

# Rules and Regulations

Federal Register

Vol. 86, No. 129

Friday, July 9, 2021

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, 1718, 1721, 1726, 1730, and 1767

[RUS-21-ELECTRIC-0003]

RIN 0572-AC53

#### Streamlining Electric Program Procedures

**AGENCY:** Rural Utilities Service, U.S. Department of Agriculture (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 construction work plans, contract bidding procedures, contact approval procedures, system operation and maintenance reviews, long-range engineering plans and system design procedures. Additionally, unnecessary sections in the regulations will be removed.

**DATES:** This rule is effective September 7, 2021.

**FOR FURTHER INFORMATION CONTACT:** Luis Bernal, Deputy Assistant Administrator, Office of Customer Service and Technical Assistance, Rural Utilities Service, U.S. Department of Agriculture, STOP 1569, 1400 Independence Ave. SW, Washington, DC 20250-0787, telephone: (202) 720-1900. Email: [RUSElectric@usda.gov](mailto:RUSElectric@usda.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

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 and improvement of rural electric infrastructure. In an effort by the RUS Electric Program to administer 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. On July 9, 2019, Streamlining Electric Program Procedures (84 FR 32607) was published in the **Federal Register**. That regulation streamlined some pre- and post-loan procedures to be made more efficient and to reduce regulatory burden on Electric Program borrowers while still ensuring RUS loans remained adequately secured and ensuring that loan funds would be repaid in the time agreed upon.

This rulemaking is part of the Electric Program's continuing effort to improve customer service for its borrowers and to create a more efficient work process for its staff. This rulemaking will continue to streamline Electric Program procedures and revise regulations; including, removing unnecessary and outdated regulations and simplifying other policies and procedures that impose burdensome requirements 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, any actions, "relating to agency management

or personnel or to public property, loans, grants, benefits, or contracts" (5 U.S.C. 553(b)(A)).

## II. Summary of Changes to Rule

(a) Changes to 7 CFR part 1710 "General and Pre-Loan Policies and Procedures Common to Electric Loans and Guarantees" include:

(1) Section 1710.109(c)(1) was updated to remove outdated language and to increase the general fund reimbursement period from 24 to 48 months. This will provide borrowers with more flexibility for when they can submit a loan application. It also parallels with the construction workplan period which is typically 48 months.

(2) Section 1710.251 was updated to make conforming changes from prior rulemakings. Paragraph (c)(7) was changed to "Outdoor Lights" for more flexibility and paragraph (c)(13) was added to provide borrowers with more clarification on eligible items approved for RUS financing.

(3) Section 1710.252(b) was revised to change the coverage period of construction workplans to typically 4 years. This is a conforming change from a prior rulemaking that streamlined when construction workplans must be approved.

(4) Section 1710.501(a)(3) was updated to clarify that the RUS Form 740c will be used to justify the loan amount and not be an exclusive list of projects which could be financed. This change will provide greater financing flexibility to the borrowers.

(b) Changes to 7 CFR part 1714—"Pre-Loan Policies and Procedures for Insured Electric Loans" include removing outdated language and updating information on the fund advance period. The updated language will clarify the loan fund advance period to conform to the requirements of the Antideficiency Act, 31 U.S.C. 1341.

(c) Changes to 7 CFR part 1717—"Post-Loan Policies and Procedures Common to Insured and Guaranteed Electric Loans include:

(1) Section 1717.154(c) was amended to increase the general funds reimbursement period to 48 months. This is a conforming change to go with the modification made to § 1710.109(c)(1).

(2) Section 1717.604(b) was revised to removed outdated language that references the requirement that long-

range engineering plans must be approved by RUS. This is a conforming change to a prior rulemaking.

(3) Section 1717.608(b) was amended to change the current approval requirement to a notification and to increase the threshold for the notification. This change will reduce the amount of oversight for the borrower. Paragraph (c) was amended to change the RUS approval of Power Supply Arrangements and any amendments to a term of 5 years. This will decrease the wait time for borrowers. Both of these changes will allow the Agency to focus resources on contracts with potentially higher risks.

(4) Section 1717.616 introductory text was revised to apply to all borrowers and different coverage ratios will be reviewed on a case by case basis. Paragraph (b) was revised to remove the specific ratios with a cross reference to § 1710.114(b) and “other financial requirements as established by their Mortgages, Loan Contracts and/or other Security Agreements” was added. These changes provide the borrowers with more flexibility on ratios they are required to meet to sell property.

