

in § 1240.106 is obsolete and would be removed.

Section 1240.116(b) of the rules and regulations provides that each first handler and producer-packer shall pay their required assessment to the Board at the address referenced in Section 1240.106. Since § 1240.106 is obsolete and would be removed, reference to the Board's address in § 1240.116(b) would also be removed.

Section 1240.120 of the rules and regulations currently provides that first handlers, producer-packers, importers, or any persons who receive an exemption from assessments are required to make reports pursuant to the Order and shall maintain and retain such reports for at least two years beyond the marketing year of their applicability. The amended section would designate the existing text in this section as paragraph (a) and add a new paragraph (b). The new paragraph would provide that producers shall maintain and retain books and records for at least two years beyond the marketing year of their applicability. Such books and records shall include, but not be limited to, information on annual sales and production.

Section 1240.121 of the rules and regulations currently provides that first handlers, producer-packers, importers, or any persons who receive an exemption from assessments and are required to make reports pursuant to the Order shall make available to the Board or the Secretary such records as are appropriate and necessary to verify reports required under the Order. The amended section would designate the existing text in this section as paragraph (a) and add a new paragraph (b). The new paragraph would provide that producers are required to maintain and retain books and records pursuant to the Order and shall make available to the Board or the Secretary such records as are appropriate and necessary to verify the information in § 1240.120(b) of the rules and regulations.

Section 1240.122 of the rules and regulations currently provides that all information obtained from the books, records, and reports of handlers, producer-packers, or any persons who receive an exemption from assessments shall be kept confidential and all information with respect to refunds of assessments made to individual producers and importers shall be kept confidential. The paragraph would be amended to indicate that information obtained from producers would be covered by this confidentiality provision. Reference to all information with respect to refunds of assessments made to individual producers and

importers would be removed from the paragraph. In 1991, following amendment of the Act, producers and importers voted to terminate the authority for producers and importers to obtain a refund of assessments. Therefore, such language is now obsolete and would be removed.

All written comments received in response to this proposed rule by the date specified herein will be considered prior to the issuance of any final rule on this action.

#### List of Subjects in 7 CFR Part 1240

Advertising, Agricultural research, Honey, Imports, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR Part 1240 is proposed to be amended as follows:

### **PART 1240—HONEY RESEARCH, PROMOTION, AND CONSUMER INFORMATION ORDER**

1. The authority citation for 7 CFR Part 1240 continues to read as follows:

Authority: 7 U.S.C. 4601–4612.

2. In § 1240.41, paragraph (h) is revised to read as follows:

#### **§ 1240.41 Assessments.**

\* \* \* \* \*

(h) Should a first handler or the Secretary fail to collect an assessment from a producer, the producer shall be responsible for the payment of the assessment to the Board. The producer shall maintain records for the honey produced by said producer.

\* \* \* \* \*

#### **§ 1240.41 [Amended]**

3. In § 1240.41, paragraph (j) is amended by removing the words “paragraph (h)” and adding in their place the words “paragraph (i)”.

#### **§ 1240.51 [Amended]**

4. In § 1240.51, the word “producer,” is added following the word “importer” and the words “two years beyond the first period” are removed and the words “at least two years beyond the marketing year” are added in their place.

#### **§ 1240.106 [Removed and reserved.]**

5. Section 1240.106 is removed and reserved.

#### **§ 1240.116 [Amended]**

6. In § 1240.116, paragraph (b), the words “at the address referenced in § 1240.106,” are removed.

#### **§ 1240.120 [Amended]**

7. In § 1240.120, the existing undesignated text is designated as

paragraph (a) and a new paragraph (b) is added to read as follows:

#### **§ 1240.120 Retention period for records.**

\* \* \* \* \*

(b) Each producer required to maintain books and records pursuant to this subpart shall maintain and retain books and records for at least two years beyond the marketing year of their applicability. Such books and records shall include, but not be limited to, information on annual production and sales. Information on annual sales shall include such information as the name and address of each handler, the quantity sold to the handler, and the date of sale.

8. In § 1240.121 the existing undesignated text is designated as paragraph (a) and a new paragraph (b) is added to read as follows:

#### **§ 1240.121 Availability of records.**

\* \* \* \* \*

(b) Each producer who is required to maintain books and records pursuant to this subpart shall make available for inspection by authorized employees of the Board or the Secretary during regular business hours such books and records as are appropriate and necessary to verify the information in § 1240.120(b) of this subpart.

