

# Rules and Regulations

Federal Register

Vol. 84, No. 131

Tuesday, July 9, 2019

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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## DEPARTMENT OF AGRICULTURE

### Rural Utilities Service

**7 CFR Parts 1710, 1714, 1717, 1724, 1726, and 1730**

**RIN 0572-AC40**

#### Streamlining Electric Program Procedures

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

**ACTION:** Final rule.

**SUMMARY:** The Rural Utilities Service (RUS), a Rural Development agency of the United States Department of Agriculture (USDA), is revising several regulations to streamline its procedures for Electric Program borrowers, including its loan application requirements, approval of work plans and load forecasts, use of approved contracts and system design procedures. Additionally, unnecessary sections in the regulations will be removed.

**DATES:** This rule is effective September 9, 2019.

**FOR FURTHER INFORMATION CONTACT:** Gerard Moore, Deputy Assistant Administrator, Office of Policy, Outreach, and Standards (OPOS), Rural Utilities Service, U.S. Department of Agriculture, STOP 1569, 1400 Independence Ave. SW, Washington, DC 20250-0787, telephone: (202) 720-1900. Email contact [Gerard.Moore@wdc.usda.gov](mailto:Gerard.Moore@wdc.usda.gov).

#### SUPPLEMENTARY INFORMATION:

##### Executive Order 12866

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

##### Catalog of Federal Domestic Assistance

The affected programs are listed in the Catalog of Federal Domestic Assistance (CFDA) Program under 10.850, Rural

Electrification Loans and Loan Guarantees. This catalog is available electronically through the free CFDA website on the internet at <https://www.cfda.gov/>. The print edition may be purchased by calling the Superintendent of Documents at (202) 512-1800 or toll free at (866) 512-1800, or by ordering online at <https://bookstore.gpo.gov/>.

##### Executive Order 12372, Intergovernmental Review of Federal Programs

This rule is excluded from the scope of Executive Order 12372, Intergovernmental Consultation, which may require a consultation with State and local officials. See the final rule related notice entitled, "Department Programs and Activities Excluded from Executive Order 12372" (50 FR 47034) advising that RUS loans and loan guarantees were not covered by Executive Order 12372.

##### Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

The Agency has determined that this final rule does not have a substantial direct effect on one or more Indian tribe(s) or on either the relationship or the distribution of powers and responsibilities between the Federal Government and Indian tribes. Thus, this final rule is not subject to the requirements of Executive Order 13175. Consequently, the Agency will not conduct tribal consultation sessions. If a Tribe determines that this rule has implications of which RUS is not aware and would like to request government-to-government consultation on this rule, please contact USDA Rural Development's Native American Coordinator at (720) 544-2911 or [AIAN@wdc.usda.gov](mailto:AIAN@wdc.usda.gov).

##### Executive Order 12988, Civil Justice Reform

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. In accordance with this final rule: (1) All State and local laws and regulations that are in conflict with this rule will be preempted; (2) No retroactive effect will be given to this rule; and (3) Administrative proceedings of the National Appeals Division (7 CFR part 11) must be exhausted before bringing suit in court challenging action taken under this rule.

## National Environmental Policy Act Certification

The final rule has been reviewed in accordance with 7 CFR part 1970, Environmental Policies and Procedures. The Agency has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment and, in accordance with the National Environmental Policy Act (NEPA) of 1969, 42 U.S.C. 4321 *et seq.*, an Environmental Impact Statement is not required. Loan and grant applications will be reviewed individually to determine compliance with Agency environmental regulations and with NEPA.

## Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, RUS generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with Federal mandates that may result in expenditures to State, local, or tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires RUS to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule.

This final rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, and tribal governments or the private sector. Therefore, this final rule is not subject to the requirements of sections 202 and 205 of the UMRA.

## Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601-602) (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act (APA) or any other statute. This final rule; however, is not subject to the APA

under 5 U.S.C. 553(a)(2) and 5 U.S.C. 553(b)(3)(A) nor any other statute.

### Executive Order 13132, Federalism

It has been determined, under E.O. 13132, Federalism, that the policies contained in this 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 final rule impose substantial direct compliance costs on state and local governments. Therefore, consultation with the states is not required.

### E-Government Act Compliance

The Agency is committed to complying with the E-Government Act, which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible and 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.

### Information Collection and Recordkeeping Requirements

The information collection and record-keeping requirements contained in this rule are approved by the Office of Management and Budget (OMB) under OMB Control Numbers 0572-0020, 0572-0032, 0572-0100, and 0572-0123. There is a total burden reduction of 10,571 hours associated with this rulemaking. The agency will submit a revision of the above referenced control numbers to OMB for review and approval.

### USDA Non-Discrimination Statement

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotope, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at [http://www.ascr.usda.gov/complaint\\_filing\\_cust.html](http://www.ascr.usda.gov/complaint_filing_cust.html) and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by:

- (1) *Mail:* U.S. Department of Agriculture Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, DC 20250-9410;
  - (2) *Fax:* (202) 690-7442; or
  - (3) *Email:* [program.intake@usda.gov](mailto:program.intake@usda.gov).
- USDA is an equal opportunity provider, employer, and lender.

### Background and Discussion of the Rule

Rural Development is a mission area within the U.S. Department of Agriculture (USDA) comprising the Rural Utilities Service, Rural Housing Service, and Rural Business-Cooperative Service. Rural Development's mission is to increase economic opportunity and improve the quality of life for all rural Americans. Rural Development meets its mission by providing loans, loan guarantees, grants, and technical assistance through numerous programs aimed at creating and improving housing, business, and infrastructure throughout rural America. The Rural Utilities Service (RUS) loan, loan guarantee, and grant programs act as a catalyst for economic and community development. By financing improvements to rural electric, water and waste, and telecommunications and broadband infrastructure, RUS also plays a significant role in improving other measures of quality of life in rural America, including public health and safety, environmental protection and culture and historic preservation.

RUS Electric Program loans, loan guarantees and grants finance the construction of improvement of rural electric infrastructure. In an effort by the RUS Electric Program to provide its program in an efficient and effective manner while improving its customer

service and experience, and in response to requests from the RUS Electric Program borrowers, the Electric Program undertook a systematic review of regulations and procedures in place to administer its program. After review conclusion, RUS determined that pre- and post-loan procedures could be made more efficient and regulatory burden could be reduced on Electric Program borrowers while still ensuring RUS loans remain adequately secured and ensuring that loan funds will be repaid in the time agreed upon. This rulemaking will streamline Electric Program procedures and revise regulations. This includes removing unnecessary and outdated regulations and removing burdensome requirements imposed on borrowers and applicants.

To implement this change, the Agency will publish this as a final rule. The Administrative Procedure Act exempts from prior notice rules, "relating to agency management or personnel or to public property, loans, grants, benefits, or contracts" (5 U.S.C. 553(b)(A)).

### Summary of Changes to Rule

Changes to the Electric Program regulations are as follows:

(A) The Agency is removing numerous requirements for Board of Director resolutions for electric borrower actions in 7 CFR parts 1710-1730. Also, a new paragraph will be added to 7 CFR 1710.154 to identify five specific actions that will require Board Resolutions.

(B) The Agency is removing 7 CFR 1710.106(c)(4), which placed restrictions on loan funds for facilities or other specific purposes that were previously rescinded. Currently, the use of loan funds for projects included in a loan that was rescinded, excluded those projects from receiving loan funds in a subsequent loan even if no loan funds were made available for that project prior to rescission. RUS believes it has sufficient funds available to allow us to include these types of projects provided they had not received loan funds previously. This will make more loan funds available for rural electric infrastructure.

(C) The Agency is removing 7 CFR 1710.112(c) because it is outdated. It required a borrower's electric system to be year 2000 compliant.

