851. The CFDA is available on a subscription basis from the Superintendent of Documents, the United States Government Printing Office, Washington, DC 20402-9325; telephone (202) 512-1800.

##### Executive Order 12372

This program is not subject to the requirements of Executive Order 12372, "Intergovernmental Review of Federal Programs," as implemented under USDA's regulations at 7 CFR part 3015.

##### Executive Order 12988

This direct final 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 Sec 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

The policies contained in this direct final 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 direct final rule impose substantial direct compliance costs on state and local governments. Therefore, consultation with states is not required.

##### Regulatory Flexibility Act Certification

Pursuant to 5 U.S.C. 553(a)(2), this final rule is exempt from the rulemaking requirements of the Administrative Procedure Act (5 U.S.C. 551 *et seq.*), including the requirement to provide prior notice and an opportunity for public comment. Because this final rule is not subject to a requirement to provide prior notice and an opportunity for public comment pursuant to 5 U.S.C.

553, or any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are inapplicable.

##### Unfunded Mandates

This direct final 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. Therefore, this direct final rule is not subject to the requirements of sections 202 and 205 of the Unfunded Mandates Reform Act of 1995.

##### Environmental Impact Statement

This direct final rule has been examined under Agency environmental regulations at 7 CFR part 1794. The Administrator has determined that this action is not a major Federal action significantly affecting the environment. Therefore, in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an Environmental Impact Statement or Assessment is not required.

##### Information Collection and Recordkeeping Requirements

This direct rule contains no new reporting or recordkeeping burdens under OMB control number 0572-0079 that would require approval under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

##### Background

###### Overview

Rural Development improves the quality of life in rural America by providing investment capital, in the form of loans and grants, for the deployment of rural telecommunications infrastructure. Financial assistance is provided to rural utilities; municipalities; commercial corporations; limited liability companies; public utility districts; Indian tribes; and cooperative, nonprofit, limited-dividend, or mutual associations. In order to achieve the goal of increasing economic opportunity in rural America, the Agency finances infrastructure that enables access to a seamless, nationwide telecommunications network. With access to the same advanced telecommunications networks of its urban counterparts, especially broadband networks designed to accommodate distance learning, telework and telemedicine, rural America will see improving educational opportunities, health care, economies, safety and security, and ultimately higher employment. The Agency is

committed to ensuring that rural areas will have access to affordable, reliable, advanced telecommunications services, comparable to those available throughout the rest of the United States, to provide a healthy, safe and prosperous place to live and work.

While the Agency is proud of the results it has achieved in Rural America with the Telecommunications Loan Program, it believes that the overall effectiveness of the program can be improved by modifying the existing rules. The change to the current regulation will permit additional financially sound borrowers, who clearly meet the intent of the Telecommunications Loan Program, to be eligible to participate in the program.

#### *Discussion of Changes*

Facilities financed by the Loan Program are typically constructed over a five year period (Forecast Period). The feasibility studies used to demonstrate that an applicant is eligible for a loan and can repay it assumes this Forecast Period. The feasibility study is also used to forecast the applicant's Times Interest Earned Ratio or TIER. The TIER is one measure of an applicant's ability to repay the loan. Currently, the regulation states that applicants must maintain a TIER of at least 1.0 during the Forecast Period. At the end of the Forecast Period, the applicant shall be required to maintain, at a minimum, a TIER at least equal to the projected TIER determined by the feasibility study prepared in connection with the loan, but at least 1.0 and not greater than 1.5.

The requirement that an applicant maintain a TIER of at least 1.0 during the Forecast Period, arbitrarily and unfairly disqualifies some applicants from the Loan Program. During the Forecast Period as an applicant constructs facilities, there is always a delay from the time that the construction is initiated to the time that construction is completed and revenues increase based upon the new subscribers connected and new services offered. During this period, it would not be unusual for the applicant's TIER to be less than 1.0. This occurrence is not generally an indicator that the applicant is in financial difficulty, but a direct result of the time lag associated with construction of facilities. In addition, the current provision effectively disqualifies any start up or new entity from qualifying for the Loan Program. In many cases these newer entities, and the rural residents they serve, are the ones that stand to benefit the greatest from the program.

