

to an individual if DHS or another agency receives or collects information about that individual during an investigation or from a third party. Should the subsection be so interpreted, exemption from this provision is necessary to avoid impeding counterterrorism, law enforcement, or intelligence efforts by putting the subject of an investigation, study, or analysis on notice of that fact, thereby permitting the subject to engage in conduct intended to frustrate or impede that activity.

(g) From subsections (e)(4)(G), (H) and (I) (Agency Requirements) because portions of this system are exempt from the access and amendment provisions of subsection (d).

(h) From subsection (e)(5) (Collection of Information) because many of the records in this system coming from other system of records are derived from other domestic and foreign agency record systems and therefore it is not possible for DHS to vouch for their compliance with this provision; however, the DHS has implemented internal quality assurance procedures to ensure that data used in the redress process is as thorough, accurate, and current as possible. In addition, in the collection of information for law enforcement, counterterrorism, and intelligence purposes, it is impossible to determine in advance what information is accurate, relevant, timely, and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light. The restrictions imposed by (e)(5) would limit the ability of those agencies' trained investigators and intelligence analysts to exercise their judgment in conducting investigations and impede the development of intelligence necessary for effective law enforcement and counterterrorism efforts. The DHS has, however, implemented internal quality assurance procedures to ensure that the data used in the redress process is as thorough, accurate, and current as possible.

(i) From subsection (e)(8) (Notice on Individuals) because to require individual notice of disclosure of information due to compulsory legal process would pose an impossible administrative burden on DHS and other agencies and could alert the subjects of counterterrorism, law enforcement, or intelligence investigations to the fact of those investigations when not previously known.

(j) From subsection (f) (Agency Rules) because portions of this system are exempt from the access and amendment provisions of subsection (d).

(k) From subsection (g) (Civil Remedies) to the extent that the system is exempt from other specific subsections of the Privacy Act.

Dated: November 10, 2008.

**Hugo Teufel III,**

*Chief Privacy Officer, Department of Homeland Security.*

[FR Doc. E8-27206 Filed 11-17-08; 8:45 am]

**BILLING CODE 4410-10-P**

**DEPARTMENT OF AGRICULTURE**

**Rural Utilities Service**

**7 CFR Part 1776**

**RIN 0572-AC12**

**Amending the Household Water Well System Grant Program Regulations**

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

**ACTION:** Direct final rule.

**SUMMARY:** The Rural Utilities Service (RUS), an agency delivering the United States Department of Agriculture's (USDA) Rural Development Utilities Programs, hereinafter referred to as Rural Development or the Agency, is amending its regulations to administer the Household Water Well System Grant Program. This action implements provisions of the 2008 Farm Bill for limits on loans that nonprofit organizations may make to homeowners for private well systems. The 2008 Farm Bill raises the loan limit to \$11,000 from \$8,000. The intended effect is to make part 1776 current with statutory authority. The Agency will also amend the regulation to enable existing grant recipients to amend their grant agreements for the new \$11,000 loan limit. No adverse comments are expected.

**DATES:** This rule will become effective January 2, 2009 unless the Agency receives written adverse comments or a written notice of intent to submit adverse comments on or before December 18, 2008. If we receive adverse comments or notices, the Agency 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. Written comments must be received by the Agency or carry a postmark or equivalent no later than December 18, 2008.

**ADDRESSES:** Submit adverse comments or notice of intent to submit adverse comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. In the "Search Documents" box, enter RUS-08-WATER-03, check the box under the Search box labeled "Select to find documents accepting comments or submissions," and click on the GO>> key. 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. (If you click on the hyperlink of the docket when the search returns it, you will see the docket details. Click on the yellow balloon to receive the "Public Comment and Submission Form.") 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, SW., Washington, DC 20250-1522. Please state that your comment refers to Docket No. RUS 08-WATER-03.