(D) The Agency is revising 7 CFR 1710, Subpart E, Load Forecasts. RUS has previously required routine and periodic review and approval of up-to-date load forecasts. Load forecasts demonstrate system-wide growth and the need for generation. We are amending 7 CFR 1710 to require load

forecasts only in connection with a loan made or guaranteed by RUS to reduce burden on borrowers while still giving RUS confidence that the borrower is adequately managing anticipated system-wide load growth. We are amending 7 CFR 1710.206 to remove RUS approval of a load forecast work plan. Routine and periodic submittal and approval by RUS is an unnecessary and costly burden on the Electric Program borrowers. We are amending 7 CFR 1710.202–208 to remove the requirements for borrowers to maintain an approved load forecast on an ongoing basis. We are amending 7 CFR 1710.202–208 to clarify the timing of the load forecast preparation in relation to the loan application and clarify that approval of a loan will constitute approval of the load forecast. We are amending 7 CFR 1710.209 to increase the total utility plant amount requiring the load forecast work plan.

(E) The agency will revise 7 CFR 1710, Subpart F, Construction Work Plans and Related Studies. We are amending 7 CFR 1710.250(a) to require a construction work plan (CWP) be prepared for a 4-year term (increased from the current 2–3 year requirement). This change will reduce the frequency and of review of the CWP for both the electric borrowers' and for the Electric Program staff. We are amending 7 CFR 1710.250–255 and 7 CFR 1717.604 to remove all references to long range engineering plans (LRP), except for the definition in 7 CFR 1710.250 and the requirement to maintain a LRP. The term of LRPs will be changed from 10 years to 10–20 years. We are amending 7 CFR 1710.250(j) to require that engineering services must be reviewed by a licensed professional engineer. This will provide consistency between all borrowers as the existing language in regulation language is too vague. We are removing 7 CFR 1710.254, Alternative sources of power, in its entirety. The concepts are duplicative of 7 CFR 1710.253. We are amending 7 CFR 1710.253(b) to remove the reference to 7 CFR 1710.254 and remove the last sentence and replace. We are amending 7 CFR 1710.250(g) to remove the 45-day notice of storm or natural disaster requirement.

(F) The Agency is revising 7 CFR 1710.501 to simplify the information and documents required to apply for a loan made or guaranteed by RUS. Borrowers will be divided into three categories: Current borrower, new/returning borrower, and generation and transmission borrower. The categories will determine the required documents needed to apply. Several application documents will no longer be required

and in some cases information within application documents may be consolidated. This includes removing the requirement for a Transmittal Letter, § 1710.501(1), and amending § 1710.501 to require one Loan Application Letter. § 1710.501(a) has been amended to show that borrowers may be eligible to submit their loan application via RUS' electronic application intake system instead of submitting a paper submission. The Agency is revising § 1710.501(a)(5) to remove the requirement to submit a current Operating Report with the loan application and will rely on the year end form filed by many borrowers known as the Financial and Operating Report Electric Distribution. The Agency will also remove §§ 1710.501(a)(14), Articles of incorporation and bylaws, 1710.501(c), Primary support documents, and 1710.501(a)(6), Pending litigation statement. All required documents, forms and necessary information will be clearly set forth for the applicant in the revised § 1710.501; only the information needed by RUS to make feasibility and security determinations will be required. This change should improve customer experience and customer service and facilitate lending for electric infrastructure.

(G) The Agency is amending 7 CFR 1714.56 to delete references to automatic termination of loan advances at the end of the fund advance period. The fund advance period is actually governed by the terms of the applicable loan note and not the regulation. These requirements will be replaced by a reference to the terms of the particular loan note in determining the fund advance period. This change will alleviate any confusion and clarify that the loan note governs the advance period.

(H) The Agency is removing 7 CFR 1717, Subparts G and H, § 1717.300–356, in its entirety. However, the Wholesale Power Contract requirement is moved to a new § 1717.618 of Subpart M. RUS does not exercise federal preemption in ratemaking in connection with its electric power supply borrowers or in bankruptcy due to federal court decisions. Additionally, there are some clarifications to various requirements related to Lien Accommodations in Subpart R—Lien Accommodations and Subordinations for 100 Percent Private Financing in § 1717.850–860.

(I) Currently, 7 CFR 1724.51 requires RUS approval of electric system design regardless of the source of financing and 7 CFR 1724.54 requires approval of plans and specifications for RUS financed electric system facilities. These

requirements assure RUS that the electric system it is financing is valuable and enhances its security. These sections are being amended to allow a licensed professional engineer to certify that the design data, plans and profile drawings for the electric system facilities meets all applicable RUS electric design requirements, specifications, local, state and national requirements and that RUS listed materials and equipment was used. This will benefit the borrower by allowing it to provide a certification in lieu of the actual system design and await review and approval. This will permit RUS staff to focus on more complex and non-compliant system designs.

(J) RUS requires the use of its form of contracts for RUS financed facilities, as required by 7 CFR 1724.1(c), 1724.10–1724.74 and 7 CFR 1726.24–1726.304. The Agency is amending 7 CFR 1724.1(c) to allow the borrowers three options: 1. Submit the actual contract used for review and approval, 2. submit a certification that the required contract was used for the electric project or 3. submit a certification that the contract was not used but the essential and identical provisions specifically listed in the certification were used in the contract for constructing the electric facilities. This change will facilitate electric system construction and advances of loan funds to borrowers. Certifications routinely are used throughout the government as a means of compliance with requirements. RUS will be authorized to review the underlying contracts, if requested.

#### List of Subjects

##### 7 CFR Part 1710

Electric power, Grant program-energy, Loan program-energy, Reporting and recordkeeping requirements, Rural areas.

##### 7 CFR Part 1714

Electric power, Loan programs-energy, Rural areas.

##### 7 CFR Part 1717

Administrative practice and procedure, Electric power, Electric power rates, Electric utilities, Intergovernmental relations, Investments, Loan program-energy, Reporting and recordkeeping requirements, Rural areas.

##### 7 CFR Parts 1721, 1724, 1726, and 1730

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

For the reasons set forth in the preamble, RUS amends 7 CFR parts

1710, 1714, 1717, 1721, 1724, 1726, and 1730 as follows:

**PART 1710—GENERAL AND PRE-LOAN POLICIES AND PROCEDURES COMMON TO ELECTRIC LOANS AND GUARANTEES**

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

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

**Subpart A—General**

■ 2. Amend § 1710.2 in paragraph (a) by revising the definition of “Loan period” to read as follows:

**§ 1710.2 Definitions and rules of construction.**

(a) \* \* \*

*Loan period* means the period of time during which the facilities will be constructed not to exceed the time identified in the Loan note, as approved.

\* \* \* \* \*

**Subpart C—Loan Purposes and Basic Policies**

**§ 1710.106 [Amended]**

■ 3. Amend § 1710.106 by removing paragraph (c)(4).

**§ 1710.112 [Amended]**

■ 4. Amend § 1710.112 by removing paragraph (c).

**Subpart D—Basic Requirements for Loan Approval**

■ 5. Add § 1710.154 to subpart D to read as follows:

**§ 1710.154 Board of Director Resolutions.**

Specific actions that require a Board of Director Resolution from a borrower:

(a) Board approval of loan documents;

(b) Major change in the terms of a loan, *i.e.* maturity;

(c) Initial access to RD Apply (or successor RUS online application systems);

(d) Requests for approval by a Board, acting as the regulatory authority, for any departure from the RUS Uniform System of Accounts with the exception of those deferrals specifically identified in § 1767.13(d); and

(e) eAuthentication requirements.

**Subpart E—Load Forecasts**

■ 6. Revise § 1710.202 to read as follows:

**§ 1710.202 Requirement to prepare a load forecast—power supply borrowers.**

(a) A power supply borrower with a total utility plant of \$500 million or

more must provide a load forecast in support of any request for RUS financial assistance. The borrower must also maintain a load forecast work plan on file. The borrower’s load forecast must be prepared pursuant to the load forecast work plan.