(5) Section 1717.854(c)(2) was amended to reduce the equity requirement related to RUS advance approval for lien sharing from 27 to 20 percent. This will reduce the number of borrowers that need to obtain prior approval before borrowing funds from an outside lender.

(d) Changes to 7 CFR part 1718—“Loan Security Documents for Electric Borrowers” include removing appendix A to subpart B and appendix A to subpart C. These were removed because copies of the model mortgage and loan contract are available upon request as noted in §§ 1718.54 and 1718.104. Also, in § 1718.54, the reference to Administrative Services Division was removed for consistency.

(e) Changes to 7 CFR part 1721—“Post-Loan Policies and Procedures for Insured Electric Loans” include revising § 1721.1(a) to identify those projects for which loan funds may be advanced and remove the requirement to amend an approved loan. This change provides greater financing flexibility for borrowers.

(f) Changes to 7 CFR part 1726—“Electric System Construction Policies and Procedures” include:

(1) Section 1726.35 was revised to remove outdated references, allow a borrower to submit a certification statement in lieu of three copies of each contract (conforming change to prior rulemaking) and to provide for electronic submission of documents.

(2) Sections 1726.51(b) and 1726.77(b) were revised to increase the contract procurement limits and to allow for some Cost-Plus/Hourly contracts. These changes will provide greater flexibility to the borrowers related to contracting as well as reduce the number of requests submitted to the Agency for review and action.

(3) Section 1726.77(c) was revised to increase the limits for requiring contract approval and to set the contract approval threshold to be the same for all borrowers. This change simplifies the program regulation and potentially minimizes misinterpretation.

(4) Section 1726.150(b) was revised to increase contract procurement limits for headquarters buildings. This change is expected to create flexibility for the borrower.

(5) Section 1726.176 introductory text was revised to add Automated Meter Reading/Automated Metering Infrastructure to the list of items covered in the regulation. Paragraph (b)(3) was revised to set contract approval thresholds to be the same for all borrowers to simplify the program regulation and potentially minimize misinterpretation.

(6) Section 1726.403(c)(2)(ii) was revised to provide that a borrower may now submit a certification statement in lieu of closeout documents. It was also modified to remove the instruction that the closeout documents are to be submitted through the General Field Representative. These changes are intended to create process efficiency for the borrower.

(g) Changes to 7 CFR part 1730—“Electric System Operations and Maintenance” include removing appendix A to subpart B and revising § 1730.23 to read “The RUS Form 300 is available from RUS and shall be used when required by this part.” RUS seeks to remove appendix A to subpart B to adapt program rules so that the program can be delivered effectively, efficiently and consistent with the current industry developments and technology changes.

(h) Changes to 7 CFR part 1767—“Accounting Requirements for RUS Electric Borrowers” include modifications to § 1767.41 Number 119 “Special Equipment” to provide clarification and additional guidance related to the treatment of Special Equipment.

### III. Executive Orders and Acts

#### *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).

#### *Congressional Review Act*

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this rule as not a major rule, as defined by 5 U.S.C. 804(2).

#### *Catalog of Federal Domestic Assistance*

The Catalog of Federal Domestic Assistance (CFDA) number assigned to the Rural Electrification Loans and Loan Guarantees Program is 10.850. The Catalog is available on the internet at <https://beta.sam.gov/>. The Government Publishing Office (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 online bookstore 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@usda.gov](mailto:AIAN@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*

In accordance with the National Environmental Policy Act of 1969, Public Law 91–190, this final rule has been reviewed in accordance with 7 CFR part 1970 (“Environmental Policies and Procedures”). The Agency has determined that (i) this action meets the criteria established in 7 CFR 1970.53(f); (ii) no extraordinary circumstances exist; and (iii) the action is not “connected” to other actions with potentially significant impacts, is not considered a “cumulative action” and is not precluded by 40 CFR 1506.1. Therefore, the Agency has determined that the action does not have a significant effect on the human environment, and therefore neither an Environmental Assessment nor an Environmental Impact Statement is required.

