

requirements of the program and may grant relief, to the extent it is deemed desirable, to provide a fair and equitable treatment because of the good-faith reliance on the part of the participant.

§ 1468.34 Offsets and assignments.

(a) Except as provided in paragraph (b) of this section, any payment or portion thereof to any participant shall be made without regard to questions of title under State law and without regard to any claim or lien against the crop, or proceeds thereof, in favor of the owner or any other creditor except agencies of the United States. The regulations governing offsets and withholdings found at part 1403 of this chapter shall apply to contract payments.

(b) Any participant entitled to any payment may assign any payments in accordance with regulations governing assignment of payment found at part 1404 of this chapter.

§ 1468.35 Misrepresentation and scheme or device.

(a) A participant who is determined to have erroneously represented any fact affecting a program determination made in accordance with this part shall not be entitled to contract payments and must refund to CCC all payments, plus interest determined in accordance with part 1403 of this chapter.

(b) An applicant or participant who is determined to have knowingly adopted any scheme or device that tends to defeat the purpose of the program; made any fraudulent representation; or misrepresented any fact affecting a program determination, shall refund to CCC all payments, plus interest determined in accordance with part 1403 of this chapter, received by such applicant or participant with respect to CFO contracts.

Signed in Washington, D.C. on September 23, 1998.

Pearlie S. Reed,

Vice President, Commodity Credit Corporation.

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DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Parts 1710 and 1726

Year 2000 Compliance: Electric Program

AGENCY: Rural Utilities Service, USDA.

ACTION: Interim rule with request for comment.

SUMMARY: This interim rule amends the regulations of the Rural Utilities Service (RUS) to state that RUS will make an electric loan only if the borrower's electric system is year 2000 compliant. The interim rule will ensure that RUS-financed projects and RUS financed electric systems meet the year 2000 date changeover without service or revenue disruption.

DATES: This rule is effective September 29, 1998. Comments must be received by RUS or carry a postmark or equivalent by November 30, 1998.

ADDRESSES: Written comments should be addressed to Blaine D. Stockton, Jr., Assistant Administrator, Electric Program, Rural Utilities Service, United States Department of Agriculture, 1400 Independence Ave., SW., STOP 1560, Room 4037, South Building, Washington, DC., 20250-1560. RUS requires a signed original and three copies of all comments.

FOR FURTHER INFORMATION CONTACT: Blaine D. Stockton, Jr., Assistant Administrator, Electric Program, Rural Utilities Service, United States Department of Agriculture, 1400 Independence Ave., SW., STOP 1560, Room 4037, South Building, Washington, DC., 20250-1560. Telephone: (202) 720-9545. Facsimile: (202) 690-0717.

SUPPLEMENTARY INFORMATION:

Justification for Interim Rule

It is the policy of the Department of Agriculture that proposed rules relating to public property, loans, grants, benefits, or contracts be published for public comment notwithstanding the provisions of 5 U.S.C. 553, with respect to such rules. However, exemptions are permitted where an agency finds, for good cause, that an opportunity for comments would be impracticable, unnecessary, or contrary to the public interest.

RUS finds that good cause exists to implement this rule without providing a prior opportunity for public comment. Many computers that control electric systems are not programmed to handle the change of date from December 31, 1999, to January 1, 2000. These "non-compliant" computers may malfunction on or before January 1, 2000, with potentially widespread and catastrophic results. Computer controlled electric systems could fail causing electric power delivery to consumers and suppliers to be interrupted, and electric system safety could be adversely affected. Examples of potentially vulnerable areas include power plant control systems, transmission and distribution relays, substation metering,

load management systems, maintenance and administration systems and billing records. Failure of electric systems could affect public health and safety.

RUS, therefore believes it would be contrary to the public interest to delay the effectiveness of the rule. Through this interim rule, RUS is undertaking to address with its electric borrowers year 2000 compliance issues that may potentially disrupt electric services that are critical to public health and safety. This rule is part of an effort by all USDA Rural Development agencies to address year 2000 readiness and prevent year 2000 problems. For these reasons, RUS determines that publication for advance notice and an opportunity for prior comment is not in the public interest.

Executive Order 12372

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

Executive Order 12866

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

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. RUS has determined that this rule meets the applicable standards provided in section 3 of the Executive Order. In accordance with the Executive Order and the 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) In accordance with Sec. 212(e) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6912(e)) administrative appeal procedures, if any, must be exhausted before an action against the Department or its agencies may be initiated.

Regulatory Flexibility Act Certification

The Administrator of RUS has determined that a rule relating to the RUS electric loan program is not a rule as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) and, therefore, the Regulatory Flexibility Act does not apply to this rule.

National Environmental Policy Act Certification

The Administrator of RUS has determined that this rule will not significantly affect the quality of the human environment as defined by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Therefore, this action does not require an environmental impact statement or assessment.

