

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Rural Utilities Service

#### 7 CFR Part 1700

#### General Information, Organization and Functions, and Loan Making Authority

AGENCY: Rural Utilities Service, USDA.

ACTION: Final rule.

**SUMMARY:** The Rural Utilities Service (RUS) hereby revises its description of its functions and responsibilities and delegations of authority to reflect recent changes in organizational structure, update RUS addresses and phone numbers, and add information about electronic availability of information. These revisions are intended to guide and assist the public.

**EFFECTIVE DATE:** April 2, 1998.

**FOR FURTHER INFORMATION CONTACT:** F. Lamont Heppe, Jr., Director, Program Development and Regulatory Analysis, Rural Utilities Service, U.S. Department of Agriculture, Room 4034-S, 1400 Independence Avenue, SW., STOP 1522, Washington, DC 20250-1522. Telephone: 202-720-0736. FAX 202-720-4120. e-mail fheppe@rus.usda.gov.

#### SUPPLEMENTARY INFORMATION:

#### Background

The Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6941 *et seq.*) required the Secretary of Agriculture to establish and maintain the Rural Utilities Service (RUS) within the Department. On October 20, 1994, Secretary's Memorandum 1010-1, abolished the Rural Electrification Administration (REA) and established RUS as its successor and as required by the Reorganization Act.

The functions of RUS include administration of the electric and telecommunications loan programs formerly administered by the Rural Electrification Administration, and of

the water and waste disposal loan and grant programs formerly administered by the Rural Development Administration. This rule describes the current organizational structure of RUS and the methods by which its functions are channeled.

This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, notice of proposed rulemaking and opportunity to comment thereon are not required, this rule may be effective immediately. Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order 12866 and Executive Order 12988. Finally, this is not a rule as defined by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) (the Act), and therefore, the Act does not apply.

#### List of Subjects in 7 CFR Part 1700

Authority delegations (Government agencies), Community development, Community facilities, Electric power, Freedom of information, Grant programs—communications, Grant programs—education, Grant programs—housing and community development, Loan programs—communications, Loan programs—education, Loan programs—energy, Loan Program—housing and community development, Organization and functions (Government agencies), Rural areas, Telecommunications, Telephone, Waste treatment and disposal, Water supply.

Accordingly, 7 CFR part 1700 is revised to read as follows:

### PART 1700—GENERAL INFORMATION

#### Subpart A—General

Sec.

- 1700.1 General.
- 1700.2 Availability of information.
- 1700.3 Requests under the Freedom of Information Act.
- 1700.4 Public comments on proposed rules.
- 1700.5—1700.24 [Reserved]

#### Subpart B—Agency Organization and Functions

- 1700.25 Office of the Administrator.
- 1700.26 Deputy Administrators.
- 1700.27 Electric Program.
- 1700.28 Telecommunications Program.
- 1700.29 Water and Environmental Programs.
- 1700.30 Distance Learning and Telemedicine Loan and Grant Program.
- 1700.31 Program Accounting and Regulatory Analysis.

- 1700.32 Financial Services Staff.
- 1700.33—1700.49 [Reserved]

#### Subpart C—Loan and Grant Approval Authorities

- 1700.50—1700.52 [Reserved]
- 1700.53 Persons serving as Acting Administrator.
- 1700.54 Electric Program.
- 1700.55 Telecommunications Program.
- 1700.56 Water and Environmental Programs.
- 1700.57 Distance Learning and Telemedicine Loan and Grant Program.

**Authority:** 5 U.S.C. 301, 552; 7 U.S.C. 901 *et seq.*, 1921 *et seq.*, 6941 *et seq.*; 7 CFR 2.7.

#### Subpart A—General

##### § 1700.1 General.

(a) The Rural Electrification Administration (REA) was established by Executive Order No. 7037 on May 11, 1935. Statutory authority was provided by the Rural Electrification Act of 1936 (RE Act) (7 U.S.C. 901). The RE Act established REA as a lending agency with responsibility for developing a program for rural electrification.

(b) On October 28, 1949, the RE Act was amended to authorize REA to make loans to improve and extend telephone service in rural areas. The Rural Telephone Bank (RTB), an agency of the United States, was established by amendment to the RE Act, approved May 7, 1971. The Administrator of RUS serves as the Bank's chief executive with the title of Governor.