#### *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 *et seq.*) 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 of 2002, Public Law 107–347, 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 0572–0003, 0572–0025, 0572–0032, 0572–0100, 0572–0114, 0572–0107, and 0572–0123.

#### *Civil Rights Impact Analysis*

Rural Development, a mission area for which RUS is an agency, has reviewed this rule in accordance with USDA Regulation 4300–4, Civil Rights Impact Analysis,” to identify any major civil rights impacts the rule might have on program participants on the basis of age, race, color, national origin, sex, or disability. After review and analysis of the rule and available data, it has been determined that based on the analysis of the program purpose, application submission and eligibility criteria, issuance of this final rule is not likely to negatively impact very low, low and moderate-income populations, minority populations, women, Indian tribes or persons with disability, by virtue of

their race, color, national origin, sex, age, disability, or marital or familial status. No major civil rights impact is likely to result from this rule.

#### *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, audiotape, 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 <https://www.usda.gov/oascr/how-to-file-a-program-discrimination-complaint> 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 Adjudication, 1400 Independence Avenue SW, Washington, DC 20250–9410; (2) Fax: (202) 690–7442; or (3) Email: [OAC@usda.gov](mailto:OAC@usda.gov) USDA is an equal opportunity provider, employer, and lender.

#### **List of Subjects**

##### *7 CFR Part 1710*

Electric power, Grant programs—energy, Loan programs—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 programs—energy, Reporting and recordkeeping requirements, Rural areas.

7 CFR Part 1718

Administrative practice and procedure, Electric power, Electric utilities, Loan programs—energy, Reporting and recordkeeping, Rural areas.

7 CFR Part 1721

Electric power, Loan programs—energy, Rural areas.

7 CFR Parts 1726 and 1730

Electric power, Loan programs—energy, Reporting and recordkeeping requirements, Rural areas.

7 CFR Part 1767

Electric power, Loan programs—energy, Rural areas, Uniform System of Accounts.

For the reasons set forth in the preamble, RUS amends 7 CFR parts 1710, 1714, 1717, 1718, 1721, 1726, 1730, and 1767 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 C—Loan Purposes and Basic Policies

- 2. Amend § 1710.109 by revising paragraph (c) to read as follows:

§ 1710.109 Reimbursement of general funds and interim financing.

(c) The period immediately preceding the current loan period for which reimbursement and replacement of interim financing is authorized under paragraph (b) of this section is 48 months. Policies for reimbursement of general funds and interim financing following certain mergers, consolidations, and transfers of systems substantially in their entirety are set forth in 7 CFR 1717.154.

\* \* \* \* \*

Subpart F—Construction Work Plans and Related Studies

- 3. Amend § 1710.251 by:

- a. Revising the first sentence of paragraph (b);
■ b. Revising paragraph (c)(7);
■ c. Revising the last sentence of paragraph (c)(11);
■ d. Revising paragraph (c)(12); and
■ e. Adding paragraph (c)(13).

The revisions and addition read as follows:

§ 1710.251 Construction work plans—distribution borrowers.

\* \* \* \* \*

(b) A distribution borrower's CWP shall typically cover a construction period of 4 years and includes all facilities to be constructed which are eligible for RUS financing, whether or not RUS financial assistance will be sought or be available for certain facilities. \* \* \*

(c) \* \* \*

(7) Outdoor lights;

\* \* \* \* \*

(11) \* \* \* To be eligible for financing, such equipment must be owned by the borrower, although it may be located inside or outside a consumer's premises;

(12) The cost of engineering, architectural, environmental, and other studies and plans needed to support the construction of facilities, when such cost is capitalized as part of the cost of the facilities; and

(13) Other items that are specifically determined by RUS as being eligible for financing prior to inclusion in the CWP.

- 4. Amend § 1710.252(b) by revising the first sentence to read as follows:

§ 1710.252 Construction work plans—power supply borrowers.

\* \* \* \* \*

(b) Typically a power supply borrower's CWP shall cover a period of 4 years. \* \* \*

\* \* \* \* \*

Subpart I—Application Requirements and Procedures for Loans

- 5. Amend § 1710.501 by revising paragraph (a)(3) introductory text to read as follows:

§ 1710.501 Loan application documents.