(b) A power supply borrower that is a member of another power supply borrower that has a total utility plant of \$500 million or more must provide an approved load forecast in support of any request for RUS financial assistance. The member power supply borrower may comply with this requirement by participation in and inclusion of its load forecasting information in the load forecast of its power supply borrower. The load forecasts must be prepared pursuant to the load forecast work plan.

(c) A power supply borrower that has total utility plant of less than \$500 million and that is not a member of another power supply borrower with a total utility plant of \$500 million or more must provide a load forecast that meets the requirements of this subpart in support of an application for any RUS loan or loan guarantee which exceeds \$50 million.

■ 7. Revise § 1710.203 to read as follows:

**§ 1710.203 Requirement to prepare a load forecast—distribution borrowers.**

(a) A distribution borrower that is a member of a power supply borrower, with a total utility plant of \$500 million or more must provide a load forecast in support of any request for RUS financial assistance. The distribution borrower may comply with this requirement by participation in and inclusion of its load forecasting information in the approved load forecast of its power supply borrower. The distribution borrower’s load forecast must be prepared pursuant to the load forecast work plan of its power supply borrower.

(b) A distribution borrower that is a member of a power supply borrower which is itself a member of another power supply borrower that has a total utility plant of \$500 million or more must provide a load forecast in support of any request for RUS financial assistance. The distribution borrower may comply with this requirement by participation in and inclusion of its load forecasting information in the load forecast of its power supply borrower. The distribution borrower’s load forecast must be prepared pursuant to the load forecast work plan of the power supply borrower with total utility plant in excess of \$500 million.

(c) A distribution borrower that is a member of a power supply borrower with a total utility plant of less than

\$500 million must provide a load forecast that meets the requirements of this subpart in support of an application for any RUS loan or loan guarantee that exceeds \$3 million or 5 percent of total utility plant, whichever is greater. The distribution borrower may comply with this requirement by participation in and inclusion of its load forecasting information in the load forecast of its power supply borrower.

(d) A distribution borrower with a total utility plant of less than \$500 million and that is unaffiliated with a power supply borrower must provide a load forecast that meets the requirements of this subpart in support of an application for any RUS loan or loan guarantee which exceeds \$3 million or 5 percent of total utility plant, whichever is greater.

(e) A distribution borrower with a total utility plant of \$500 million or more must provide a load forecast in support of any request for RUS financing assistance. The borrower must also maintain a load forecast work plan. The distribution borrower may comply with this requirement by participation in and inclusion of its load forecasting information in the load forecast of its power supply borrower.

**§ 1710.204 [Removed and Reserved]**

■ 8. Remove and reserve § 1710.204.

■ 9. Revise § 1710.205 to read as follows:

**§ 1710.205 Minimum requirements for all load forecasts.**

(a) *Contents of load forecast.* All load forecasts submitted by borrowers for approval must include:

(1) A narrative describing the borrower’s system, service territory, and consumers;

(2) A narrative description of the borrower’s load forecast including future load projections, forecast assumptions, and the methods and procedures used to develop the forecast;

(3) Projections of usage by consumer class, number of consumers by class, annual system peak demand, and season of peak demand for the number of years agreed upon by RUS and the borrower;

(4) A summary of the year-by-year results of the load forecast in a format that allows efficient transfer of the information to other borrower planning or loan support documents;

(5) The load impacts of a borrower’s demand side management and energy efficiency and conservation program activities, if applicable;

(6) Graphic representations of the variables specifically identified by management as influencing a borrower’s loads; and

(7) A database that tracks all relevant variables that might influence a borrower's loads.

(b) *Formats.* RUS does not require a specific format for the narrative, documentation, data, and other information in the load forecast, provided that all required information is included and available. All data must be in a tabular form that can be transferred electronically to RUS computer software applications. RUS will evaluate borrower load forecasts for readability, understanding, filing, and electronic access. If a borrower's load forecast is submitted in a format that is not readily usable by RUS or is incomplete, RUS will require the borrower to submit the load forecast in a format acceptable to RUS.

(c) *Document retention.* The borrower must retain its latest load forecasts and supporting documentation. Any load forecast work plan must be retained as part of the load forecast.

(d) *Consultation with RUS.* The borrower must designate and make appropriate staff and consultants available for consultation with RUS to facilitate RUS review of the load forecast when requested by RUS.

(e) *Correlation and consistency with other RUS loan support documents.* If a borrower relies on an approved load forecast or an update of an approved load forecast as loan support, the borrower must demonstrate that the approved load forecast and the other primary support documentation for the loan were reconciled. For example, both the load forecast and the financial forecast require input assumptions for wholesale power costs, distribution costs, other systems costs, average revenue per kWh, and inflation. Also, a borrower's engineering planning documents, such as the construction work plan, incorporate consumer and usage per consumer projections from the load forecast to develop system design criteria. The assumptions and data common to all the documents must be consistent.

(f) *Coordination.* A load forecast of a power supply borrower must consider the load forecasts of all its member systems.

■ 10. Amend § 1710.206 by revising the section heading, and paragraphs (a) introductory text and (b) to read as follows:

**§ 1710.206 Requirements for load forecasts prepared pursuant to a load forecast work plan.**

(a) *Contents of load forecasts prepared under a load forecast work plan.* In addition to the minimum requirements for load forecasts under

§ 1710.205, load forecasts developed and submitted by borrowers required to have a load forecast work plan shall include the following:

\* \* \* \* \*

(b) *Compliance with a load forecast work plan.* A borrower required to maintain a load forecast work plan must also be able to demonstrate that both it and its RUS borrower members are in compliance with its load forecast work plan.

■ 11. Amend § 1710.207 by revising the section heading to read as follows:

**§ 1710.207 RUS criteria for load forecasts by distribution borrowers.**

\* \* \* \* \*

■ 12. Amend § 1710.208 by revising the section heading and introductory text and removing paragraph (g).

The revisions read as follows:

**§ 1710.208 RUS criteria for load forecasts by power supply borrowers and by distribution borrowers.**

All load forecasts submitted by power supply borrowers and by distribution borrowers must satisfy the following criteria:

\* \* \* \* \*

■ 13. Revise § 1710.209 to read as follows:

**§ 1710.209 Requirements for load forecast work plans.**

(a) In addition to the load forecast required under §§ 1710.202 and 1710.203, any power supply borrower with a total utility plant of \$500 million or more and any distribution borrower with a total utility plant of \$500 million or more must maintain a load forecast work plan. RUS borrowers that are members of a power supply borrower with a total utility plant of \$500 million or more must cooperate in the preparation of and submittal of the load forecast work plan of their power supply borrower.

(b) A load forecast work plan establishes the process for the preparation and maintenance of a comprehensive database for the development of the borrower's load forecast, and load forecast updates. The load forecast work plan is intended to develop and maintain a process that will result in load forecasts that will meet the borrowers' own needs and the requirements of this subpart. A work plan represents a commitment by a power supply borrower and its members, or by a large unaffiliated distribution borrower, that all parties concerned will prepare their load forecasts in a timely manner pursuant to the load forecast work plan and they will modify the load forecast work plan

as needed to address changing circumstances or enhance the usefulness of the load forecast work plan.

(c) A load forecast work plan for a power supply borrower and its members must cover all member systems, including those that are not borrowers. However, only members that are borrowers, including the power supply borrower, are required to follow the load forecast work plan in preparing their respective load forecasts. Each borrower is individually responsible for forecasting all its RE Act beneficiary and non-RE Act beneficiary loads.

(d) A load forecast work plan must outline the coordination and preparation requirements for both the power supply borrower and its members.

(e) A load forecast work plan must describe the borrower's process and methods to be used in producing the load forecast.

(f) Load forecast work plans for borrowers with residential demand of 50 percent or more of total kWh must provide for a residential consumer survey at least every 5 years to obtain data on appliance and equipment saturation and electricity demand. Any such borrower that is experiencing or anticipates changes in usage patterns shall consider surveys on a more frequent schedule. Power supply borrowers shall coordinate such surveys with their members. Residential consumer surveys may be based on the aggregation of member-based samples or on a system-wide sample, provided that the latter provides for relevant regional breakdowns as appropriate.