#### **§ 1240.122 [Amended]**

9. In § 1240.122, the word “producers,” is added following the word “importers” and the words “and all information with respect to refunds of assessments made to individual producers and importers” are removed.

Dated: February 28, 1997.

Kenneth C. Clayton,

*Acting Administrator.*

[FR Doc. 97–5590 Filed 3–6–97; 8:45 am]

BILLING CODE 3410–02–P

### **Rural Telephone Bank**

#### **7 CFR Part 1610**

### **Rural Utilities Service**

#### **7 CFR Parts 1735, 1737, 1739, and 1746**

### **Rural Telephone Bank and Telecommunications Program Loan Policies, Types of Loans, Loan Requirements**

**AGENCY:** Rural Utilities Service and Rural Telephone Bank, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** The Rural Utilities Service (RUS) proposes to amend its regulations to incorporate changes to the telecommunications loan program

required by the 1996 Farm Bill and the regulatory reinvention initiative of the Vice President's National Performance Review. RUS has reviewed the regulations concerning the telecommunications program and the Rural Telephone Bank loan policies and requirements to determine whether they are necessary, impose the least possible burden consistent with safety and soundness, and are written in a clear, straightforward manner. As a result of this review, the RUS telecommunications program proposes to update and streamline its regulations and policy statements. In addition, this regulation proposes to eliminate some policies and procedures that have become obsolete.

**DATES:** Written comments must be received by RUS or carry a postmark or equivalent not later than May 6, 1997.

**ADDRESSES:** Submit written comments to Jonathan Claffey, Acting Deputy Director, Advanced Telecommunications Services Staff, Rural Utilities Service, 1400 Independence Ave., SW., STOP 1701, Room 2919, South Building, Washington, DC 20250-1701. RUS requests a signed original and three copies of all comments (7 CFR part 1700). All comments received will be made available for public inspection at room 4034, South Building, U.S. Department of Agriculture, Washington, DC, between 8:00 a.m. and 4:00 p.m. (7 CFR part 1.27(b)).

**FOR FURTHER INFORMATION CONTACT:** Cheryl Gamboney, Analyst, Advanced Telecommunications Services Staff, (address as above). Telephone: (202) 720-0415. Facsimile: (202) 720-2734.

#### **SUPPLEMENTARY INFORMATION:**

##### **Classification**

This proposed rule has been determined to be not significant and has not been reviewed by the Office of Management and Budget under Executive Order 12866.

##### **Civil Justice Reform**

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. RUS has determined that this proposed rule meets the applicable standards provided in Sec. 3. of the Executive Order.

##### **Regulatory Flexibility Act Certification**

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), RUS certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities. If a rule has a significant economic impact on a

substantial number of small entities, the Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. The application for loans under the RUS telecommunications program are discretionary, regulatory requirements will, therefore, apply only to those entities which choose to apply for funding.

This action is being taken as part of the National Performance Review program to eliminate excess regulations and to improve the quality of those that remain in effect. This proposed rule simply reduces the Times Interest Earned Ratio requirement for all borrowers, simplifies current cash distribution and investment requirements for all borrowers, and standardizes determination of loan maturity. This proposed rule is consistent with RUS' continuing effort to devolve, in particular, cash management authority to the borrowers. It is also consistent with the goals of the regulatory reinvention initiative of the National Performance Review.

##### **Information Collection and Recordkeeping Requirements**

A notice of public comments was issued in the Federal Register on February 25, 1997, at 62 FR 8421 requesting approval by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended) under control number 0572-0079.

Send questions or comments regarding this burden or any other aspect of these collections of information, including suggestions for reducing the burden, to F. Lamont Heppe, Jr., Director, Program Support and Regulatory Analysis, Rural Utilities Service, STOP 1522, Washington, DC 20250-1522.

##### **National Environmental Policy Act Certification**

RUS has determined that this proposed 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.

##### **Program Affected**

The program described by this proposed rule is listed in the Catalog of Federal Domestic Assistance Programs under 10.851, Rural Telecommunications Loans and Loan

Guarantees, and 10.582, Rural Telephone Bank Loans. This catalog is available on a subscription basis from the Superintendent of Documents, the United States Government Printing Office, Washington, DC 20402.