\* \* \* \* \*

(a) \* \* \*

(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 projects and related costs, included on this form, shall be used to justify the loan amount and are not meant to be an

exclusive list of those projects that could receive funds under this loan. In addition, to be included on this form, the project must have received written documentation of RUS concluding its environmental review. The advance of loan funds for projects shall be governed by 7 CFR part 1721. The date on page one (1) of the RUS Form 740c is the beginning date of the loan period. RUS Form 740c also includes the following information, exhibits, and attachments:

\* \* \* \* \*

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

- 6. 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 B—Terms of Insured Loans

- 7. Amend § 1714.56 by revising paragraphs (a) and (b) to read as follows:

§ 1714.56 Fund advance period.

(a) The fund advance period begins on the date of the loan note and will last no longer than five years after September 30 of the fifth year after the fiscal year of obligation. The fiscal year of obligation is identified in loan documentation associated with each loan. The Administrator may extend the fund advance period on any loan if the borrower meets the requirements of paragraph (b) of this section. However, under no circumstances shall the RUS ever make or approve an advance, regardless of the last day for an advance on the loan note or any extension by the Administrator, later than September 30 of the fifth year after the fiscal year of obligation if such date would result in the RUS obligating or permitting advance of funds contrary to the Antideficiency Act, 31 U.S.C. 1341.

(b) The Administrator may agree to an extension of the fund advance period for loans 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.

\* \* \* \* \*

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

■ 8. 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 D—Mergers and Consolidations of Electric Borrowers

#### § 1717.154 [Amended]

■ 9. Amend § 1717.154(c)(1) by removing the number “24” in the second sentence and adding “48” in its place.

### Subpart M—Operational Controls

■ 10. Amend § 1717.604 by revising paragraphs (b) and (c) to read as follows:

#### § 1717.604 Long-range engineering plans and construction work plans.

\* \* \* \* \*

(b) Applications for financing from RUS must be supported by a CWP approved by RUS.

(c) RUS approval is not required for CWPs if the borrower does not intend to seek RUS financing for any of the facilities, equipment, or other purposes included in those plans. However, if requested by RUS, a borrower must provide an informational copy of such plans to RUS.

■ 11. Amend § 1717.608 by revising paragraphs (b) and (c)(1) to read as follows:

#### § 1717.608 RUS approval of contracts.

\* \* \* \* \*

(b) *Large retail power contracts.* RUS is required to be notified of contracts to sell electric power to retail customers if the contract is for longer than 5 years and the kWh sales or kW demand for any year covered by the contract exceeds 25 percent of the borrower's total kWh sales or maximum kW demand for the year immediately preceding execution of the contract. The requirement in this paragraph (b) applies regardless of the source of funding of any plant extensions, additions or improvements that may be involved in connection with the contract.

(c) \* \* \*

(1) Power supply contracts (including but not limited to economy energy sales and emergency power and energy sales), interconnection agreements, interchange agreements, wheeling agreements, pooling agreements, and any other similar power supply arrangements subject to approval by RUS are deemed

approved if they have a term of 5 years or less. Amendments to said power supply arrangements are also deemed approved provided that the amendment does not extend the term of the arrangement for more than 5 years beyond the date of the amendment.

\* \* \* \* \*

■ 12. Amend § 1717.616 by revising the introductory text and paragraph (b) to read as follows:

#### § 1717.616 Sale, lease, or transfer of capital assets.

A borrower may, without the prior approval of RUS, sell, lease, or transfer any capital asset if the following conditions are met:

\* \* \* \* \*

(b) In the most recent year for which data is available, the borrower has met its coverage ratios as set in 7 CFR part 1710.114(b) or other financial requirements as established by their Mortgages, Loan Contracts, and/or other Security Agreements;

\* \* \* \* \*

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

#### § 1717.854 [Amended]

■ 13. Amend § 1717.854(c)(2) by removing the number “27” and adding “20” in its place.

## PART 1718—LOAN SECURITY DOCUMENTS FOR ELECTRIC BORROWERS

■ 14. The authority citation for part 1718 continues to read as follows:

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

### Subpart B—Mortgage for Distribution Borrowers

#### § 1718.54 [Amended]

■ 15. Amend § 1718.54 introductory text by removing “Administrative Services Division.”

#### Appendix A to Subpart B [Removed]

■ 16. Remove appendix A to subpart B.