This change would not constitute a loan security risk as an applicant's

financial performance is continuously monitored and the advance of loan funds can be suspended should the situation warrant such action. In addition, the applicant would still be required to maintain the projected TIER at the end of the Forecast Period.

#### **List of Subjects in 7 CFR 1735**

Loan programs—communications, Rural Areas, Telecommunications and Telephone.

■ For reasons set forth in the preamble, the Agency amends Chapter XVII of title 7 of the Code of Federal Regulations by revising part 1735 as follows:

#### **PART 1735—GENERAL POLICIES, TYPES OF LOANS, LOAN REQUIREMENTS—TELECOMMUNICATIONS PROGRAM**

■ 1. The authority citation for part 1735 continues to read as follows:

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

■ 2. In § 1735.22, paragraph (g) is revised to read as follows:

#### **§ 1735.22 Loan Security.**

##### **Subpart B—Loan Purposes**

\* \* \* \* \*

(g) For Loans approved after December 22, 2008, the borrower shall be required to maintain a TIER, at the end of the Forecast Period, at least equal to the projected TIER determined by the feasibility study prepared in connection with the loan, which shall be at least 1.0 and not greater than 1.5.

\* \* \* \* \*

Dated: September 8, 2008.

**James M. Andrew,**

*Administrator, Rural Utilities Service.*

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**BILLING CODE 3410-15-P**

#### **DEPARTMENT OF VETERANS AFFAIRS**

#### **38 CFR Parts 3 and 20**

**RIN 2900-AM77**

#### **Board of Veterans' Appeals: Expedited Claims Adjudication Initiative—Pilot Program**

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Final rule.

**SUMMARY:** The Department of Veterans Affairs (VA) is launching an initiative for accelerated claims and appeals processing at four VA facilities, based on voluntary participation by eligible claimants. The purpose of this initiative

is to determine whether VA can expedite the processing of claims and appeals by obtaining claimants' waivers of certain statutory and regulatory response periods, and by utilizing the Board of Veterans' Appeals' (Board or BVA) statutory authority to pre-screen cases. VA's responsibility to fully develop and decide cases in a fair, accurate, and non-adversarial manner remains unchanged under this initiative. If this initiative is successful at the four trial sites, the data obtained may provide a basis for expanding some, or all, of the program nationwide, and ultimately help accelerate the processing of all claims and appeals. The parameters of the initiative are set forth in these regulations.

**DATES:** *Effective Date:* The final rule is effective December 5, 2008.

**FOR FURTHER INFORMATION CONTACT:** Steven L. Keller, Principal Deputy Vice Chairman, Board of Veterans' Appeals (012), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461-8078. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** In a document published in the **Federal Register** on April 16, 2008 (73 FR 20571), VA proposed to launch an initiative for accelerated claims and appeals processing at four VA facilities. This initiative would establish a 2-year pilot program known as the Expedited Claims Adjudication (ECA) Initiative (Initiative). The goal of the Initiative would be to determine whether VA can expedite the claims and appeals process by obtaining claimants' waivers of certain statutory and regulatory response periods, and by pre-screening cases at the Board to determine the adequacy of the record for appellate review. As proposed, participation in the Initiative would be strictly voluntary, and open to claimants residing in the jurisdiction of one of the four trial sites. Additionally, claimants would be required to be represented by a recognized Veterans Service Organization (VSO) or an accredited agent or attorney at the time of electing to participate in the Initiative. The ECA Initiative would be predicated on the claimant agreeing, at the beginning of the claims process, to waive certain identified statutory and regulatory time limits and processing actions, which would be carefully outlined in an ECA Initiative Agreement and Waiver of Rights (ECA Agreement). ECA participation would be effectuated only if *both* the claimant and his or her representative sign the ECA Agreement, certifying that the claimant has consulted with his or her representative