##### **Intergovernmental Review**

This program is excluded from the scope of Executive Order 12372, Intergovernmental Consultation. A Notice of Final Rule entitled Department Programs and Activities Excluded from Executive Order 12372 (50 FR 47034) exempts RUS and Rural Telephone Bank loans and loan guarantees to governmental and non-governmental entities from coverage under this Order.

##### **Unfunded Mandate**

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

##### **Background**

The Federal Agriculture Improvement and Reform Act of 1996 (Pub. L. 104-127) amended Section 309 of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901 *et seq.*) (RE Act), by eliminating the provision that allows RUS telecommunications borrowers to determine the term of a loan made under Title 3 of the RE Act at the time the loan application is submitted.

The present maximum loan period is 35 years. With rapidly changing technology, obsolescence is occurring more quickly; therefore, borrowers are depreciating their facilities at a faster rate. If plant financed is retired and replaced by new plant before the loan is repaid, earnings from this new plant will have to be used to pay the old loan and any new loan used to finance the replacement facilities. If the loan period is longer than the depreciation period and the capital recovered through depreciation is not used to replace plant, the loan could be undercollateralized and the borrower's rate base would be eroded.

RUS is, therefore, proposing that the loan period for RUS and Rural Telephone Bank (Bank) loans not exceed the expected composite economic life of the facilities to be financed; expected composite economic life means the depreciated life plus three years. Bank borrowers may request a repayment period that is longer than the expected composite economic life of

the facilities financed by the loan. Such borrowers, however, will be required to provide additional security for the loan by maintaining a funded reserve. The maximum loan period for all loans will remain at 35 years.

Further, under existing regulations, if the loan maturity period selected by the borrower exceeds the expected composite economic life of the facilities financed by a period of more than three years, the loan would be conditioned upon the borrower electing to maintain either a net plant to secured debt ratio of at least 1.2, or a funded reserve in such amount that the balance of the reserve plus the value of the facilities less depreciation be at least equal to the remaining principal payments on the loan. RUS is proposing to offer, subject to certain conditions, borrowers subject to the funded reserve or net plant to secured debt ratio requirements an option to replace those notes with notes that match the remaining composite economic life of the facilities financed, as determined by the feasibility study prepared in connection with the loan. Borrowers meeting these conditions replacing Bank notes will not be required to pay a prepayment premium, if such requirement is contained in the original note.

To optimize the use of loan funds, RUS proposes to limit the size of RUS cost-of-money loans and Bank loans made to individual borrowers in order to distribute the amount of RUS cost-of-money and Bank funds appropriated among a greater number of borrowers. Section 201 of the RE Act, in part, clearly states that, “\* \* \* The Administrator in making such loans shall, insofar as possible, obtain assurance that the telecommunications service to be furnished or improved thereby will be made available to the widest practical number of rural users \* \* \*”.

In fiscal years 1991 through 1995, the Agriculture Appropriation Acts had established loan levels for the Bank in amounts insufficient to provide for the total number of applications completed and on hand at the end of those fiscal years. If the Bank had limited the amount of individual loans to no more than 10 percent of the lending authority, approximately \$35.6 million of Bank funding over those five years would have been available to other borrowers. Correspondingly, approximately \$25.6 million of RUS cost-of-money funding also would have been available to other borrowers.

Moreover, recent Federal action affecting RUS and Bank borrowers is the Telecommunications Act of 1996, a broad and far-reaching reform of

communications law that is expected to change notably the telecommunications industry. The Telecommunications Act will provide for a more competitive, deregulated national telecommunications policy framework. Of greatest immediate relevance for RUS and Bank borrowers are forthcoming regulations by the Federal Communications Commission concerning certain provisions of the Telecommunications Act. Pending the outcome of these forthcoming regulations, RUS borrowers have temporarily delayed plans for major network construction. However, now more than ever, the need and importance of RUS telecommunications loans is crucial for future development of telecommunications infrastructure in rural America. As a direct result of RUS's telecommunications loans, rural communities have been enjoying access to advanced telecommunications services.

To continue fulfilling RUS's mission of ensuring that rural telecommunications providers have the means to modernize their networks, to fully effect the mandated area coverage provision of the RE Act, and to achieve maximum use of funds available, RUS is proposing to limit the loan amount to any single borrower in a fiscal year to, generally, no more than 10 percent of the lending authority from appropriations in any fiscal year. This proposed regulation would optimize the use of a limited source of loan funding by distributing the amount of funding available among the greatest number of applicants in an economical, efficient, and orderly manner.