(c) The Secretary of Agriculture (Secretary) established the Rural Utilities Service (RUS) on October 20, 1994, pursuant to the Department of Agriculture Reorganization Act of 1994, (7 U.S.C. 6941 *et seq.*). RUS was assigned responsibility for administering electric and telecommunications loan and loan guarantee programs previously administered by REA, including programs of the Rural Telephone Bank (RTB), and water and waste loans and grants previously administered by the Rural Development Administration, along with other functions as the Secretary determined appropriate. The rights, interests, obligations, duties, and contracts previously vested in REA were transferred to, and vested in RUS.

##### § 1700.2 Availability of information.

(a) The offices of RUS are located in the South Building of the United States Department of Agriculture at 1400 Independence Avenue, SW,

Washington, DC 20250-1500. Hours of operation are from 8:15 AM to 4:45 PM, Eastern time on Federal Government business days.

(b) Information about RUS is available for public inspection and copying as required by the Freedom of Information Act, 5 U.S.C. 552 *et seq.* Information about availability and costs of agency publications and other agency materials is available from the Director, Program Development and Regulatory Analysis, Rural Utilities Service, United States Department of Agriculture, Room 4034-S, 1400 Independence Avenue, SW, STOP 1522, Washington, DC 20250-1522. Phone 202-720-0736. FAX 202-720-4120.

(c) RUS issues indexes of publications in conformance with the Freedom of Information Act and Department of Agriculture regulations at 7 CFR part 1. Many RUS issuances, including regulations, delegations of authority for headquarters and field staff, and other documents, are available on the world wide web at <http://www.usda.gov/rus>. Single hard copies of publications, forms, forms of basic loan and security instruments, and other materials are available either directly from RUS, from the Superintendent of Documents, U.S. Government Printing Office, Washington DC 20402, or from another source as identified. Costs for these publications are established in conformance with 7 CFR part 1.

#### § 1700.3 Requests under the Freedom of Information Act.

Department of Agriculture procedures for requests for official records under the Freedom of Information Act are found at 7 CFR part 1. Requests must be in writing and may be submitted in person or by mail to United States Department of Agriculture, Rural Development, Room 0164-S, 1400 Independence Avenue, SW, STOP 0742, Washington, DC 20250-0742; or by FAX to 202-720-1915. As set forth in 7 CFR 1.16, fees may be charged for processing of requests for records. An appeal of the agency determination concerning the request for official records shall be made in writing to the Administrator, Rural Utilities Service, United States Department of Agriculture, Room 4051-S, 1400 Independence Avenue, SW, STOP 1510, Washington, DC 20250-1500.

#### § 1700.4 Public comments on proposed rules.

RUS requires that all persons submitting comments to a proposed rule or other document published by the agency in the **Federal Register** submit, in hard copy, a signed original and three

copies of their comments to the address shown in the preamble to the proposed rule. Copies of comments submitted are available to the public in conformance with 7 CFR part 1.

#### §§ 1700.5-1700.24 [Reserved]

#### Subpart B—Agency Organization and Functions

##### § 1700.25 Office of the Administrator.

The Administrator, who also serves as Governor of the RTB, is appointed by the President, with the advice and consent of the Senate. The Under Secretary, Rural Development delegated to the Administrator, in 7 CFR part 2, responsibility for administering the programs and activities of RUS and RTB. The Administrator is aided directly by Deputy Administrators and by Assistant Administrators for the electric program, telecommunications program, the water and environmental programs, and program accounting and regulatory analysis, and by other staff offices. The work of the agency is carried out as described in this part.

##### § 1700.26 Deputy Administrators.

Deputy Administrators aid and assist the Administrator. The Deputy Administrator, Program Policy and Telecommunications, provides overall policy direction to all RUS programs and directs and coordinates the telecommunications programs. The Deputy Administrator, Water and Environmental Programs, directs and coordinates the agency's water and waste disposal programs. The Deputy Administrators review agency policies in these areas and, as necessary, implement changes, and participate with the Administrator and other officials in planning and formulating the programs and activities of the agency, including the making and servicing of loans and grants.

##### § 1700.27 Electric Program.

RUS, through the Electric Program, makes loans and loan guarantees for rural electrification and the furnishing of electric service to persons in rural areas.

(a) *The Assistant Administrator, Electric Program*, directs and coordinates the rural electrification programs, participating with the Administrator, and others, in planning and formulating the programs and activities of the agency, and performs other activities as the Administrator may prescribe from time to time.