### Subpart C—Loan Contracts With Distribution Borrowers

#### Appendix A to Subpart C [Removed]

■ 17. Remove appendix A to subpart C.

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

■ 18. 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 A—Advance of Funds

■ 19. Amend § 1721.1 by revising paragraph (a) to read as follows:

#### § 1721.1 Advances.

(a) *Purpose and amount.* With the exception of minor projects which are addressed in paragraph (b) of this section and generation projects which need to be included on a RUS Form 740c or an amendment to a RUS Form 740c, loan funds will be advanced for projects which are included in a RUS approved construction work plan (CWP), Energy Efficiency and Conservation Program work plan (EEWP), or approved amendment to either, have received written documentation of RUS including its environmental reviews and have complied with all Contracting and Bidding Procedures included in 7 CFR part 1726. Loan fund advances can be requested in an amount representing actual costs incurred.

\* \* \* \* \*

## PART 1726—ELECTRIC SYSTEM CONSTRUCTION POLICIES AND PROCEDURES

■ 20. 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

■ 21. Amend § 1726.35 by revising paragraphs (a), (c) introductory text, (c)(3), and (d) to read as follows:

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

(a) *Where to send documents.* Documents required to be submitted to RUS under this part are to be sent electronically to RUS, unless otherwise directed.

\* \* \* \* \*

(c) *Contracts requiring RUS approval.* The borrower shall submit to RUS, one copy of each contract that is subject to RUS approval under subparts B through F of this part. Any contract submitted by the borrower contract must be accompanied by:

\* \* \* \* \*

(3) One copy of an executed contractor's bond on RUS approved bond forms as required in the contract form and one copy of the bid bond or copy of the certified check.

\* \* \* \* \*

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

submit to RUS, one copy of each contract amendment 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.

\* \* \* \* \*

**Subpart B—Distribution Facilities**

■ 22. Amend § 1726.51 by revising paragraph (b) to read as follows:

**§ 1726.51 Distribution line construction.**

\* \* \* \* \*

(b) *Procurement procedures.* (1) It is the responsibility of each borrower to determine the procurement method that best meets its needs to award contracts in amounts of up to a cumulative total of \$750,000 or three percent of NUP (not to exceed \$6,000,000), whichever is greater, per calendar year of distribution line construction (including minor modifications or improvements), exclusive of the cost of owner furnished materials and equipment. Borrowers may award Cost-Plus/Hourly contracts as part of these borrower responsibility limits up to a cumulative total of \$250,000 or one percent of NUP (not to exceed \$2,000,000), whichever is greater, per calendar year of distribution line construction (including minor modifications or improvements), exclusive of the cost of owner furnished materials and equipment.

(2) The borrower shall use formal competitive bidding for all other distribution line contract construction unless the RUS specifically approves an alternative method. The dollar amounts of contracts bid using the formal competitive bidding procedure do not apply to the cumulative total stipulated in paragraph (b)(1) of this section.

(3) An amendment which increases the scope of the contract by adding a project is not considered competitively bid, therefore, the dollar amount of that amendment does apply to the cumulative total stipulated in paragraph (b)(1) of this section.

\* \* \* \* \*

**Subpart C—Substation and Transmission Facilities**

■ 23. Amend § 1726.77 by revising paragraphs (b) and (c) to read as follows:

**§ 1726.77 Substation and transmission line construction.**

\* \* \* \* \*

(b) *Procurement procedures.* (1) It is the responsibility of each borrower to determine the procurement method that best meets its needs to award contracts in amounts of up to a cumulative total of \$750,000 or three percent of NUP (not

to exceed \$6,000,000), whichever is greater, per calendar year of substation and transmission line construction (including minor modifications or improvements), exclusive of the cost of owner furnished materials and equipment. Borrowers may award Cost-Plus/Hourly contracts as part of these borrower responsibility limits up to a cumulative total of \$250,000 or one percent of NUP (not to exceed \$2,000,000), whichever is greater, per calendar year of substation and transmission line construction (including minor modifications or improvements), exclusive of the cost of owner furnished materials and equipment.

(2) The borrower shall use formal competitive bidding for all other contract construction unless RUS specifically approves an alternative method. The dollar amount of contracts bid using the formal competitive bidding procedure do not apply to the cumulative total stipulated in paragraph (b)(1) of this section.

