

available for public inspection in the Dairy Division during regular business hours (7 CFR 1.27(b)).

#### Statement of Consideration

The proposed rule would continue to suspend certain provisions of the Central Arizona order for an indefinite period beginning April 1, 1997. The proposed suspension would continue to remove the requirement that a cooperative association which operates a manufacturing plant in the marketing area must ship at least 50 percent of its milk supply during the current month or the previous 12-month period ending with the current month to other handlers' pool plants to maintain the pool status of its manufacturing plant.

The order permits a cooperative association's manufacturing plant, located in the marketing area, to be a pool plant if at least 50 percent of the producer milk of members of the cooperative association is physically received at pool plants of other handlers during the current month or the previous 12-month period ending with the current month.

Continuation of the current suspension was requested by United Dairymen of Arizona (UDA), a cooperative association that represents nearly all of the dairy farmers who supply the Central Arizona market. UDA contends that the continued pool status of their manufacturing plant would be threatened if the suspension is not continued. UDA states that the same marketing conditions that warranted the suspension for the past two years still exist. UDA maintains that members who increased their milk production to meet the projected demands of fluid handlers for distribution into Mexico continue to suffer the adverse impact of the collapse of the Mexican peso. Absent a suspension, UDA projects that costly and inefficient movements of milk would have to be made to maintain pool status of producers who have historically supplied the market and to prevent disorderly marketing in the Central Arizona marketing area.

Accordingly, it may be appropriate to suspend the aforesaid provisions beginning April 1, 1997, for an indefinite period.

#### List of Subjects in 7 CFR Part 1131

Milk marketing orders.

The authority citation for 7 CFR Part 1131 continues to read as follows:

Authority: 7 U.S.C. 601-674.

Dated: February 24, 1997.  
Richard M. McKee,  
Director, Dairy Division.  
[FR Doc. 97-5114 Filed 2-28-97; 8:45 am]  
BILLING CODE 3410-02-P

#### Rural Utilities Service

##### 7 CFR Part 1717

RIN 0572-AB26

#### Settlement of Debt Owed by Electric Borrowers

AGENCY: Rural Utilities Service.

ACTION: Proposed rule.

**SUMMARY:** The Administrator of the Rural Utilities Service (RUS) hereby proposes to establish policies and standards for the settlement of debts and claims owed by rural electric borrowers. In addition to proposing policies and standards for debt settlement, the rule proposes RUS policy on subsequent loans to borrowers whose debt has been restructured.

**DATES:** Written comments must be received by RUS or carry a postmark or equivalent by May 2, 1997.

**ADDRESSES:** Written comments should be addressed to Monte Heppe, Jr., Director, Program Support and Regulatory Analysis, U.S. Department of Agriculture, Rural Utilities Service, Stop 1522, 1400 Independence Ave. SW., Washington, DC 20250-1522. RUS requires, in hard copy, a signed original and 3 copies of all comments (7 CFR 1700.30(e)). Comments will be available for public inspection during regular business hours (7 CFR 1.27(b)).

**FOR FURTHER INFORMATION CONTACT:** Mr. Blaine D. Stockton, Jr., Assistant Administrator—Electric, U.S. Department of Agriculture, Rural Utilities Service, Stop 1560, 1400 Independence Avenue, SW., Washington, DC 20250-1560. Telephone: 202-720-9545.

**SUPPLEMENTARY INFORMATION:** This regulatory action has been determined to be significant for the purposes of Executive Order 12866, Regulatory Planning and Review, and therefore has been reviewed by the Office of Management and Budget (OMB). The Administrator of the Rural Utilities Service (RUS) has determined that a rule relating to the RUS electric loan program is not a rule as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), and, therefore, the Regulatory Flexibility Act does not apply to this proposed rule. 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. This proposed 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 titled Department Programs and Activities Excluded from Executive Order 12372 (50 FR 47034) exempts RUS electric loans and loan guarantees from coverage under this Order. This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. RUS has determined that this proposed rule meets the applicable standards provided in Sec. 3 of the Executive Order.