(b) *Primary point of contact with borrowers.* Two regional divisions, one for the Northern Region and one for the Southern Region, are the primary points

of contact between RUS and its electric distribution borrowers. Each office administers the rural electric program for its assigned geographical area through headquarters staff and general field representatives. The Power Supply Division is the primary point of contact between RUS and its electric power supply borrowers.

(c) *Staff office.* The Electric Staff Division is responsible for engineering aspects of RUS' standards, specifications and other requirements for design, construction, and technical operation and maintenance of RUS borrowers' electric systems. The Electric Staff Division oversees the activities of Technical Standards Committees "A" and "B", Electric, which determine whether engineering specifications, drawings, material and equipment are acceptable for use in RUS borrowers' electric systems. The Office of the Assistant Administrator prepares analyses of loan making activities and the business and regulatory environment of RUS borrowers and recommends policies and procedures.

##### § 1700.28 Telecommunications Program.

RUS and RTB, through the Telecommunications Program, make loans and loan guarantees to furnish and improve telecommunications service in rural areas.

(a) *The Assistant Administrator, Telecommunications Program*, directs and coordinates the rural telecommunications programs, including the distance learning and telemedicine program, and in conjunction with the Administrator and Deputy Administrator, and others, the planning and formulating of programs and activities of the agency, and performs other activities as the Administrator may prescribe from time to time.

(b) *Primary point of contact with borrowers.* Three area offices, (Eastern, Northwest, and Southwest Areas), are the primary points of contact between RUS and all telecommunications program borrowers. Each office administers the rural telecommunications program for its assigned geographical area with assistance of field representatives located in areas assigned to them.

(c) *Staff office.* The Telecommunications Staff Division is responsible for engineering aspects of design, construction, and technical operation and maintenance of rural telecommunications systems and facilities, including the activities of Technical Standards Committees "A" and "B", Telecommunications, which determine whether engineering

specifications, drawings, material, and equipment are acceptable for use in RUS financed telecommunications systems.

**§ 1700.29 Water and Environmental Programs.**

RUS, through the Water and Environmental Programs, provides loan and grant funds for water and waste disposal projects serving the most financially needy rural communities.

(a) *The Assistant Administrator, Water and Environmental Programs*, develops and institutes plans, procedures, and policies for the effective, efficient, and orderly management of Water and Environmental Programs responsibilities; provides leadership to ensure execution of policies and procedures by the Water and Waste Disposal programs and support functions; and performs other activities as the Administrator or Deputy Administrator may prescribe from time to time.

(b) *Primary point of contact.* The State Rural Development Offices are the primary points of contact between RUS and loan and grant recipients.

(c) *The Engineering and Environmental Staff* is responsible for engineering staff activities at all stages of Water and Waste Disposal programs implementation, including review of preliminary engineering plans and specifications, procurement practices, contract awards, construction monitoring, and system operation and maintenance. This staff develops agency engineering practices, policies, guidelines, and technical data relating to the construction and operation of water and waste disposal systems, and for implementing the National Environmental Policy Act, and other environmental requirements as they apply to all agency programs and activities.

**§ 1700.30 Distance Learning and Telemedicine Loan and Grant Program.**

RUS, through the Telecommunications Program, makes grants and loans to furnish and improve telemedicine services and distance learning services in rural areas.

(a) *The Assistant Administrator, Telecommunications Program*, directs and coordinates the distance learning and telemedicine program.

(b) *Primary point of contact with borrowers.* The three area offices, described in § 1700.28(b) support the distance learning and telemedicine program. Each office administers the distance learning and telemedicine program for its assigned geographical area with assistance of field

representatives located in areas assigned to them.

**§ 1700.31 Program Accounting and Regulatory Analysis.**

RUS, through Program Accounting and Regulatory Analysis, monitors and administers applicable regulations, RUS policy, and accounting requirements. The staffs assist the Assistant Administrator with respect to management, information systems, budgets, and other such matters.

(a) *The Assistant Administrator, Program Accounting and Regulatory Analysis*, directs and coordinates program accounting and financial services with respect to electric and telecommunications borrowers and directs and coordinates the regulatory actions of the agency.

(b) This division monitors borrowers' accounting operations in order to ensure compliance with applicable statutory and regulatory requirements and with the requirements of the Office of Management and Budget.