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

**FOR FURTHER INFORMATION CONTACT:**

Cheryl Francis, Loan Specialist, Water and Environmental Programs, USDA Rural Development, 1400 Independence Avenue, STOP 1570, Room 2229 South Building, Washington, DC 20250-1570. Telephone: (202) 720-9589; Fax: (202) 690-0649; e-mail: [cheryl.francis@wdc.usda.gov](mailto:cheryl.francis@wdc.usda.gov).

**SUPPLEMENTARY INFORMATION:**

**Executive Order 12866**

This 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).

**Executive Order 12372**

The program is not subject to the provisions of Executive Order 12372, "Intergovernmental Consultation," as implemented under USDA's regulations at 7 CFR part 3015.

**Executive Order 12988**

This 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 the rule; and in accordance with section 212(e) of the Department of Agriculture Reorganization Act of 1994, [7 U.S.C. 6912(e)], administrative appeal procedures, if any, must be exhausted before litigation against the Department or its agencies may be initiated.

**Executive Order 13132, Federalism**

This rule will 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. Therefore, consultation with states is not required.

**Regulatory Flexibility Act Certification**

The Agency certifies that this rule will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act, 5 U.S.C. 605(b); therefore, no further analysis is required. The amendments reflect only statutory changes that Congress has mandated and over which the Agency has no discretion. They also involve minimal procedural matters on other agreements already negotiated.

**Information Collection and Recordkeeping Requirements**

This rule contains no new reporting or recordkeeping burdens under Office of Management and Budget (OMB) control number 0572-0139 that would require approval under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

**National Environmental Policy Act Certification**

This final rule has been examined under Agency environmental regulations at 7 CFR part 1794. The Administrator has determined that this rule 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.

**Catalog of Federal Domestic Assistance**

The Catalog of Federal Domestic Assistance (CFDA) number assigned to the water and waste loan and grant program is 10.862, Water and Waste Disposal Systems for Rural Communities. The Catalog is available on the Internet and the General Services Administration's (GSA) free CFDA Web site at <http://www.cfda.gov>. The CFDA Web site also contains a PDF file version of the Catalog that, when printed, has the same layout as the printed document that the Government Printing Office (GPO) provides. GPO prints and sells the CFDA to interested buyers. For information about purchasing the Catalog of Federal Domestic Assistance from GPO, call the Superintendent of Documents at 202-512-1800 or toll free at 866-512-1800, or access GPO's on-

line bookstore at <http://bookstore.gpo.gov>.

**Unfunded Mandates**

This rule contains no Federal mandates (under the regulatory provisions of Title II of the Unfunded Mandates Reform Act of 1995) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the Unfunded Mandates Reform Act of 1995.

**E-Government Act Compliance**

The Agency is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

**Background**

The Household Water Well System (HWWS) Grant Program is authorized by Section 306E of the Consolidated Farm and Rural Development Act (CONACT) (7 U.S.C. 1926e), as amended. The program provides grants to qualified private non-profit organizations which help homeowners finance the cost of private wells. As the grant recipient, a non-profit organization establishes a revolving loan fund lending program to provide water well loans up to \$8,000 to individuals who own or will own private wells in rural areas. The individual loan recipients may use the funds to construct, refurbish, and service their household well systems for an existing home.

The Food, Conservation and Energy Act of 2008, Public Law 110-246 (Farm Bill) amends Section 306E of the CONACT (7 U.S.C. 1926e) to raise the limit for loans made to individual homeowners to \$11,000. The loan limit increase will allow homeowners to obtain financial assistance for well repairs and improvements in areas where the construction costs for wells routinely exceed \$8,000.

Regulation 7 CFR 1776 is used to administer grants made to private non-profit organizations under the HWWS program. There will be two amendments to the regulation. Section 1776.10 will be amended to insert language providing for an amendment to a grant agreement. This amendment will provide for a process to allow current grant recipients to increase their loan limit to \$11,000. Also, Section 1776.15, section (a)(3) will be amended to replace \$8,000 with \$11,000, the maximum amount grantees may make to homeowners.