The program described by this rule is listed in the Catalog of Federal Domestic Assistance Programs under number 10.850 Rural Electrification Loans and Loan Guarantees. This catalog is available on a subscription basis from the Superintendent of Documents, the United States Government Printing Office, Washington, DC 20402-9325.

#### Background

On April 4, 1996, P.L. 104-127 amended section 331(b) of the Consolidated Farm and Rural Development Act (Con Act) to extend to RUS loans and loan guarantees the Secretary of Agriculture's authority to compromise, adjust, reduce, or charge-off debts or claims owed to the government (collectively, debt settlement). The amendment also extended to the security instruments, leases, contracts, and agreements administered by RUS, the Secretary's authority to adjust, modify, subordinate, or release the terms of those documents. The Secretary of Agriculture, in 7 CFR 2.47, has delegated authority under section 331(b) to the Administrator of RUS, with respect to loans made or guaranteed by RUS.

This proposed regulation proposes the policies, standards, and procedures the Administrator would use in settling (restructuring) debts and claims owed by rural electric borrowers.

#### Section 1717.1202 General Policy

This section proposes general policies for settling debts and claims. Four general policies are proposed:

1. Wherever possible, all debt and claims will be collected in full in accordance with its terms.
2. The rule by itself contains nothing that modifies or forgives debt or claims owed by a borrower. Any debt

settlement will require the explicit written approval of the Administrator.

3. The Administrator's authority to settle debts and claims will apply to cases where a borrower is unable to pay its debts and claims in accordance with their terms, and where settlement will maximize the recovery of debts and claims owed to the government.

4. The Administrator will consider several factors in structuring debt settlements and determining the amount of debt recovery that is possible. Among those factors are the Rural Electrification Act of 1936, the National Energy Policy Act of 1992, the policies and regulations of the Federal Energy Regulatory Commission (FERC), and other market and nonmarket forces that affect competition in the electric utility industry and, in particular, the rural electric segment of the industry.

*Section 1717.1203 Relationship Between RUS and Department of Justice*

The Administrator is required to notify the Attorney General whenever the Administrator intends to use his or her settlement authority. The Attorney General retains the authority under existing law to settle debts and claims against a borrower that is in bankruptcy or is otherwise involved in litigation with the government. In addition, any debt or claim that has been referred in writing to the Attorney General would not be settled under the Administrator's own authority.

*Section 1717.1204 Policies and Conditions Applicable to Settlements*

This section proposes specific policies, standards, and conditions applicable to debt settlements. These are in addition to the general principles proposed in § 1717.1202. The specific policies, standards, and conditions include the following:

- Documentation, analyses, and other actions would be required of the borrower to demonstrate that it is unable to pay its debts or claims in accordance with their terms, or that it will be unable to meet such obligations sometime within the 24 months following the borrower's application for relief, and that such default is likely to continue beyond the 24-month period.

- RUS could contract with an independent consultant of its choice to provide an analysis of the efficiency and effectiveness of the borrower's organization and operations, and those of its member systems in the case of a power supply borrower. The borrower (and its member systems in the case of a power supply borrower) could be required to share in the costs of the consultant. The scope of work of the

independent consultant, reporting relationships, and the consultant's access to the borrower's records and staff are spelled out in § 1717.1204(b)(3).

- Debt settlement measures that could be used under proposed § 1717.1204 would include, but not be limited to, reamortization of debt; extension of debt maturity; reduction in the interest rate charged; forgiveness of interest accrued, penalties, and the government's cost of collection; and with the concurrence of the Under Secretary for Rural Development, forgiveness of loan principal. They would also include restructuring a borrower's obligations under a loan guaranteed by RUS, by RUS acquiring and restructuring the guaranteed loan, by restructuring the loan guarantee obligation and/or the borrower's reimbursement obligations, or by other means, subject to any consents or approvals required by the third party lenders.

- The borrower or the independent consultant could be required to solicit competitive bids for the borrower's system. The Administrator could use the competitive bids received as a basis for requiring the sale of all or part of the borrower's system as a condition of settlement of the borrower's debt. The Administrator could also consider the bids in evaluating alternative settlement measures.