In general, the security documents required in connection with RUS loans, Bank loans, and RUS guarantees contain provisions requiring borrowers to maintain a certain Times Interest Earned Ratio (TIER) level. In particular, under existing regulations, borrowers are required to maintain after the end of the Forecast Period a TIER equal to the projected TIER determined by the feasibility study prepared in connection with the loan, but not greater than 1.75. RUS proposes to reduce the maximum TIER maintenance requirement to no more than 1.50 for all borrowers receiving any type of loan after the effective date of the final rule. In 1995 almost ninety percent of RUS's reporting borrowers had a TIER greater than 1.5.

Section 205 of the RE Act and the RUS mortgage documents, contain RUS's policy regarding investments and distributions of assets by borrowers. In general, borrowers with a certain minimum net worth requirement are

permitted to make capital distributions without RUS approval in a cumulative amount up to a limit set by a formula that considers the borrowers past financial performance. The calculation used to determine a borrower's allowable distribution level has, over the years, become exceedingly complex. RUS is simplifying its policy by eliminating the complex formula used to determine the allowable level of distributions and investments and replacing it with a more straightforward process which can readily be calculated from a borrower's current financial statements. The new requirements limit the amount of distributions and investments relative to the borrower's current net worth. To facilitate the availability of cash flow to support diversified activities, RUS proposes predefined tests, using current annual financial data only, for determining the level of permitted distributions and investments. This approach would recognize and provide for diversity among borrowers without creating undue complexity. RUS's new policy regarding investments and distributions of assets by borrowers will be in all mortgages for loans approved after the effective date of the final rule. Borrowers that have not received a loan after the effective date of the final rule may request the Administrator to apply the new requirements to them.

For over 25 years it has been the RUS preferred design to bury outside plant (e.g., buried wire and cable telecommunications facilities and associated material) whenever economically feasible. This method of construction minimizes potential impairment of borrowers' facilities due to damage caused by storms and other natural catastrophes. Based on its long experience in this type of design, RUS proposes to adopt the policy that it will finance only buried plant for all loans unless RUS determines that buried plant is not economically feasible.

RUS further proposes to make technical corrections to final regulations which were reorganized and redesignated on September 27, 1990, at 55 FR 39393. In particular, certain regulations contained cross references which inadvertently had not been updated. This action is simply a correction to these regulations with no change to substance. Changes to regulatory text are merely to update cross references. As currently published, the final regulations may prove to be misleading.

On August 27, 1991, at 56 FR 42461, RUS published 7 CFR parts 1739 and 1746 that established pre-and post-loan policies for 90 percent RUS guarantees

of certain loans from qualified private lenders. This program was authorized under section 314 of the RE Act. The Rural Electrification Loan Restructuring Act of 1993, Public Law 103-129, signed by President Clinton on November 1, 1993, amended section 314 of the RE Act to abolish this 90 percent guarantee program. RUS is, therefore, removing 7 CFR parts 1739 and 1746.

#### List of Subjects

##### 7 CFR Part 1610

Accounting, Loan programs—communications, Reporting and recordkeeping requirements, Rural areas, Telecommunications.

##### 7 CFR Part 1735

Accounting, Loan programs—communications, Reporting and recordkeeping requirements, Rural areas, Telecommunications.

##### 7 CFR Part 1737

Accounting, Loan programs—communications, Reporting and recordkeeping requirements, Rural areas, Telecommunications.

##### 7 CFR Part 1739

Accounting, Guaranteed program, Loan programs—communications, Reporting and recordkeeping requirements, Rural areas, Telecommunications.

##### 7 CFR Part 1746

Accounting, Guaranteed program, Loan programs—communications, Reporting and recordkeeping requirements, Rural areas, Telecommunications.

For the reasons set forth in the preamble, and under the authority of 7 U.S.C. 901 *et seq.*, chapters XVI and XVII of Title 7 of the Code of Federal Regulations are proposed to be amended as follows:

#### CHAPTER XVI

##### PART 1610—LOAN POLICIES

1. The authority citation for part 1610 continues to read as follows:

Authority: 7 U.S.C. 941 *et seq.*; Pub. L. 103-354, 108 Stat. 3178 (7 U.S.C. 6941, *et seq.*).