(3) An amendment which increases the scope of the contract by adding a project is not considered competitively bid, therefore, the dollar amount of that amendment does apply to the cumulative total stipulated in paragraph (b)(1) of this section.

(c) *Contract approval.* Individual contracts in the amount of \$750,000 or more or three percent of NUP (not to exceed \$6,000,000), whichever is greater, exclusive of the cost of owner furnished materials and equipment, are subject to RUS approval.

**Subpart E—Buildings**

■ 24. Amend § 1726.150 by revising paragraph (b) to read as follows:

**§ 1726.150 Headquarters buildings.**

\* \* \* \* \*

(b) *Procurement procedures.* A borrower may use Multiparty Lump Sum Quotations to award contracts in amounts of up to a cumulative total of \$1,500,000 or three percent of NUP (not to exceed \$10,000,000), whichever is greater, per calendar year of headquarters construction (including minor modifications or improvements). The borrower shall use formal competitive bidding for all other headquarters contract construction unless RUS specifically approves an alternative method.

\* \* \* \* \*

**Subpart F—General Plant**

■ 25. Amend § 1726.176 by revising the introductory text and paragraph (b)(3) to read as follows:

**§ 1726.176 Communications and control facilities.**

This section covers the purchase of microwave, fiber, power line carrier, and other communications technologies or systems, including load control and supervisory control and data acquisition (SCADA) systems, automated meter reading/automated metering infrastructure (AMR/AMI), or other smart grid technologies. Mobile radio systems are covered as general plant materials in § 1726.175.

\* \* \* \* \*

(b) \* \* \*

(3) *Contract approval.* Individual contracts in amounts of \$750,000 or more or one percent of NUP (not to exceed \$5,000,000 for all borrowers), whichever is greater, exclusive of the cost of owner furnished materials and equipment, are subject to RUS approval.

**Subpart J—Contract Closeout**

■ 26. Amend § 1726.403 by revising paragraph (c)(2)(ii) introductory text to read as follows:

**§ 1726.403 Project construction contract closeout.**

\* \* \* \* \*

(c) \* \* \*

(2) \* \* \*

(ii) For contracts subject to RUS approval, the borrower will submit either a certification or the following closeout documents for RUS approval:

\* \* \* \* \*

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

■ 27. 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.*

**Subpart B—Operations and Maintenance Requirements**

■ 28. Revise § 1730.23 to read as follows:

**§ 1730.23 Review rating summary, RUS Form 300.**

The RUS Form 300 is available from RUS and shall be used when required by this part.

**Appendix A to Subpart B [Removed]**

■ 29. Remove appendix A to subpart B.

**PART 1767—ACCOUNTING REQUIREMENTS FOR RUS ELECTRIC BORROWERS**

■ 30. The authority citation for part 1767 continues to read as follows:

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

## Subpart B—Uniform System of Accounts

■ 31. Amend § 1767.41 by revising entry 119 to read as follows:

### § 1767.41 Accounting methods and procedures required of all RUS borrowers.

\* \* \* \* \*

#### 119 Special Equipment

Special Equipment items are classified separately from work order items. The USoA provides accounting that differs from that used for other types of materials. The cost of new, special equipment items shall be capitalized at the time of purchase; it shall not be charged to Account 154 as is the case with other materials. The first installation cost, as well as all incidental costs necessary to prepare the equipment for use, shall be capitalized with the material upon purchase. All subsequent costs of removing, resetting, changing, renewing oil, and repairing constitute operations and maintenance expenses. The capitalized cost of special equipment items, including the first installation, shall be removed from the electric plant accounts only when the items are abandoned or retired from the system. Borrowers may request a waiver from the special equipment accounting requirements as described later in this section.

Special Equipment Items include the following:

1. Reclosers and Sectionalizers recorded in Account 365, Conductor and Devices
2. Transformers, Capacitors and Voltage Regulators recorded in Account 368, Line Transformers
3. Meters, Meter Sockets, current and potential transformers, and other metering equipment recorded in Account 379, Meters
4. Load Control Devices recorded in Account 371, Installations on Customers' Premises (See Interpretation No. 118)

**Note:** Equipment installed in a substation is not considered special equipment.

Special equipment items which are classified as nonusable shall be segregated in the warehouse and retired from service. The Summary of Special Equipment Costs shall be retitled Summary of Special Equipment Costs Retired and used for this purpose. A journal entry reflecting this information shall be prepared and posted to the books. Since loan funds for special equipment, including first installation costs, are approved for advance by the Rural Development upon receipt of the borrower's written estimate of funds required, and not on the basis of an

Inventory of Work Orders, it is improper to take a credit for any salvage involved in the retirement of special equipment on the Inventory of Work Orders.