- The Administrator would not grant debt relief unless similar relief, on a pro rata basis, is granted by other secured creditors of the borrower, or they provide other benefits or value to the restructuring. Unsecured creditors would also be expected to contribute to the restructuring. If it is not possible to obtain the expected contributions from other creditors, the Administrator could proceed to settle a borrower's debt if that would maximize recovery by the government and would not result in material benefits accruing to other creditors at the expense of the government.

- The Administrator could consider several methods for determining the value of a borrower's assets. In no case would the Administrator settle a debt or claim for less than the value (after considering collection costs) of the borrower's system and other collateral securing the debt or claim. In the case of a power supply borrower, the value of the wholesale power contracts between the borrower and its member systems would be considered. The valuation of the wholesale power contracts would take into account, among other matters, the rights of the government, and/or third parties, to assume the rights and obligations of the borrower under such contracts, to

charge reasonable rates for service provided under the contracts, and to otherwise enforce the contracts in accordance with their terms.

- The Administrator would consider the rates charged for electric service by the borrower and, in the case of a power supply borrower, by its members, taking into account, among other factors, the practices of the Federal Energy Regulatory Commission (FERC), as adapted to the cooperative structure of borrowers, and, where applicable, FERC treatment of any investments by co-owners in projects jointly owned by the borrower.

- The Administrator would consider whether a settlement is favorable to the government in comparison with what can be recovered by enforced collection procedures.

- Before any settlement is approved, the borrower would be required to obtain all approvals required of regulatory bodies that are needed for the borrower to fulfill its obligations under the settlement.

- As a condition of debt settlement, the borrower, and in the case of a power supply borrower, its members, would be required to implement changes in management, operations, and performance if requested by the Administrator. The borrower could be required to undertake a corporate restructuring and/or sell a portion of its plant, facilities, or other assets. The borrower could also be required to replace senior management and/or hire outside experts acceptable to the Administrator. This could include a commitment by the borrower's board of directors to restructure and/or obtain new members on the board. The borrower could be required to accept controls on general funds, as well as on any investments, loans or guarantees, notwithstanding any limitations on RUS' control rights in the borrower's loan documents or RUS regulations. Certain actions could also be required of the borrower to perfect and protect the government's lien on cash deposits, securities, and other assets. In the case of a power supply borrower, the borrower could be required to obtain credit support as well as pledges and action plans from its members regarding changes in operations, management, and organizational structure to reduce the member's operating costs, improve their efficiency, and/or expand their markets and revenues.

- As a condition of debt settlement, a borrower could be required to convey some or all of its assets to the government.

- Finally, RUS will require that the borrower warrant and agree that no

bonuses or similar extraordinary compensation has been or will be provided, for reasons related to the settlement of government debt, to any officer or employee of the borrower or to other persons or entities identified by RUS. RUS may impose such other terms and conditions of debt settlement as RUS deems to be in the government's interests.

**Section 1717.1205 Waiver of Existing Conditions on Borrowers**

This section would allow the Administrator to waive or otherwise reduce conditions and requirements imposed on a borrower by its loan documents if the Administrator determines that that would enhance the recovery of debt by the government. Such waivers and reductions might include a variety of actions, but could not include the debt settlement measures proposed in paragraph (c) of § 1717.1204, which would be subject to all of the requirements of § 1717.1204.

**Section 1717.1206 Loans Subsequent to Settlement**

Under this section, in considering any loan request subsequent to a debt settlement, the Administrator would presume that credit support for the full amount of the requested loan is needed. The credit support could be in a number of forms, provided that they are acceptable to the Administrator.

**Section 1717.1207 RUS Obligations Under Loan Guarantees**

This section would clarify that RUS' obligations under loan guarantee commitments to the Federal Financing Bank (FFB) and other lenders are not affected by the proposed rule. For example, if RUS settles a guaranteed loan of the FFB, RUS' obligation under its guarantee to the FFB to make up any shortfall in payments on that loan would remain in force.

**Section 1717.1208 Government's Rights Under Loan Documents**

This section would clarify that the proposed rule does not limit, modify, or otherwise affect the rights of the government under the loan documents executed with borrowers, or under law or equity.