The Section 1776.10 amendment will provide a process for the Agency to approve an increase in the loan limit for existing grant agreements. The Section 1776.15(a)(3) amendment to the household water well regulation will bring the regulation into conformance with the Farm Bill's provision. The increase in the loan limit will allow for the grantees to meet the expected costs in providing the needed homeowner well system improvements. The proposed amendments will have no financial impact on the public or the Agency. These amendments are not published for proposed rulemaking because they merely reflect changes in statutory authority enacted by the Farm Bill of 2008 and make only minor technical corrections to the regulations, which do not involve matters of agency discretion. Notice and public comment, therefore, are impractical, unnecessary, and contrary to the public interest.

**List of Subjects in 7 CFR Part 1776**

Agriculture, Community development, Community facilities, Credit, Grant programs—housing and community development, Nonprofit organizations, Reporting and recordkeeping requirements, Rural areas, Waste treatment and disposal, Water pollution control, Water resources, Water supply, Watersheds.

■ For reasons set forth in the preamble, chapter XVII of title 7 of the Code of Federal Regulations is amended as follows:

**PART 1776—HOUSEHOLD WATER WELL SYSTEM GRANT PROGRAM**

■ 1. The authority citation for part 1776 continues to read as follows:

Authority: 7 U.S.C. 1926e.

**Subpart B—HWWS Grants**

■ 2. Section 1776.10 is revised to read as follows:

**§ 1776.10 Grant agreement.**

(a) RUS and the grantee will enter into an agreement setting forth the terms and conditions governing a particular HWWS grant award. RUS will furnish the form of grant agreement. No funds awarded under this part shall be disbursed to the grant recipient before the grant agreement is binding and RUS has received a fully executed counterpart of the grant agreement.

(b) The grantee or RUS may initiate an amendment or modification to the grant agreement to provide for a loan limit up to \$11,000. No change in the grant agreement requested by the grant

recipient will be effective unless approved in writing by RUS.

### Subpart C—HWWS Loans

■ 3. In § 1776.15, revise paragraph (a)(3) to read as follows:

#### § 1776.15 Terms of loans.

(a) \* \* \*

(3) Shall not exceed \$11,000 for each household water well system.

\* \* \* \* \*

Dated: November 10, 2008.

**James M. Andrew,**

*Administrator, Rural Utilities Service.*

[FR Doc. E8-26769 Filed 11-17-08; 8:45 am]

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## DEPARTMENT OF HOMELAND SECURITY

### 8 CFR Part 231

#### Bureau of Customs and Border Protection

### 19 CFR Part 122

[CBP Dec. 08-43; Docket No. USCBP-2007-0064]

RIN 1651-AA41

### Advance Information on Private Aircraft Arriving and Departing the United States

**AGENCY:** Customs and Border Protection, DHS.

**ACTION:** Final rule.

**SUMMARY:** This rule finalizes, with modifications, amendments to U.S. Customs and Border Protection (CBP) regulations pertaining to private aircraft arriving and departing the United States. This final rule requires private aircraft pilots or their designees arriving in the United States from a foreign port or location destined for a U.S. port or location, or departing the United States to a foreign port or location, to transmit electronically to CBP passenger manifest information for each individual traveling onboard the aircraft. This final rule requires private aircraft pilots or their designees to provide additional data elements when submitting a notice of arrival and requires private aircraft pilots or their designees to submit a notice of departure. Private aircraft pilots (or their designees) will be required to submit the notice of arrival and notice of departure information to CBP through an approved electronic data interchange system in the same transmission as the corresponding arrival or departure passenger manifest

information. Under this rule, this data must be received by CBP no later than 60 minutes before an arriving private aircraft departs from a foreign location destined for the United States and no later than 60 minutes before a private aircraft departs a U.S. airport or location for a foreign port or place.

This rule also expressly acknowledges CBP's authority to restrict aircraft from landing in the United States based on security and/or risk assessments, or, based on such assessments, to specifically designate and limit the airports where aircraft may land or depart.

**DATES:** This final rule is effective on December 18, 2008. Compliance Date: Private aircraft pilots (or their designees) must comply with the requirements of this final rule on May 18, 2009.