(g) Load forecast work plans must provide for RUS review of the load forecasts as the load forecast is being developed.

(h) A power supply borrower's work plan must have the concurrence of the majority of the members that are borrowers.

**Subpart F— Construction Work Plans and Related Studies**

■ 14. Revise § 1710.250 to read as follows:

**§ 1710.250 General.**

(a) An ongoing, integrated planning system is needed by borrowers to determine their short-term and long-term needs for plant additions, improvements, replacements, and retirements. The primary components of the system consist of long-range engineering plans, construction work plans (CWPs), CWP amendments, and special engineering and cost studies.

Long range engineering plans identify plant investments required over a period of 10–20 years or more. CWPs specify and document plant requirements for the short-term, usually 4 years, and special engineering and cost studies are used to support CWPs and to identify and document requirements for specific items or purposes, such as load management equipment, System Control and Data Acquisition equipment, sectionalizing investments, and additions of generation capacity and associated transmission plant.

(b) A long range engineering plan specifies and supports the major system additions, improvements, replacements, and retirements needed for an orderly transition from the existing system to the system required 10 or more years in the future. The planned future system should be based on the most technically and economically sound means of serving the borrower’s long-range loads in a reliable and environmentally acceptable manner, and it should ensure that planned facilities will not become obsolete prematurely.

(c) A CWP shall include investment cost estimates and supporting engineering and cost studies to demonstrate the need for each proposed facility or activity and the reasonableness of the investment projections and the engineering assumptions used in sizing the facilities. The CWP must be consistent with the borrower’s long range engineering plan and both documents must be consistent with the borrower’s RUS-approved power requirements study.

(d) Applications for a loan or loan guarantee from RUS (new loans or budget reclassifications) must be supported by a current CWP approved by RUS. RUS approval of these plans relates only to the facilities, equipment, and other purposes to be financed by RUS, and means that the plans provide an adequate basis from a planning and engineering standpoint to support RUS financing. RUS approval of the plans does not mean that RUS approves of the facilities, equipment, or other purposes for which the borrower is not seeking RUS financing. If RUS disagrees with a borrower’s estimate of the cost of one or more facilities for which RUS financing is sought, RUS may adjust the estimate after consulting with the borrower and explaining the reasons for the adjustment.

(e) Except as provided in paragraph (f) of this section, to be eligible for RUS financing, the facilities, including equipment and other items, included in a CWP must be approved by RUS and receive Environmental Clearance before

the start of construction. This requirement also applies to any amendments to a CWP required to add facilities to a CWP or to make significant physical changes in the facilities already included in a CWP. Provision for funding of “minor projects” under an RUS loan guarantee is permitted on the same basis as that discussed for insured loan funds in 7 CFR part 1721, Post-Loan Policies and Procedures for Insured Electric Loans.

(f) In the case of damage caused by storms and other natural catastrophes, a borrower may proceed with emergency repair work before a CWP or CWP amendment is prepared by the borrower and approved by RUS, without losing eligibility for RUS financing of the repairs. The borrower must notify the RUS regional office in writing after the natural catastrophe, of its preliminary estimates of damages and repair costs. Not later than 120 days after the natural catastrophe, the borrower must submit to RUS for approval, a CWP or CWP amendment detailing the repairs.

(g) A CWP may be amended or augmented when the borrower can demonstrate the need for the changes.

(h) A borrower’s CWP or special engineering studies must be supported by the appropriate level of environmental review documentation, in accordance with 7 CFR part 1970.

(i) All engineering activities required by this subpart must be performed by qualified engineers, who may be staff employees of the borrower or outside consultants. All engineering services must be reviewed by a licensed professional engineer.

(j) Upon written request from a borrower, RUS may waive in writing certain requirements with respect to long-range engineering plans and CWPs if RUS determines that such requirements impose a substantial burden on the borrower and that waiving the requirements will not significantly affect the accomplishment of the objectives of this subpart. For example, if a borrower’s load is forecast to remain constant or decline during the planning period, RUS may waive those portions of the plans that relate to load growth.

■ 15. Amend § 1710.251 by revising paragraph (a) to read as follows:

**§ 1710.251 Construction work plans—distribution borrowers.**

(a) All distribution borrowers must maintain a current CWP covering all new construction, improvements, replacements, and retirements of distribution and transmission plant, and improvements replacements, and retirements of any generation plant.

Construction of new generation capacity need not be included in a CWP but must be specified and supported by specific engineering and cost studies. (See § 1710.253.)

\* \* \* \* \*

■ 16. Amend § 1710.252 by revising paragraph (a) to read as follows:

**§ 1710.252 Construction work plans—power supply borrowers.**

(a) All power supply borrowers must maintain a current CWP covering all new construction, improvements, replacements, and retirements of distribution and transmission plant, and improvements, replacements, and retirements of generation plant. Applications for RUS financial assistance for such facilities must be supported by a current, RUS-approved CWP. Construction of new generation capacity need not be included in a CWP but must be specified and supported by specific engineering and cost studies.

\* \* \* \* \*

■ 17. Amend § 1710.253 by revising paragraph (b) to read as follows:

**§ 1710.253 Engineering and cost studies—addition of generation capacity.**

\* \* \* \* \*

(b) The studies must include comprehensive economic present-value analyses of the costs and revenues of the available self-generation, load management, energy conservation, and purchased-power options, including assessments of service reliability and financing requirements and risks. An analysis of purchased power options, including an analysis of available alternate sources of power shall be included. The analysis should include the terms and conditions of any requests for proposals and responses to such requests.

\* \* \* \* \*

**§ 1710.254 [Removed and Reserved]**

■ 18. Remove and reserve § 1710.254.

■ 19. Amend § 1710.255 by revising paragraph (a) to read as follows:

**§ 1710.255 Energy efficiency work plans—energy efficiency borrowers.**

(a) All energy efficiency borrowers must maintain a current EEWP covering in aggregate all new construction, improvements, replacements, and retirements of energy efficiency related equipment and activities;

\* \* \* \* \*

**Subpart G—Long-Range Financial Forecasts**

■ 20. Amend § 1710.300 by revising paragraphs (b) and (d)(4) to read as follows:

**§ 1710.300 General.**

\* \* \* \* \*

(b) A borrower must prepare, for RUS review and approval, a long-range financial forecast in support of its loan application. The forecast must demonstrate that the borrower's system is economically viable and that the proposed loan is financially feasible. Loan feasibility will be assessed based on the criteria set forth in § 1710.112.

\* \* \* \* \*

(d) \* \* \*

(4) The current rate schedules or new rates;

\* \* \* \* \*

**Subpart H—Energy Efficiency and Conservation Loan Program**

■ 21. Amend § 1710.410 by revising paragraph (b) to read as follows:

**§ 1710.410 Application documents.**

\* \* \* \* \*

(b) A copy of the statement establishing the EE Program that reflects an undertaking that funds collected in excess of then current amortization requirements for the related RUS loan will be redeployed for EE Program purposes or used to prepay the RUS loan.

\* \* \* \* \*

**Subpart I—Application Requirements and Procedures for Loans**

■ 22. Amend § 1710.500 by revising paragraph (a) to read as follows:

**§ 1710.500 Initial contact.**

(a) Loan applicants that do not have outstanding loans from RUS should contact the Rural Utilities Service via Email at [RUSElectric@wdc.usda.gov](mailto:RUSElectric@wdc.usda.gov), call RUS at (202) 720-9545 or write to the Rural Utilities Service Administrator, United States Department of Agriculture, 1400 Independence Ave. SW, STOP 1560, Room 5165, Washington, DC 20250-1560. Loan Applicants may also visit RUS' website to locate a local General Field Representative at <https://www.rd.usda.gov/contact-us/electric-gfr>. A field or headquarters staff representative may be assigned by RUS to visit the applicant and discuss its financial needs and eligibility. Borrowers that have outstanding loans should contact their assigned RUS general field representative (GFR) or, in the case of a power supply borrower, Deputy Assistant Administrator, Office of Loan Origination and Approval. Borrowers may consult with RUS field representatives and headquarters staff, as necessary.