**Information Collection and Recordkeeping Requirements**

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended) RUS is requesting comments on the information collection incorporated in this proposed rule.

Comment on this information collection must be received by May 2, 1997.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) The accuracy of the agency's estimate of the burden of the proposed collection of information; (c) Ways to enhance the quality, utility and clarity of the information to be collected; and (d) Ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

**FOR FURTHER INFORMATION CONTACT:** Dawn Wolfgang, Program Support and Regulatory Analysis, U.S. Department of Agriculture, Rural Utilities Service, Ag Box 1522, 1400 Independence Avenue, SW., Washington, DC 20250-1522. Telephone: 202-720-0812. FAX: 202-720-4120. E-mail: [dwolfgang@rus.usda.gov](mailto:dwolfgang@rus.usda.gov).

**Title:** 7 CFR 1717 subpart Y, Settlement of Debt Owed by Electric Borrowers.

**Type of request:** New information collection.

**Abstract:** The information collection required by this proposed rule stems from passage of Pub. L. 104-127, which amended section 331(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 *et seq.*) to extend to RUS loans and loan guarantees the Secretary of Agriculture's authority to settle debts. Only those electric borrowers that are unable to fully repay their debts to the government and who apply to RUS for relief will be affected by this proposed information collection.

The proposed collection will require only that information which is essential for determining the need for debt settlement, the amount of debt the borrower can repay, the future scheduling of debt repayment, and the range of opportunities for enhancing the amount of debt that can be recovered. The information to be collected will be similar to that which any prudent lender would require to determine whether debt settlement is required and the amount of relief that is needed. Since the need for relief is expected to vary substantially from case to case, so will the required information collection.

**Estimate of burden:** Public reporting burden for this collection of information is estimated to average 3,000 hours per response.

**Respondents:** Businesses, including not for profit cooperatives and others.

**Estimated number of respondents each year:** 2.

**Estimated number of responses per respondent:** 1.

**Estimated total annual burden on respondents:** 6,000 hours.

Copies of this information collection can be obtained from Dawn Wolfgang, Program Support and Regulatory Analysis, Rural Utilities Service. Phone: 202-720-0812.

Send comments regarding this information collection requirement to the Office of Information and Regulatory Affairs, Office of Management and Budget, ATTN: Desk Officer, USDA, Room 10102 New Executive Office Building, Washington, DC 20503, and to Dawn Wolfgang, Program Support and Regulatory Analysis, U.S. Department of Agriculture, Rural Utilities Service, 1400 Independence Ave, SW, Ag Box 1522, Washington, DC 20250-1522.

Comments are best assured of receiving fullest consideration if OMB receives them within 30 days of publication in the Federal Register.

All comments will become a matter of public record.

**List of Subjects in 7 CFR Part 1717**

Administrative practice and procedure, Claims, Electric power, Electric utilities, Intergovernmental relations, Investments, Lien accommodation, Lien subordination, Loan programs—energy, Reporting and recordkeeping requirements, Rural areas.

For reasons explained in the preamble, RUS proposes to amend 7 CFR chapter XVII by amending part 1717 as follows:

**PART 1717—POST-LOAN POLICIES AND PROCEDURES COMMON TO INSURED AND GUARANTEED ELECTRIC LOANS**

1. The authority citation for part 1717 is revised to read as follows:

Authority: 7 U.S.C. 901-950b, 1981; Pub. L. 99-591, 100 Stat. 3341-16; Pub. L. 103-354, 108 Stat. 3178 (7 U.S.C. 6941 *et seq.*), unless otherwise noted.

2. Subparts T through X are added and reserved and subpart Y is added to read as follows:

**Subpart T—[Reserved]**

Sec.  
1717.950—1717.999 [Reserved]

**Subpart U—[Reserved]**

Sec.  
1717.1000—1717.1049 [Reserved]

**Subpart V—[Reserved]**

Sec.  
1717.1050—1717.1099 [Reserved]

**Subpart W—[Reserved]**

Sec.  
1717.1100—1717.1149 [Reserved]

**Subpart X—[Reserved]**

Sec.  
1717.1150—1717.1199 [Reserved]

**Subpart Y—Settlement of Debt**

Sec.  
1717.1200 Purpose and scope.  
1717.1201 Definitions.  
1717.1202 General policy.  
1717.1203 Relationship between RUS and Department of Justice.  
1717.1204 Policies and conditions applicable to settlements.  
1717.1205 Waiver of existing conditions on borrowers.  
1717.1206 Loans subsequent to settlement.  
1717.1207 RUS obligations under loan guarantees.  
1717.1208 Government's rights under loan documents.