**FOR FURTHER INFORMATION CONTACT:** For Operational aspects: Eric Rodriguez, Office of Field Operations, (281) 230-4642; or for Legal aspects: Glen Vereb, Office of International Trade, (202) 352-0030.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

- A. Background and Authorities
- B. Current Requirements and Vulnerabilities for All Aircraft

- 1. Advance Notice of Arrival
  - a. Private Aircraft Arriving in the United States
  - b. Private Aircraft Arriving From Areas South of the United States
  - c. Aircraft Arriving From Cuba
- 2. Permission To Land (Landing Rights)
- 3. Vulnerabilities

##### II. Summary of Requirements in the Proposed Rule

- A. General Requirements for Private Aircraft Arriving in the United States
  - 1. Notice of Arrival
  - 2. CBP's Authority To Restrict and/or Deny Landing Rights
- B. Certain Aircraft Arriving From Areas South of the United States
- C. Notice of Arrival for Private Aircraft Arriving From Cuba

##### III. Discussion of Comments

##### IV. Summary of Changes Made to NPRM

##### V. Conclusion

##### VI. Regulatory Analyses

- A. Executive Order 12866 (Regulatory Planning and Review)
- B. Regulatory Flexibility Act
- C. Unfunded Mandates Reform Act
- D. Executive Order 13132 (Federalism)
- E. Executive Order 12988 (Civil Justice Reform)
- F. National Environmental Policy Act
- G. Paperwork Reduction Act
- H. Privacy Statement

##### VII. Signing Authority

##### VIII. Amendments to the Regulations

## I. Background

### A. Background and Authorities

A private aircraft,<sup>1</sup> in contrast to a commercial aircraft,<sup>2</sup> is generally any aircraft engaged in a personal or business flight to or from the United States which is not carrying passengers and/or cargo for commercial purposes. See 19 CFR 122.1(h). Pursuant to 19 U.S.C. 1433, 1644 and 1644a, the Secretary of Homeland Security (Secretary) has broad authority respecting all aircraft, including private aircraft, arriving in and departing from the United States. The term "general aviation" is commonly used in regard to private aircraft. Specifically, 19 U.S.C. 1433(c) provides that the pilot of any aircraft arriving in the United States or the U.S. Virgin Islands from any foreign location is required to comply with such advance notification, arrival reporting, and landing requirements as regulations may require. Under this authority, CBP can deny aircraft landing rights within the United States based on, among other considerations, security and/or risk assessments. Alternatively, based on such assessments, CBP may specifically designate and limit the airports where aircraft may land. In addition, under 19 U.S.C. 1433(d), an aircraft pilot is required to present or transmit to CBP through an electronic data interchange system such information, data, documents, papers or manifests as the regulations may require. Section 1433(e) provides, among other things, that aircraft after arriving in the United States or U.S. Virgin Islands may depart from the airport of arrival, but only in accordance with regulations prescribed by the Secretary. And, under 19 U.S.C. 1644 and 1644a, the Secretary can designate ports of entry for aircraft and apply vessel entry and clearance laws and regulations to civil aircraft.

Further, 46 U.S.C. 60105 provides that any vessel shall obtain clearance from the Secretary pursuant to regulation, in a manner prescribed by the Secretary, before departing the United States for a

<sup>1</sup> 19 CFR 122.1(h) defines a "private aircraft" as any aircraft engaged in a personal or business flight to or from the U.S. which is not: (1) Carrying passengers and/or cargo for commercial purposes; or (2) leaving the United States carrying neither passengers nor cargo in order to land passengers and/or cargo in a foreign area for commercial purposes; or (3) returning to the United States carrying neither passengers nor cargo in ballast after leaving with passengers and/or cargo for commercial purposes.

<sup>2</sup> 19 CFR 122.1(d) defines "commercial aircraft" as any aircraft transporting passengers and/or cargo for some payment or other consideration, including money or services rendered. If either the arrival or departure leg of an aircraft's journey is commercial, then CBP considers both legs of the journey to be commercial.