\* \* \* \* \*

■ 23. Amend § 1710.501 by revising paragraphs (a), (b), (c), and (d)(1) to read as follows:

**§ 1710.501 Loan application documents.**

(a) *All borrowers.* Borrowers may be eligible to submit their loan application via RUS' electronic application intake system instead of submitting a paper submission. Please consult your GFR in accordance with § 1710.500. All applications for electric loans shall include the documents listed in this paragraph (a).

(1) *Loan application letter.* A letter signed by the borrower's manager indicating the actual corporate name, the borrowers RUS Designation, the borrowers RUS Loan Designation, and taxpayer identification number of the borrower and addressing the following items:

(i) The amount of loan and loan type. The sources and amounts of any supplemental or other financing. For an insured loan, a statement of whether the application is for a municipal rate loan, with or without the interest rate cap, or a hardship loan. If the application is for a municipal rate loan, the board resolution must indicate whether the borrower intends to elect the prepayment option. See 7 CFR 1714.4(c);

(ii) The Maturity Date/Term of the Loan in number of years (useful life to determine maximum);

(iii) A short description of the purpose of the loan, *i.e.*, generation, distribution, transmission, energy efficiency, etc;

(iv) Method of Amortization;

(v) The Borrower's DUNS Number;

(vi) The Borrower's Organization Number from its State Corporation Commission or similar entity;

(vii) The Borrower's Exact Legal Name (please state the legal name and identify the legal document used to state the name or attach such document;

(viii) List of current counties where real property is located;

(ix) Attach current property schedule;

(x) Identify any new counties with property since last loan;

(xi) Authorized/registered place of business;

(xii) Debt Limit;

(xiii) Identify any State regulatory approvals needed;

(xiv) List any subsidiaries;

(xv) Identify any material financial or other material change since last loan, including a list of any pending litigation and where there is insurance to cover such;

(xvi) Breakdown of loan funds by State;

(xvii) Construction Work Plan (CWP), if not previously submitted through RD Apply or other method;

(xviii) Environmental Report (ER), if not previously submitted through RD Apply or other method;

(xix) Statement authorizing RUS to release appropriate information and data relating to the loan application to the FFB and any existing supplemental lenders.

(2) *Special resolutions.* Included any special resolutions required by Federal or State Authorities and any others as identified and required by the RUS General Field Representative (for example, use of contractors, corrective action plans, etc.)

(3) *RUS Form 740c, Cost Estimates and Loan Budget for Electric Borrowers.* This form together with its attachments lists the construction, equipment, facilities and other cost estimates from the construction work plan or engineering and cost studies. The date on page 1 of the form is the beginning date of the loan period. Form 740c also includes the following information, exhibits, and attachments:

(i) *Description of funds and materials.* This description details the availability of materials and equipment, any unadvanced funds from prior loans, and any general funds the borrower designates, to determine the amount of such materials and funds to be applied against the capital requirements estimated for the loan period.

(ii) *Useful life of facilities financed by the loan.* Form 740c must include, as a note, either a statement certifying that at least 90 percent of the loan funds are for facilities that have a useful life of 33 years or longer, or a schedule showing the costs and useful life of those facilities with a useful life of less than 33 years. This statement or schedule will be used to determine the final maturity of the loan. See § 1710.115.

(iii) *Reimbursement schedule.* This schedule lists the date, amount, and identification number of each inventory of work orders and special equipment summary that form the basis for the borrower's request for reimbursement of general funds on the RUS Form 740c. See § 1710.109. If the borrower is not requesting reimbursement, this schedule need not be submitted.

(iv) *Location of consumers.* If the application is for a municipal rate loan subject to the interest rate cap, or for a loan at the hardship rate, and the average number of consumers per mile of the total electric system exceeds 17, Form 740c must include, as a note, a breakdown of funds included in the proposed loan to furnish or improve service to consumers located in an

urban area. See 7 CFR 1714.7(c) and 1714.8(d). This breakdown must indicate the method used by the borrower for allocating loan funds between urban and non-urban consumers.

(4) *RUS Form 740g, Application for Headquarters Facilities*. This form lists the individual cost estimates from the construction work plan or other engineering study that support the need for RUS financing for any warehouse and service type facilities included, and funding requested for such facilities shown on RUS Form 740c. If no loan funds are requested for headquarters facilities, Form 740g need not be submitted.

(5) *Financial and statistical report*. RUS will use the Borrower's year end filed Financial and Operating Report Electric Distribution (formerly known as the RUS Form 7) or the Financial and Operating Report Electric Power Supply (formerly known as the RUS Form 12) unless the borrower has failed to meet its applicable financial ratios, as required by its security instrument and loan contract. The reports are required to be filed electronically in the agency's Data Collection System. If the borrower's financial requirements have not been met, RUS will require a current Financial and Operating Report to be submitted with the loan application, which shall contain the most recent data available and shall not be more than 60 days old when received by RUS. In addition, for those borrowers not meeting their financial ratios, the following information shall also be provided as part of the loan application:

(i) Any other information required to be submitted by RUS;

(ii) A Plan to meet their Financial Ratios;

(iii) The Date of the Borrower's last rate change and the amount/percentage of that rate change;

(iv) A list of any Subsidiaries along with a brief summary identifying the purpose of each subsidiary and identify the percentage interest in each if less than 100%;

(v) If the issues with the Borrower not meeting its financial ratios involves the subsidiary or equity investment losses a business plan and exit strategy shall be provided;

(vi) An updated Financial and Operating Report within 60 days of actual loan approval which will be requested by RUS and can be submitted later.

(6) *Load Forecast Study*. A current Load Forecast Study will be included in the loan application which is not more than 2 years old when the loan application is submitted unless the

borrower is a member of a Power Supplier which only completes a Load Forecast once every 3 years. In that case the Load Forecast shall not be more than 3 years old when the loan application is submitted.

(7) *Long Range Financial Forecast and assumptions*. Along with the loan application, the borrower shall submit to RUS a Long-Range Financial Forecast (LRFF) that meets the requirements of subpart G of this part in a form acceptable to RUS. The forecast shall include any sensitivity analysis and/or analysis of alternative scenarios only if requested by the RUS General Field Representative.

(8) *Rate disparity and consumer income data*. If the borrower is applying under the rate disparity and consumer income tests for either a municipal rate loan subject to the interest rate cap or a hardship rate loan, the application must provide a breakdown of residential consumers either by county or by census tract. In addition, if the borrower serves in 2 or more states, the application must include a breakdown of all ultimate consumers by state. This breakdown may be a copy of Form EIA 861 submitted by the Borrower to the Department of Energy or in a similar form. See 7 CFR 1714.7(b) and 1714.8(a). To expedite the processing of loan applications, RUS strongly encourages distribution borrowers to provide this information to the GFR prior to submitting the application.

(9) *Standard Form 100—Equal Employment Opportunity Employer Report EEO—1*. This form, required by the Department of Labor, sets forth employment data for borrowers with 100 or more employees. A copy of this form, as submitted to the Department of Labor, is to be included in the application for an insured loan if the borrower has more than 100 employees. See § 1710.122.

(10) *Form AD-1047, Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions*. This statement certifies that the borrower will comply with certain regulations on debarment and suspension required by Executive Order 12549, Debarment and Suspension (3 CFR, 1986 Comp., p. 189). See 2 CFR 417, and § 1710.123 of this part.

(11) *Uniform Relocation Act assurance statement*. This assurance, which need not be resubmitted if previously submitted, provides that the borrower shall comply with 49 CFR part 24, which implements the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970, as amended by the Uniform Relocation Act

Amendments of 1987 and 1991. See § 1710.124.