**Subpart T—[Reserved]**

§§ 1717.950—1717.999 [Reserved]

**Subpart U—[Reserved]**

§§ 1717.1000—1717.1049 [Reserved]

**Subpart V—[Reserved]**

§§ 1717.1050—1717.1099 [Reserved]

**Subpart W—[Reserved]**

§§ 1717.1100—1717.1149 [Reserved]

**Subpart X—[Reserved]**

§§ 1717.1150—1717.1199 [Reserved]

**Subpart Y—Settlement of Debt****§ 1717.1200 Purpose and scope.**

(a) Section 331(b) of the Consolidated Farm and Rural Development Act (Con Act), as amended on April 4, 1996 by Public Law 104-127 (7 U.S.C. 1981), grants authority to the Secretary of Agriculture to compromise, adjust, reduce, or charge-off debts or claims arising from loans made or guaranteed under the Rural Electrification Act of 1936, as amended (RE Act). Section 331(b) of the Con Act also authorizes the Secretary of Agriculture to adjust, modify, subordinate, or release the terms of security instruments, leases, contracts, and agreements entered into or administered by the Rural Utilities Service (RUS). The Secretary, in 7 CFR 2.47, has delegated authority under section 331(b) of the Con Act to the

Administrator of the RUS, with respect to loans made or guaranteed by RUS.

(b) This subpart sets forth the policy and standards of the Administrator of RUS with respect to the settlement of debts and claims arising from loans made or guaranteed to rural electric borrowers under the RE Act. Nothing in this subpart limits the Administrator's authority under section 12 of the RE Act.

**§ 1717.1201 Definitions.**

Terms used in this subpart that are not defined in this section have the meanings set forth in 7 CFR part 1710. In addition, for the purposes of this subpart:

*Attorney General* means the Attorney General of the United States of America.

*Claim* means any claim of the government arising from loans made or guaranteed under the RE Act.

*Con Act* means the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.).

*Debt* means outstanding debt of a rural electric borrower (including principal, accrued interest, penalties, and the government's costs of debt collection) owed to the government and arising from loans made or guaranteed under the RE Act.

*Enforced collection procedures* means any procedures available to the Administrator for the collection of debt that are authorized by law, in equity, or under the borrower's loan documents or other agreements with RUS.

*Loan documents* means the mortgage (or other security instrument acceptable to RUS), the loan contract, and the promissory note entered into between the borrower and RUS.

*RE Act* means the Rural Electrification Act of 1936, as amended (7 U.S.C. 901-950b).

*Restructure* means to settle a debt or claim.

*Settle* means to reamortize, adjust, compromise, reduce, or charge-off debt or claims owed to the government by rural electric borrowers.

**§ 1717.1202 General policy.**

(a) It is the policy of the Administrator that, wherever possible, all debt owed shall be collected in full in accordance with the terms of the borrower's loan documents.

(b) Nothing in this subpart by itself modifies, reduces, waives, or eliminates any obligation of a borrower under its loan documents. Any such modifications regarding the debt owed by a borrower may be granted under the authority of the Administrator only by means of the explicit written approval of the Administrator in each case.

(c) The Administrator's authority to settle debts and claims will apply to cases where a borrower is unable to pay its debts and claims in accordance with their terms, and where settlement will maximize the recovery of debts and claims owed to the government.

(d) In structuring settlements and determining the amount of debt recovery that is possible, the Administrator will consider, among other factors, the RE Act, the National Energy Policy Act of 1992 (Public Law 102-486, 106 Stat. 2776), the policies and regulations of the Federal Energy Regulatory Commission, and other market and nonmarket forces as to their effects on competition in the electric utility industry and on rural electric systems in particular.