Electric borrowers that wish to receive a waiver from the special equipment accounting requirements should submit a letter request to Rural Development. In order to expedite these requests the letter to Rural Development should state that the borrower will adhere to the following requirements to account for special equipment using the work order procedure rather than the special equipment accounting procedures prescribed by Rural Development:

1. New purchases of special equipment items are to be charged to Account 154, Materials and Supplies, upon purchase.
2. Labor, material and overhead costs associated with the initial installation and all subsequent installations of special equipment are recorded on construction work orders and charged to the appropriate plant accounts upon closeout of the construction work order.
3. Labor and overhead costs associated with the removal of special equipment items, whether the items removed are placed in inventory or permanently retired and disposed of, are recorded on retirement work orders and charged or credited to the depreciation reserve account upon closeout of the retirement work order.
4. The special equipment items retired and salvaged for reuse are returned to the materials and supplies account at the average material cost in the materials and supplies account and credited to the depreciation reserve upon closeout of the retirement work order.

In addition to recognition of the requirements noted above, the borrower should indicate how it plans to account for the items of special equipment that have been charged to the plant accounts but not installed (in inventory). Two acceptable methods to account for this equipment are: (1) Leave the equipment in the plant accounts until the inventory is depleted and charge only new purchases to materials and supplies, or (2) credit the plant accounts for the installed cost of the equipment in inventory, charge the equipment cost to materials and supplies, and charge the installation cost to the appropriate operations expense account. Also, under the second method, the borrower must submit a "negative" special equipment summary to Rural Development to return to the balance in reserve for the current loan the installed cost of special

equipment in inventory on the date of transition.

\* \* \* \* \*

**Christopher A. McLean,**

*Acting Administrator, Rural Utilities Service.*

[FR Doc. 2021-14358 Filed 7-8-21; 8:45 am]

**BILLING CODE 3410-15-P**

## FEDERAL HOUSING FINANCE AGENCY

### 12 CFR Part Chapter XII

[No. 2021-N-7]

#### Policy Statement on Fair Lending

**AGENCY:** Federal Housing Finance Agency.

**ACTION:** Notification of approval and adoption of policy statement; request for comment.

**SUMMARY:** The Federal Housing Finance Agency (FHFA or agency) is issuing a policy statement on Fair Lending (Policy Statement) to communicate the agency's general position on monitoring and information gathering, supervisory examinations, and administrative enforcement related to the Equal Credit Opportunity Act, the Fair Housing Act, and the Federal Housing Enterprises Financial Safety and Soundness Act, and is soliciting comments on its application.

**DATES:** The Policy Statement becomes effective on July 9, 2021. Comments must be received on or before September 7, 2021.

**FOR FURTHER INFORMATION CONTACT:** Annalyce Shufelt, Senior Attorney Advisor (Fair Lending), Office of Fair Lending Oversight, (202) 649-3416, [Annalyce.Shufelt@fhfa.gov](mailto:Annalyce.Shufelt@fhfa.gov), Federal Housing Finance Agency, Constitution Center, 400 7th Street SW, Washington, DC 20219; or Ming-Yuen Meyer-Fong, Associate General Counsel, Office of General Counsel, (202) 649-3078 (not toll-free numbers), [Ming-Yuen.Meyer-Fong@fhfa.gov](mailto:Ming-Yuen.Meyer-Fong@fhfa.gov). The Telecommunications Device for the Deaf is (800) 877-8339.

**ADDRESSES:** FHFA welcomes comments about application of the principles set out in the policy statement to specific policies and practices. You may submit your comments to FHFA, identified by "Policy Statement; Comment Request: (2021-N-7)", by any one of the following methods:

- *Agency website:* [www.fhfa.gov/open-for-comment-or-input](http://www.fhfa.gov/open-for-comment-or-input).
- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments. If