(c) The two regional branches (the Northern Region and the Southern Region) work directly with borrowers. Each regional office has a staff of headquarters and field accountants. The Technical Accounting and Auditing Staff monitors industry developments, including the standards of the Financial Accounting Standards Board, and recommends Agency policies and procedures.

(d) Program Development and Regulatory Analysis directs and administers the preparation, clearance, processing, and distribution of RUS submissions to the Office of the **Federal Register** in the form of proposed and final rules and notices and RUS bulletins and staff instructions.

**§ 1700.32 Financial Services Staff.**

The Financial Services Staff evaluates the financial condition of financially troubled borrowers in order to protect the Government's interests.

**§§ 1700.33—1700.49 [Reserved]**

**Subpart C—Loan and Grant Approval Authorities**

**§§ 1700.50—1700.52 [Reserved]**

**§ 1700.53 Persons serving as Acting Administrator.**

The following persons are authorized, in descending order, to act for the Administrator when he or she is not on official duty in the Washington, DC, Metropolitan Area, is sick, has resigned, or is deceased. That is, if the first person on the list is also not on official duty in the Washington, DC, Metropolitan Area,

is sick, has resigned, or is deceased, the second person on the list is authorized to act for the Administrator and so on down the list. Persons on this list may not redelegate the authority to act as the Administrator. The Administrator may in his or her discretion in writing, on a case-by-case basis, delegate authority to act as Administrator in his or her absence outside of this specified order.

- (1) Deputy Administrator, Program Policy and Telecommunications.
- (2) Deputy Administrator, Water and Environmental Programs.
- (3) Assistant Administrator, Electric Program.
- (4) Assistant Administrator, Telecommunications Program.
- (5) Assistant Administrator, Water and Environmental Programs.
- (6) Assistant Administrator, Program Accounting and Regulatory Analysis.

**§ 1700.54 Electric Program.**

(a) *Administrator:* The authority to approve the following loans, loan guarantees, and lien accommodations and subordinations of liens is reserved to the Administrator:

- (1) All discretionary hardship loans.
- (2) All loans, loan guarantees, and lien accommodations and subordinations of liens to finance operating costs.
- (3) All loans, loan guarantees, and lien accommodations and subordinations of liens of more than \$20,000,000 for distribution borrowers or more than \$50,000,000 for power supply borrowers.
- (4) All loans, loan guarantees, and lien accommodations and subordinations of liens for distribution borrowers that are members of a power supply borrower that is in default of its obligations to the Government or that is currently assigned to the Financial Services Staff, unless otherwise determined by the Administrator.
- (5) All loans, loan guarantees, and lien accommodations and subordinations of liens that require an Environmental Impact Statement.
- (6) Certifications and findings required by the RE Act or other applicable laws and regulations, the placing and releasing of conditions precedent to the advance of funds, and all security instruments, loan contracts, and all other necessary documents relating to the authorities reserved in this section.

(7) Execution of all loan contracts, security instruments, and all other documents in connection with loans, loan guarantees, and lien accommodations approved by the Administrator.

(b) *The Assistant Administrator, Electric Program*, has the authority to

approve the following loans, loan guarantees, and lien accommodations and subordinations of liens, except for those approvals reserved to the Administrator:

(1) Loans, loan guarantees, and lien accommodations and subordinations of liens for distribution borrowers in amounts not exceeding \$20,000,000.

(2) Loans, loan guarantees, and lien accommodations and subordinations of liens for power supply borrowers in amounts not exceeding \$50,000,000.

(3) Execution of all loan contracts, security instruments, and all other documents in connection with loans, loan guarantees, and lien accommodations approved by the Assistant Administrator, Electric Program.

(c) *Directors, Regional Divisions*, have the authority to approve, for distribution borrowers:

(1) Loans, loan guarantees, and lien accommodations and subordinations of liens in amounts not exceeding \$15,000,000 except for those approvals reserved to the Administrator.

(2) All certifications and findings required by the RE Act or other applicable laws and regulations, the imposing and releasing of conditions precedent to the advance of loan funds, and all security instruments, loan contracts, and all other documents relating to the delegations set forth in paragraph (c)(1) of this section.

(d) *Director, Power Supply Division*, has the authority to approve for power supply borrowers:

(1) Loans, loan guarantees, and lien accommodations and subordinations of liens in amounts not exceeding \$30,000,000, except for those approvals reserved to the Administrator.