**§ 1717.1203 Relationship between RUS and Department of Justice.**

(a) The Attorney General will be notified by the Administrator whenever the Administrator intends to use his or her authority under section 331(b) of the Con Act to settle a debt or claim.

(b) If a claim has been referred in writing to the Attorney General, the Administrator will not use his or her own authority to settle the claim.

**§ 1717.1204 Policies and conditions applicable to settlements.**

(a) *General.* Settlement of debts and claims shall be subject to the policies, requirements, and conditions set forth in this section and in § 1717.1202.

(b) *Need for debt settlement.* (1) The Administrator will not settle any debt or claim unless the Administrator has determined that the borrower is unable to meet its financial obligations under its loan documents according to the terms of those documents, or that the borrower will not be able to meet said obligations sometime within the period of 24 months following the borrower's application for relief, and such default is likely to continue beyond the 24 month period. The determination of a borrower's ability to meet its financial obligations will be based on analyses and documentation by RUS of the borrower's historical, current, and projected costs, revenues, cash flows, assets, and other factors that may be relevant on a case by case basis.

(2) The borrower must provide to RUS, in form and substance satisfactory to RUS, an in-depth analysis supporting the borrower's contention that it is unable or will not be able to meet its financial obligations as described in paragraph (b)(1) of this section. The analysis must include:

(i) An explanation and analysis of the causes of the borrower's inability to meet its financial obligations;

(ii) A thorough review and analysis of the opportunities available or potentially available to the borrower to reduce administrative overhead and other costs, improve efficiency and effectiveness, and expand markets and revenues, including but not limited to opportunities for sharing services, merging, and/or consolidating. In the case of a power supply borrower, the study shall include such opportunities among the members of the borrower;

(iii) Documentation of the actions taken, in progress, or planned by the borrower (and its member systems, if applicable) to take advantage of the opportunities cited in paragraph (b)(2)(ii) of this section; and

(iv) Other analyses and documentation prescribed by RUS on a case by case basis.

(3) RUS may require that an independent consultant provide an analysis of the efficiency and effectiveness of the borrower's organization and operations, and those of its member systems in the case of a power supply borrower. The following conditions will apply:

(i) RUS will select the independent consultant taking into account, among other matters, the consultant's experience and expertise in matters relating to electric utility operations, finance, and restructuring;

(ii) The contract with the consultant shall be to provide services to RUS on such terms and conditions as RUS deems appropriate. The consultant's scope of work may include, but shall not be limited to, an analysis of the following:

(A) How to maximize the value of the government's collateral, such as through mergers, consolidations, or sales of all or part of the collateral;

(B) The viability of the borrower's system, taking into account such matters as system size, service territory and markets, asset base, physical condition of the plant, operating efficiency, competitive pressures, industry trends, and opportunities to expand markets and improve efficiency and effectiveness;

(C) The feasibility and the potential benefits and risks to the borrower and the government of corporate restructuring, including aggregation and disaggregation;

(D) In the case of a power supply borrower, the retail rate mark-up by member systems and the potential benefits to be achieved by member restructuring through mergers,

consolidations, shared services, and other alliances;

(E) The quality of the borrower's management, management advisors, consultants, and staff;

(F) Opportunities for reducing overhead and other costs, for realizing economies through marketing, and for improving the borrower's existing and prospective contractual arrangements for the purchase and sale of power and the operation of plant and facilities; and

(G) The accuracy and completeness of the borrower's analysis provided under paragraph (b)(2) of this section;

(iii) RUS and, as appropriate, other creditors, will determine the extent to which the borrower and third parties (including the members of a power supply borrower) will be required to participate in funding the costs of the independent consultant;

(iv) The borrower will be required to make available to the consultant all corporate documents, files, and records, and to provide the consultant with access to key employees. The borrower will also normally be required to provide the consultant with office space convenient to the borrower's operations and records; and

(v) All analyses, studies, opinions, memoranda, and other documents and information produced by the independent consultant shall be provided to RUS on a confidential basis for consideration in evaluating the borrower's application for debt settlement. Such documents and information may be made available to the borrower and other appropriate parties if authorized in writing by RUS.