(12) *Lobbying*. The following information on lobbying is required pursuant to 2 CFR 418, and § 1710.125. Borrowers applying for both insured and guaranteed financing should consult RUS before submitting this information.

(13) *Federal debt delinquency requirements*. See § 1710.126. The following documents are required:

(i) *Report on Federal debt delinquency*. This report indicates whether or not a borrower is delinquent on any Federal debt.

(ii) *Certification regarding Federal Government collection options*. This statement certifies that a borrower has been informed of the collection options the Federal Government may use to collect delinquent debt. The Federal Government is authorized by law to take any or all of the following actions in the event that a borrower's loan payments become delinquent or the borrower defaults on its loans:

(A) Report the borrower's delinquent account to a credit bureau;

(B) Assess additional interest and penalty charges for the period of time that payment is not made;

(C) Assess charges to cover additional administrative costs incurred by the Government to service the borrower's account;

(D) Offset amounts owed directly or indirectly to the borrower under other Federal programs;

(E) Refer the borrower's debt to the Internal Revenue Service for offset against any amount owed to the borrower as an income tax refund;

(F) Refer the borrower's account to a private collection agency to collect the amount due; and

(G) Refer the borrower's account to the Department of Justice for collection.

(14) *Assurance regarding Felony Conviction (AD Form 3030)*. This form must be included with each application to document the status regarding a felony criminal violation and status of any unpaid federal tax liability;

(15) *RD Form 400-4, Assurance Agreement*. This form provides assurance to USDA that recipients of federal financial assistance are in compliance with Title VI of the Civil Rights Act of 1964, 7 CFR part 15 and other agency regulations;

(16) *Seismic safety certifications*. This certification shall be included, if required under 7 CFR part 1792.

(17) *Other forms*. Other forms as required by law or as requested.

(b) *New or returning borrowers*. In addition to the items in paragraph (a) of this section, applications for loans

submitted by new or returning borrowers shall include the items listed in this paragraph (b).

(1) A copy of the Borrower's Current Bylaws;

(2) Identify the Borrower's Type of Organizational Structure and a copy of their Articles of Incorporation;

(3) Provide evidence of where Borrower is registered to do business;

(4) Copies of the Borrower's Audited GAAP financials for the past 1–3 years, if available or other financial information, as requested on a case by case basis;

(5) A list of any secured outstanding debt including the amount and name of lender;

(6) Evidence of Collateral and/or its ability to pledge such collateral;

(7) An Attorney Opinion for the Borrower including the counties served, a property schedule, the state of incorporation, any pending litigation, the corporate debt limit, the Borrower's legal name and type of legal organization, and the borrower's legal authority to pledge its collateral or other assets.

(8) Copies of the Borrower's Power Supply Contracts and arrangements (including wholesale rate contracts);

(9) Competitive position information including its rates and rate disparity between neighboring utilities;

(10) Construction Work Plan and/or Engineering Power Cost Study, if not previously submitted;

(11) An Environmental Report related to the facilities for which financing is being requested, if not previously submitted.

(c) *Power Supply Borrowers.* In addition to the loan application, consisting of the documents required by paragraph (a) or (b) of this section, Power Supply Borrowers must also provide RUS with the following:

(1) Information on its Power Supply arrangements and/or wholesale power contracts including the maturity dates. Please note copies of the contracts may be requested on a case by cases basis;

(2) A Profile of the Power Supply Borrowers' fuel supply arrangements;

(3) The Borrowers Load Resource Table;

(4) Information on its Transmission and Interconnection arrangements. Please note that copies of the contracts related to such arrangements may be requested on a case by case basis;

(5) The Power Supply Borrowers' New/Returning membership chart profile and relationships as applicable.

(d) \* \* \*

(1) Generally, all information required by paragraphs (a), (b), and (c) of this section is submitted to RUS in a single

application. Borrowers may be eligible to submit their loan application via RUS' electronic application intake system instead of submitting hard copies of the loan applications. Please contact your respective General Field Representative or RUS Headquarters to determine if you are eligible to utilize the electronic system.

#### **PART 1714—PRE-LOAN POLICIES AND PROCEDURES FOR INSURED ELECTRIC LOANS**

■ 24. The authority citation for part 1714 continues to read as follows:

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

##### **Subpart A—General**

■ 25. Amend § 1714.4 by revising paragraph (c) to read as follows:

##### **§ 1714.4 Interest rates.**

\* \* \* \* \*

(c) *Application procedure.* The borrower must indicate whether the application is for a municipal rate loan, with or without the interest rate cap, or a hardship rate loan. If the application is for a municipal rate loan, the borrower must also indicate whether they intend to elect the prepayment option.

##### **Subpart B—Terms of Insured Loans**

■ 26. Revise § 1714.56 to read as follows:

##### **§ 1714.56 Fund advance period**

(a) For loans approved on or after February 21, 1995, the fund advance period begins on the date of the loan note and is one year longer than the loan period, but not less than 4 years. The Administrator may extend the fund advance period on any loan if the borrower meets the requirements of paragraph (b) of this section and as permitted by law. As defined in 7 CFR 1710.2, the loan period begins on the date shown on page 1 of RUS Form 740c submitted with the loan application.

(b) The Administrator may agree to an extension of the fund advance period for loans approved on or after June 1, 1984, if the borrower demonstrates to the satisfaction of the Administrator that the loan funds continue to be needed for approved loan purposes (*i.e.*, facilities included in a RUS approved construction work plan). Policies for extension of the fund advance period following certain mergers, consolidations, and transfers of systems substantially in their entirety are set forth in 7 CFR 1717.156.

(1) To apply for an extension, the borrower must make a request to RUS

prior to the last date for advance as noted in the borrower's loan documents and provide, the following:

(i) A certified copy of a board resolution requesting an extension of the Government's obligation to advance loan funds;

(ii) Evidence that the unadvanced loan funds continue to be needed for approved loan purposes; and

(iii) Notice of the estimated date for completion of construction.

(2) If the Administrator approves a request for an extension, RUS will notify the borrower in writing of the extension and the terms and conditions thereof. An extension will be effective only if it is requested in writing prior to the last date for advance as provided in the borrower's loan documents.

(3) Any request received after the last date for advance shall be rejected.

(c) RUS will rescind the balance of any loan funds not advanced to a borrower as of the final date approved for advancing funds.

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

■ 27. The authority citation for part 1717 continues to read as follows:

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

##### **Subpart G [Removed and Reserved]**

■ 28. Remove and reserve subpart G, consisting of §§ 1717.300 through 1717.349.

##### **Subpart H [Removed and Reserved]**

■ 29. Remove and reserve subpart H, consisting of §§ 1717.350 through 1717.356.

##### **Subpart M—Operational Controls**

■ 30. Add § 1717.618 to read as follows:

##### **§ 1717.618 Wholesale power contracts.**

(a) Pursuant to the terms of the RUS documents each power supply borrower shall establish and adjust rates for the sale of electric power and energy in such a manner as to assure that the borrower will be able to make required payments on secured loans.

(b) Pursuant to the terms of the RUS wholesale power contract, the Board of Directors or Board of Trustees of the power supply borrower shall review rates not less frequently than once each calendar year and revise its rates as therein set forth. The RUS wholesale power contract further provides that the borrower shall notify the Administrator not less than 30 nor more than 45 days

prior to the effective date of any adjustment and shall set forth the basis upon which the rate is to be adjusted and established. The RUS wholesale power contract provides that no final revision in rates shall be effective unless approved in writing by the Administrator.

Note 1 to paragraph (b): The Wholesale Power Contract, with minor modifications which are approved by RUS on a case by case basis, provides that the rate charged for electric power and energy, shall produce revenues which shall be sufficient, but only sufficient, with the revenues of the Seller from all other sources, to meet the cost of the operation and maintenance (including without limitation, replacements, insurance, taxes and administrative and general overhead expenses) of the generating plant transmission system and related facilities of the Seller, the cost of any power and energy purchased for resale hereunder by the Seller, the cost of transmission service, make payments on account of principal and interest on all indebtedness of the Seller, and to provide for the establishment and maintenance of reasonable reserves.