(2) All certifications and findings required by the RE Act or other applicable laws and regulations, the placing and releasing of conditions precedent to the advance of funds, and all security instruments, loan contracts or all other documents relating to the delegations set forth in paragraph (d)(1) of this section.

#### § 1700.55 Telecommunications Program.

(a) *Administrator*: The authority to approve the following loans, loan guarantees, and lien accommodations is reserved to the Administrator:

(1) All loans, loan guarantees, and lien accommodations and subordinations of liens to finance operating costs.

(2) All loans, loan guarantees, or lien accommodations and subordinations of liens of \$25,000,000 or more.

(3) Loans and loan guarantees with acquisition costs of \$5,000,000 or more.

(4) Loans and loan guarantees containing funds to refinance outstanding debt of more than \$5,000,000.

(5) All loan contracts, security instruments, and all other documents to be executed in connection with loans and loan guarantees approved by the Administrator.

(b) *Assistant Administrator, Telecommunications Program*, has the authority to approve the following loans, loan guarantees, and lien accommodations, except for those approvals reserved to the Administrator:

(1) Loans, loan guarantees, and lien accommodations and subordinations of liens not to exceed \$25,000,000 except for those reserved to the Administrator.

(2) Loans and loan guarantees with acquisition costs where the acquisition portion of the loan is less than \$5,000,000.

(3) Loans and loan guarantees including refinancing amounts that do not exceed \$5,000,000.

(4) Distance learning and telemedicine loans and loan guarantees that do not exceed \$5,000,000.

(5) Loan contracts, security instruments, and other documents to be executed in connection with loans and loan guarantees approved by the Assistant Administrator, Telecommunications Program.

(c) *Area Directors* have the authority to approve the following loans, loan guarantees, and lien accommodations, except for those approvals reserved to the Administrator:

(1) Loans, loan guarantees, and lien accommodations and subordinations of liens of less than \$10,000,000.

(2) Loans and loan guarantees with acquisition costs of less than \$2,000,000.

(3) Loans and loan guarantees including refinancing amounts of less than \$2,000,000.

(4) Any modifications in the method of carrying out loan purposes.

#### § 1700.56 Water and Environmental Programs.

The State Rural Development Offices have the responsibility for making and servicing water and waste loans and grants.

#### § 1700.57 Distance Learning and Telemedicine Loan and Grant Program.

(a) *Administrator*: The authority to approve the following loans and lien accommodations is reserved to the Administrator:

(1) Grants or loan and grant combinations.

(2) The number selected from each state for financial assistance for grant approval and loans or grants approved.

(3) Extension of principal and interest repayments for rural development purposes.

(4) Loan contracts, security instruments, and all other documents to be executed in connection with loans and loan guarantees approved by the Administrator.

(b) *Assistant Administrator, Telecommunications Program*, has the authority to approve the following loans and lien accommodations and subordinations of liens:

(1) Loans, that do not also include requests for grant funds, except for those reserved to the Administrator.

(2) Loan contracts, security instruments, and all other documents to be executed in connection with loans and loan guarantees approved by the Assistant Administrator, Telecommunications Program.

Dated: March 24, 1998.

**Jill Long Thompson,**

*Under Secretary for Rural Development.*

[FR Doc. 98-8588 Filed 4-1-98; 8:45 am]

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## DEPARTMENT OF AGRICULTURE

### Rural Housing Service

### Rural Business-Cooperative Service

### Rural Utilities Service

### Farm Service Agency

### 7 CFR Parts 1942 and 1951

### Rural Utilities Service Water and Waste Program Regulations

**AGENCY:** Rural Housing Service, Rural Business-Cooperative Service, Rural Utilities Service, and Farm Service Agency, USDA.

**ACTION:** Final rule.

**SUMMARY:** The Rural utilities Service (RUS) hereby amends the regulations utilized to administer the water and waste loan and grant programs. This rule removes references to forms no longer required for use by the Agency and to add reference to RUS Bulletin 1780-12, "Water and Waste Grant Agreement."

**EFFECTIVE DATE:** April 2, 1998.

#### FOR FURTHER INFORMATION CONTACT:

Jerry W. Cooper, Loan Specialist, Water and Waste Division, Rural Utilities Service, USDA, Room 2229, STOP 1570, 1400 Independence Avenue, Washington, DC 20250-1570, telephone: (202) 720-9589.

**SUPPLEMENTARY INFORMATION:**