Catalog of Federal Domestic Assistance

The program described by this rule is listed in the Catalog of Federal Domestic Assistance programs under No. 10.850, Rural Electrification Loans and Loan Guarantees. This catalog is available on a subscription basis from the Superintendent of Documents, the United States Government Printing Office, Washington, DC 20402-9325, telephone number (202) 512-1800.

Information Collection and Recordkeeping Requirements

This interim rule does not impose new information collection requirements for the purposes of the Paperwork reduction Act of 1995 (44 U.S.C. Chapter 35). (OMB control number 0572-0032)

Unfunded Mandates

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

List of Subjects

7 CFR Part 1710

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

7 CFR Part 1726

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

For the reasons set forth in the preamble, RUS amends Chapter XVII of Title 7 of the Code of Federal Regulations as follows:

PART 1710—GENERAL AND PRE-LOAN POLICIES AND PROCEDURES COMMON TO INSURED AND GUARANTEED ELECTRIC LOANS

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

Authority: 7 U.S.C. 901-950(b); Public Law 99-591, 100 Stat. 3341; Public Law 103-354, 108 Stat. 3178 (7 U.S.C. 6941 *et seq.*).

2. In § 1710.112, a new paragraph (c) is added to read as follows:

§ 1710.112 Loan feasibility.

* * * * *

(c) RUS considers a loan to be feasible only if the borrower's electric system is year 2000 compliant, or if the borrower provides RUS with evidence, satisfactory to RUS, that it is taking measures necessary to ensure that its electric system will be year 2000 compliant on or before December 31, 1999. Year 2000 compliant means that product performance and function are not affected by dates before, during, and a reasonable time after the year 2000.

PART 1726—ELECTRIC SYSTEM CONSTRUCTION POLICIES AND PROCEDURES

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

Authority: 7 U.S.C. 901 *et seq.*, 1921 *et seq.*; Public Law 103-354, 108 Stat. 3178 (7 U.S.C. 6941 *et seq.*).

4. In § 1726.20, a new sentence is added at the end to read as follows:

§ 1726.20 Standards and specifications.

* * * The materials and equipment must be year 2000 compliant, as defined in 7 CFR 1710.112 (c).

Dated: September 21, 1998.

Jill Long Thompson,

Under Secretary, Rural Development.

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NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 701, 722, 723 and 741

Organization and Operation of Federal Credit Unions; Appraisals; Member Business Loans; and Requirements for Insurance

AGENCY: National Credit Union Administration (NCUA).

ACTION: Interim final rule with request for comments.

SUMMARY: The NCUA is updating, clarifying and streamlining its existing rules concerning member business loans and appraisals for federally insured credit unions, as well as implementing recent statutory limitations regarding member business loans. The intended effect of this rule is to reduce regulatory burden, maintain safety and soundness, and provide an exception for qualifying credit unions from the statutory aggregate limit on a credit union's outstanding member business loans.

DATES: Effective September 29, 1998. Comments must be received on or before November 30, 1998.

ADDRESSES: Direct comments to Becky Baker, Secretary of the Board. Mail or hand-deliver comments to National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314-3428. Fax comments to (703) 518-6319. *Please send comments by one method only.*

FOR FURTHER INFORMATION CONTACT: Michael J. McKenna, Staff Attorney, Office of General Counsel at the above address or telephone: (703) 518-6540; or David Marquis, Director, Office of Examination and Insurance, at the above address or telephone: (703) 518-6360.

SUPPLEMENTARY INFORMATION:

A. Background

The NCUA Board adopted its first member business loan rule in April 1987 due to the increased amount of credit union losses attributed to business lending activity. In response to continued losses to credit unions and the National Credit Union Share Insurance Fund (NCUSIF) due to member business loans, the NCUA Board adopted a more restrictive member business loan rule in September 1991. In general, the results of the 1991 revision have been very positive. Nonetheless, experience with the regulation indicated a need for simplification, clarification, and improvement. Therefore, on July 23, 1997, the Board issued proposed amendments to the regulation governing member business loans (Current Section 701.21(h) and Proposed Part 723 of NCUA's Regulations) and appraisals (Part 722 of NCUA's Regulations) with a sixty-day comment period. 62 FR 41313 (August 1, 1997).

The NCUA Board was considering adopting a final member business loan rule in March of this year, when it became apparent that Congress was considering legislation regarding the ability of credit unions to grant member business loans. The NCUA Board decided to defer consideration of a final rule until Congress had acted on this legislation. Since then, the Credit Union Membership Access Act (the Act) was enacted into law on August 7, 1998. Public Law 105-219. Among other things, the Act imposes a new aggregate limit on a credit union's outstanding member business loans. However, the Act also provides for three circumstances where a credit union may qualify for an exception from the aggregate limit.

The NCUA Board has decided to finalize those aspects of the proposed