(c) Pursuant to the terms of the RUS mortgage, each power supply borrower must design its rates as therein set forth and must give 90 days prior notice to RUS of any proposed change in its general rate structure.

(Approved by the Office of Management and Budget under control number 0572-0089)

Subpart R—Lien Accommodations and Subordinations for 100 Percent Private Financing

■ 31. Amend § 1717.850 by revising paragraph (g)(1)(ii) to read as follows:

§ 1717.850 General.

\* \* \* \* \*

(g) \* \* \*

(1) \* \* \*

(ii) Obtain a certification from a registered professional engineer, for each year during which funds from the separate subaccount are utilized by the borrower, that all materials and equipment purchased and facilities constructed during the year from said funds comply with RUS safety and performance standards, as required by paragraph (f) of this section, and are included in a CWP or CWP amendment.

\* \* \* \* \*

■ 32. Amend § 1717.855 by revising paragraphs (b) and (h) to read as follows:

§ 1717.855 Application contents: Advance approval—100 percent private financing of distribution, subtransmission and headquarter facilities, and certain other community infrastructure.

\* \* \* \* \*

(b) A statement requesting the lien accommodation or subordination and including the amount and maturity of the proposed loan, a general description of the facilities or other purposes to be financed, the name and address of the lender, and an attached term sheet summarizing the terms and conditions of the proposed loan;

\* \* \* \* \*

(h) A CWP or CWP amendment covering the proposed project, in accordance with 7 CFR part 1710, subpart F, and subject to RUS approval.

\* \* \* \* \*

■ 33. Amend § 1717.856 by revising paragraphs (c), (e), and (f) to read as follows:

§ 1717.856 Application contents: Normal review—100 percent private financing.

\* \* \* \* \*

(c) A long-range financial forecast providing financial projections for at least 10 years, which demonstrates that the borrower's system is economically viable and that the proposed loan is financially feasible. The financial forecast must comply with the requirements of 7 CFR part 1710 subpart G. RUS may, in its sole discretion, waive the requirement of this paragraph that a long range financial forecast be provided, if:

\* \* \* \* \*

(e) As applicable to the type of facilities being financed, a CWP, related engineering and cost studies, a power cost study. These documents must meet the requirements of 7 CFR part 1710, subpart F and, as applicable, subpart G;

(f) Unless the requirement has been waived in writing by RUS, a current load forecast, which must meet the requirements of 7 CFR part 1710, subpart E, to the same extent as if the loan were being made by RUS; and

\* \* \* \* \*

■ 34. Amend § 1717.857 by revising (c)(3) to read as follows:

§ 1717.857 Refinancing of existing secured debt—distribution and power supply borrowers.

\* \* \* \* \*

(c) \* \* \*

(3) A statement from the borrower requesting the lien accommodation or subordination and including the amount and maturity of the proposed loan, a general description of the debt to be refinanced, the name and address of the lender, and an attached term sheet

summarizing the terms and conditions of the proposed loan;

\* \* \* \* \*

■ 35. Amend § 1717.858 by revising paragraph (c)(1) to read as follows:

§ 1717.858 Lien subordination for rural development investments.

\* \* \* \* \*

(c) \* \* \*

(1) A statement from the borrower requesting the lien subordination or release of lien.

\* \* \* \* \*

■ 36. Amend § 1717.860 by revising paragraph (c)(2)(i) to read as follows:

§ 1717.860 Lien accommodations and subordinations under section 306E of the RE Act.

\* \* \* \* \*

(c) \* \* \*

(2) \* \* \*

(i) A statement from the borrower requesting the lien accommodation and including the amount and maturity of the proposed loan, a general description of the facilities or other purposes to be financed, the name and address of the lender, and an attached term sheet summarizing the terms and conditions of the proposed loan;

\* \* \* \* \*

PART 1721—POST-LOAN POLICIES AND PROCEDURES FOR INSURED ELECTRIC LOANS

■ 37. The authority citation for part 1721 continues to read as follows:

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

Subpart B—Extensions of Payments of Principal and Interest

■ 38. Amend § 1721.105 by revising paragraphs (b) through (e) to read as follows:

§ 1721.105 Application documents.

\* \* \* \* \*

(b) Deferments for energy resource conservation loans. A Borrower requesting principle deferments for an ERC loan program must submit a letter from the Borrower's General Manager requesting an extension of principle payments for the purpose of offering an ERC loan program to its members and describing the details of the program.

(c) Deferments for renewable energy projects. A Borrower requesting principle deferments for its renewable energy project must submit a letter from the Borrower's General Manager requesting an extension of principle payments for the purpose of offering an ERC loan program to its members and describing the details of the program.

(d) *Deferments for distributed generation projects.* A Borrower requesting principle deferments for distributed generation projects must submit a letter from the Borrower's General Manager requesting an extension of principle payments for the purpose of offering an ERC loan program to its members and describing the details of the program and approval is also subject to any applicable terms and conditions of the Borrower's loan contract, mortgage, or indenture.

(e) *Deferments for contribution-in-aid of construction.* A Borrower requesting principle deferments for contribution-in-aid of construction must submit the following:

(1) A letter from the Borrower's General Manager requesting an extension of principle payments for the purpose of offering an ERC loan program to its members and describing the details of the program.

(2) A summary of the calculations used to determine the average cost per residential customer. (See § 1721.104(e)(2)).

**PART 1724—ELECTRIC ENGINEERING, ARCHITECTURAL SERVICES AND DESIGN POLICIES AND PROCEDURES**

■ 39. The authority citation for part 1724 continues to read as follows:

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

■ 40. Amend § 1724.1 by revising paragraph (c) to read as follows:

**§ 1724.1 Introduction.**

\* \* \* \* \*

(c) Borrowers are required to use RUS contract forms only if the facilities are financed by RUS. Borrowers have three options:

(1) Submit the actual contract used for review and approval;

(2) Submit a certification that the required contract was used for the electric project or;

(3) Submit a certification that the contract was not used but the essential and identical provisions specifically listed in the certification were used in the contract for constructing the electric facilities.

■ 41. Revise § 1724.5 to read as follows:

**§ 1724.5 Submission of documents to RUS.**

(a) *Where to send documents.* Documents required to be submitted to RUS under this part are to be sent to the Office of Loan Origination & Approval.

(b) *Contracts requiring RUS approval.* The borrower shall submit to RUS three copies of each contract that is subject to

RUS approval under subparts B and C of this part. At least one copy of each contract must be an original signed in ink (*i.e.*, no facsimile signature).

(c) *Contract amendments requiring RUS approval.* The borrower shall submit to RUS three copies of each contract amendment (at least one copy of which must be an original signed in ink) which is subject to RUS approval.

■ 42. Amend § 1724.21 by revising paragraph (a) to read as follows:

**§ 1724.21 Architectural services contracts.**

\* \* \* \* \*

(a) RUS Form 220, Architectural Services Contract, may be used by electric borrowers when obtaining architectural services.

\* \* \* \* \*

■ 43. Amend § 1724.31 by revising paragraph (b) to read as follows:

**§ 1724.31 Engineering services contracts.**

\* \* \* \* \*

(b) RUS Form 236, Engineering Service Contract—Electric System Design and Construction, may be used for all distribution, transmission, substation, and communications and control facilities. These contracts are not subject to RUS approval and need not be submitted to RUS unless specifically requested by RUS on a case by case basis.

\* \* \* \* \*

**Subpart E—Electric System Design**

■ 44. Amend § 1724.51 by revising paragraphs (b)(1) and (c)(1) to read as follows:

**§ 1724.51 Design requirements.**

\* \* \* \* \*

(b) \* \* \*

(1) All transmission line design data must be approved by RUS or a licensed professional engineer may certify that the design data, plans and profiles drawings for the electric system facilities meets all applicable RUS electric design requirements, specifications, local, state and national requirements and that RUS listed materials were used.