(4) The borrower may be required to employ a temporary or permanent manager acceptable to the Administrator, to manage the borrower's operations to ensure that all actions are taken to avoid or minimize the need for debt settlement. The employment could be on a temporary basis to manage the system during the time the debt settlement is being considered, and possibly for some time after any debt settlement, or it could be on a permanent basis.

(c) *Debt settlement measures.* (1) If the Administrator determines that debt settlement is appropriate, the debt settlement measures the Administrator will consider under this subpart with respect to direct, insured, or guaranteed loans include, but are not limited to, the following:

(i) Reamortization of debt;

(ii) Extension of debt maturity, provided that the weighted average life of the restructured debt shall not exceed the weighted average of the expected

remaining useful lives of the assets pledged as security for said debt;

(iii) Reduction of the interest rate charged on the borrower's debt, provided that the interest rate on any portion of the restructured debt shall not be reduced to less than 5 percent;

(iv) Forgiveness of interest accrued, penalties, and costs incurred by the government to collect the debt; and

(v) With the concurrence of the Under Secretary for Rural Development, forgiveness of loan principal.

(2) In the event that RUS has, under section 306 of the RE Act, guaranteed loans made by the Federal Financing Bank or other third parties, the Administrator may restructure the borrower's obligations by acquiring and restructuring the guaranteed loan, by restructuring the loan guarantee obligation, by restructuring the borrower's reimbursement obligations, or by such means as the Administrator deems appropriate, subject to such consents and approvals, if any, that may be required by the third party lender.

(d) *Debt owed by other creditors.* The Administrator will not grant relief on debt owed to the government unless similar relief, on a pro rata basis, is granted with respect to other secured debt owed by the borrower, or the other secured creditors provide other benefits or value to the debt restructuring. Unsecured creditors will also be expected to contribute to the restructuring. If it is not possible to obtain the expected contributions from other creditors, the Administrator may proceed to settle a borrower's debt if that will maximize recovery by the government and will not result in material benefits accruing to other creditors at the expense of the government.

(e) *Competitive bids for system assets.* If requested by RUS, the borrower or the independent consultant provided for in paragraph (b)(3) of this section shall solicit competitive bids from potential buyers of the borrower's system or parts thereof. The bidding process must be conducted in consultation with RUS and use standards and procedures acceptable to RUS. The Administrator may use the competitive bids received as a basis for requiring the sale of all or part of the borrower's system as a condition of settlement of the borrower's debt. The Administrator may also consider the bids in evaluating alternative settlement measures.

(f) *Valuation of system.* (1) The Administrator will consider the value of the borrower's system, including, in the case of a power supply borrower, the wholesale power contracts between the borrower and its member systems. The

valuation of the wholesale power contracts shall take into account, among other matters, the rights of the government, and/or third parties, to assume the rights and obligations of the borrower under such contracts, to charge reasonable rates for service provided under the contracts, and to otherwise enforce the contracts in accordance with their terms. In no case will the Administrator settle a debt or claim for less than the value (after considering collection costs) of the borrower's system and other collateral securing the debt or claim.

(2) RUS may use such methods, analyses, and assessments as the Administrator deems appropriate to determine the value of the borrower's system.

(g) *Rates.* The Administrator will consider the rates charged for electric service by the borrower and, in the case of a power supply borrower, by its members, taking into account, among other factors, the practices of the Federal Energy Regulatory Commission (FERC), as adapted to the cooperative structure of borrowers, and, where applicable, FERC treatment of any investments by co-owners in projects jointly owned by the borrower.

(h) *Collection action.* The Administrator will consider whether a settlement is favorable to the government in comparison with the amount that can be recovered by enforced collection procedures.

(i) *Regulatory approvals.* Before the Administrator will approve a settlement, the borrower must provide satisfactory evidence that it has obtained all approvals required of regulatory bodies that are needed to implement rates or other provisions of the settlement, or that are needed in any other way for the borrower to fulfill its obligations under the settlement.