\* \* \* \* \*

(c) \* \* \*

(1) All substation design data must be approved by RUS or a licensed professional engineer may certify that the design data, plans and profiles drawings for the electric system facilities meets all applicable RUS electric design requirements, specifications, local, state and national requirements and that RUS listed materials were used.

\* \* \* \* \*

■ 45. Amend § 1724.54 by revising (c)(1) and (d)(1)(i) introductory text to read as follows:

**§ 1724.54 Requirements for RUS approval of plans and specifications.**

\* \* \* \* \*

(c) \* \* \*

(1) Plans and specifications for transmission construction projects which are not based on RUS approved line design data or do not use RUS standard structures must receive RUS design approval or RUS certification approval prior to requesting bids on contracts or commencement of force account construction.

(d) \* \* \*

(1) \* \* \*

(i) Plans and specifications for all new substations must receive RUS design approval or RUS certification approval prior to requesting bids on contracts or commencement of force account construction, unless:

\* \* \* \* \*

■ 46. Amend § 1724.55 by revising paragraph (a)(7) to read as follows:

**§ 1724.55 Dam safety.**

(a) \* \* \*

(7) *Emergency action plan.* For high hazard potential dams, the borrower must develop an emergency action plan incorporating preplanned emergency measures to be taken prior to and following a potential dam failure. The plan should be coordinated with local government and other authorities involved with the public safety.

\* \* \* \* \*

**PART 1726—ELECTRIC SYSTEM CONSTRUCTION POLICIES AND PROCEDURES**

■ 47. The authority citation for part 1726 continues to read as follows:

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

**Subpart A—General**

■ 48. Amend § 1726.35 by:

■ a. Removing paragraph (c)(5) and redesignating paragraphs (c)(6) and (7) as paragraphs (c)(5) and (6);

■ b. Revising paragraph (d);

■ c. Removing paragraph (e)(3)(vi)(A) and redesignating paragraphs (e)(3)(vi)(B) through (E) as paragraphs (e)(3)(vi)(A) through (D); and

■ d. Revising paragraph (e)(4)(iii)(E)(1).

The revisions read as follows:

**§ 1726.35 Submission of documents to RUS.**

\* \* \* \* \*

(d) *Contract amendments requiring RUS approval.* The borrower must

submit to RUS three copies of each contract amendment (at least one copy of which must be an original signed in ink) which is subject to RUS approval under § 1726.24(b). Each contract amendment submittal to RUS must be accompanied by a bond extension, where necessary.

- (e) \* \* \*
- (4) \* \* \*
- (iii) \* \* \*
- (E) \* \* \*

(1) The amendment was approved in accordance with the policy of the board of directors;

\* \* \* \* \*

**Subpart J—Contract Closeout**

■ 49. Amend § 1726.403 by revising paragraph (d)(2)(ii) to read as follows:

**§ 1726.403 Project construction contract closeout.**

\* \* \* \* \*

- (d) \* \* \*
- (2) \* \* \*

(ii) The certification in paragraph (d)(2)(i) of this section is to be executed for the contractor by: The sole owner, a partner, or an officer of the corporation.

**PART 1730—ELECTRIC SYSTEM OPERATIONS AND MAINTENANCE**

■ 50. The authority citation for part 1730 continues to read as follows:

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

■ 51. Amend appendix A to subpart B of part 1730 by revising item 15 in PART IV—Operations and Maintenance Budgets to read as follows:

**Appendix A to Subpart B to Part 1730—Review Rating Summary, RUS Form 300**

\* \* \* \* \*

15. Date Budget Discussed with Board of Directors \_\_\_\_\_

\* \* \* \* \*

**Chad Rupe,**

*Administrator, Rural Utilities Service.*

[FR Doc. 2019-14511 Filed 7-8-19; 8:45 am]

**BILLING CODE 3410-15-P**

**PENSION BENEFIT GUARANTY CORPORATION**

**29 CFR Part 4902**

**Privacy Act Regulation; Exemption for Insider Threat Program Records**

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Interim final rule; request for comments.

**SUMMARY:** The Pension Benefit Guaranty Corporation is amending its Privacy Act regulation to exempt a system of records that supports a program of insider threat detection and data loss prevention.

**DATES:**

*Effective date:* This interim final rule is effective on July 9, 2019.

*Comment date:* Comments must be received on or before August 8, 2019 to be assured of consideration.

**ADDRESSES:** Comments may be submitted by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- *Email:* [reg.comments@pbgc.gov](mailto:reg.comments@pbgc.gov).
- *Mail or Hand Delivery:* Regulatory Affairs Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005-4026.

All submissions must include the agency's name (Pension Benefit Guaranty Corporation, or PBGC) and title for this rulemaking (Privacy Act Regulation; Exemption for Insider Threat Program Records). Comments received will be posted without change to PBGC's website, <http://www.pbgc.gov>, including any personal information provided. Copies of comments may also be obtained by writing to Disclosure Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005-4026, or calling 202-326-4040 during normal business hours. TTY users may call the Federal relay service toll-free at 800-877-8339 and ask to be connected to 202-326-4040.

**FOR FURTHER INFORMATION CONTACT:**

Melissa Rifkin ([rifkin.melissa@pbgc.gov](mailto:rifkin.melissa@pbgc.gov)), Attorney, Regulatory Affairs Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005-4026; 202-326-4400, extension 6563; Margaret Drake ([drake.margaret@pbgc.gov](mailto:drake.margaret@pbgc.gov)), Chief Privacy Officer, Office of the General Counsel, 202-326-4400, extension 6435. (TTY users may call the Federal relay service toll-free at 800-877-8339 and ask to be connected to 202-326-4400, extension 6563.)

**SUPPLEMENTARY INFORMATION:**

**Executive Summary**

This rule amends PBGC's regulation on Disclosure and Amendment of Records Pertaining to Individuals under the Privacy Act (29 CFR part 4902) to exempt from disclosure information contained in a new system of records for PBGC's insider threat program. The exemption is needed because records in

this system include investigatory material compiled for law enforcement purposes.

Authority for this rule is provided by section 4002(b)(3) of the Employee Retirement Income Security Act of 1974 (ERISA) and 5 U.S.C. 552a(k)(2).

**Background**

The Pension Benefit Guaranty Corporation (PBGC) administers the pension plan insurance programs under title IV of the Employee Retirement Income Security Act of 1974 (ERISA). As a Federal agency, PBGC is subject to the Privacy Act of 1974, 5 U.S.C. 552a (Privacy Act), in its collection, maintenance, use, and dissemination of any personally identifiable information that it maintains in a "system of records." A system of records is defined under the Privacy Act as "a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual."<sup>1</sup>

PBGC is proposing to establish a new system of records, "PBGC-26, PBGC Insider Threat and Data Loss Prevention—PBGC." This system of records is published in the "Notice" section of this issue of the **Federal Register**.

Executive Order 13587, issued October 7, 2011, requires Federal agencies to establish an insider threat detection and prevention program to ensure the security of classified networks and the responsible sharing and safeguarding of classified information consistent with appropriate protections for privacy and civil liberties. While PBGC does not have any classified networks, it does maintain a significant amount of Controlled Unclassified Information (CUI) that, under law, it is required to safeguard from unauthorized access or disclosure. One method utilized by PBGC to ensure that only those with a need-to-know have access to CUI is a set of tools to minimize data loss, whether inadvertent or intentional. This system will collect and maintain Personally Identifiable Information (PII) in the course of scanning traffic leaving PBGC's network and blocking traffic that violates PBGC's policies to safeguard PII.

This system covers "PBGC insiders," who are individuals with access to PBGC resources, including facilities, information, equipment, networks, and systems. This includes Federal employees and contractors. Records from this system will be used on a need-

<sup>1</sup> See 5 U.S.C. 552a(a)(5).