(j) *Conditions regarding management and operations.* As a condition of debt settlement, the borrower, and in the case of a power supply borrower, its members, will be required to implement those changes in structure, management, operations, and performance deemed necessary by the Administrator. Those changes may include, but are not limited to, the following:

(1) The borrower may be required to undertake a corporate restructuring and/or sell a portion of its plant, facilities, or other assets;

(2) The borrower may be required to replace senior management and/or hire outside experts acceptable to the Administrator. Such changes may include a commitment by the borrower's board of directors to restructure and/or

obtain new membership to improve board oversight and leadership;

(3) The borrower may be required to agree to:

(i) Controls by RUS on the general funds of the borrower, as well as on any investments, loans or guarantees by the borrower, notwithstanding any limitations on RUS' control rights in the borrower's loan documents or RUS regulations; and

(ii) Requirements deemed necessary by RUS to perfect and protect its lien on cash deposits, securities, equipment, vehicles, and other items of real or non-real property; and

(4) In the case of a power supply borrower, the borrower may be required to obtain credit support from its member systems, as well as pledges and action plans by the members to change their operations, management, and organizational structure (e.g., shared services, mergers, or consolidations) in order to reduce operating costs, improve efficiency, and/or expand markets and revenues.

(k) *Conveyance of assets.* As a condition of a settlement, a borrower may be required to convey some or all its assets to the government.

(l) *Additional conditions.* The borrower will be required to warrant and agree that no bonuses or similar extraordinary compensation has been or will be provided, for reasons related to the settlement of government debt, to any officer or employee of the borrower or to other persons or entities identified by RUS. The Administrator may impose such other terms and conditions of debt settlement as the Administrator determines to be in the government's interests.

#### **§ 1717.1205 Waiver of existing conditions on borrowers.**

Pursuant to section 331(b) of the Con Act, the Administrator, at his or her sole discretion, may waive or otherwise reduce conditions and requirements imposed on a borrower by its loan documents if the Administrator determines that such action will contribute to enhancement of the government's recovery of debt. Such waivers or reductions in conditions and requirements under this section shall not include the exercise of any of the debt settlement measures set forth in § 1717.1204(c), which are subject to all of the requirements of § 1717.1204.

#### **§ 1717.1206 Loans subsequent to settlement.**

In considering any future loan requests from a borrower whose debt has been restructured (settled), it will be presumed that credit support for the full

amount of the requested loan will be required. Such support may be in a number of forms, provided that they are acceptable to the Administrator on a case by case basis. They may include, but need not be limited to, equity infusions and guarantees of debt repayment, either from the applicant's members (in the case of a power supply borrower), or from a third party.

#### **§ 1717.1207 RUS obligations under loan guarantees.**

Nothing in this subpart affects the obligations of RUS under loan guarantee commitments it has made to the Federal Financing Bank or other lenders.

#### **§ 1717.1208 Government's rights under loan documents.**

Nothing in this subpart limits, modifies, or otherwise affects the rights of the government under loan documents executed with borrowers, or under law or equity.

Dated: February 24, 1997.

Jill Long Thompson,

*Under Secretary, Rural Development.*

[FR Doc. 97-5137 Filed 2-28-97; 8:45 am]

BILLING CODE 3410-15-P

## **Animal and Plant Health Inspection Service**

### **9 CFR Parts 92 and 130**

[Docket No. 95-057-2]

#### **Importation of Pet Birds**

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Proposed rule; withdrawal.

**SUMMARY:** We are withdrawing a proposed rule that would have made several changes to the regulations for importing pet birds into the United States. We are withdrawing the proposed rule after considering the comments we received following the publication of the proposed rule.

**FOR FURTHER INFORMATION CONTACT:** Dr. Tracye R. Butler, Staff Veterinarian, Import-Export Animals, National Center for Import-Export, VS, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737-1231, (301) 734-5097.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

On August 21, 1996, we published in the Federal Register (61 FR 43188-43193, Docket No. 95-057-1) a proposal to amend the regulations in 9 CFR part 92 by removing the requirement for veterinary inspection at the port of entry for all pet birds imported from Canada, including pet birds of U.S. origin that