2. In § 1610.6, new paragraph (d) is added to read as follows:

##### § 1610.6 Concurrent Bank and RUS cost-of-money loans.

(d) Generally, no more than 10 percent of lending authority from appropriations in any fiscal year for Bank and RUS cost-of-money loans may

be loaned to a single borrower. The Bank will publish by notice in the Federal Register the dollar limit that may be loaned to a single borrower in that particular fiscal year based on approved Bank and RUS lending authority.

3. In § 1610.11, a new paragraph (c) is added to read as follows:

##### § 1610.11 Prepayments.

(c) Borrowers that qualify to issue a refunding note or notes in accordance with 7 CFR 1735.43, Payments on loans, shall not be required to pay a prepayment premium on all payments made in accordance with the new payment schedule.

#### CHAPTER XVII

##### PART 1735—GENERAL POLICIES, TYPES OF LOANS, LOAN REQUIREMENTS—TELECOMMUNICATIONS PROGRAM

1. The part heading for part 1735 is revised as set forth above.

1a. The authority citation for part 1735 is revised to read as follows:

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

2. In § 1735.2, the definition of *Construction fund* is amended by removing the reference “See 7 CFR part 1758.”, the definitions for *Adjusted assets* and *Adjusted net worth* are removed, and new definitions *Cash distribution*, *Net worth*, and *Total assets* are added in alphabetical order to read as follows:

##### § 1735.2 Definitions.

*Cash distribution* means investments, guarantees, extensions of credit, advances, loans, non-affiliated company joint ventures, and affiliated company investments. Not included in this definition are qualified investments (see 7 CFR part 1744, subpart D).

*Net worth* has the meaning as defined in the mortgage with RUS.

*Total assets* has the meaning as defined in the mortgage with RUS.

3. In § 1735.3, the first sentence is revised to read as follows:

##### § 1735.3 Availability of forms.

Single copies of RUS forms and publications cited in this part are available from Program Support Regulatory Analysis, Rural Utilities Service, STOP 1522, 1400 Independence Ave., SW., Washington, DC 20250-1522.

4. In § 1735.17, paragraph (c) is revised to read as follows:

##### § 1735.17 Facilities financed.

(c) RUS will not make any type of loan to finance the following items:

(1) Station apparatus (including PBX and key systems) not owned by the borrower and any associated inside wiring;

(2) Certain duplicative facilities, see § 1735.12;

(3) Facilities to serve subscribers outside the local exchange service area of the borrower unless those facilities are necessary to furnishing or improving telecommunications service within the borrower's service areas;

(4) Facilities to provide service other than 1-party; and

(5) System designs or facilities to provide service that cannot withstand or are not designed to minimize damage caused by storms and other natural catastrophes, including, but not limited to hurricanes, floods, tornadoes, mudslides, lightning, windstorms, hail, fire, and smoke.

5. In § 1735.22, paragraph (g) is redesignated as new paragraph (i), paragraph (f) is revised, and new paragraphs (g) and (h) are added to read as follows:

##### § 1735.22 Loan security.

(f) For purposes of determining compliance with TIER requirements, unless a borrower whose existing mortgage contains TIER maintenance requirements notifies RUS in writing differently, RUS will apply the requirements described in paragraph (g) of this section to the borrower regardless of the provisions of the borrower's existing mortgage.

(g) For loans approved after [effective date of final rule] loan contracts and mortgages covering hardship loans, RUS cost-of-money loans, RTB loans, and guaranteed loans will contain a provision requiring the borrower to maintain a TIER of at least 1.0 during the Forecast Period. At the end of the Forecast Period, the borrower shall be required to maintain, at a minimum, a TIER at least equal to the projected TIER determined by the feasibility study prepared in connection with the loan, but at least 1.0 and not greater than 1.5.

(h) Nothing in this section shall affect any rights of supplemental lenders under the RUS mortgage, or other creditors of the borrower, to limit a borrower's TIER requirement to a level

above that established in paragraph (g) of this section.

\* \* \* \* \*

6. In § 1735.31, paragraphs (d) and (e) are redesignated as new paragraphs (e) and (f), and new paragraph (d) is added to read as follows:

**§ 1735.31 RUS cost-of-money and RTB loans.**

\* \* \* \* \*

(d) Generally, no more than 10 percent of lending authority from appropriations in any fiscal year for RUS cost-of-money and RTB loans may be loaned to a single borrower. RUS will publish by notice in the Federal Register the dollar limit that may be loaned to a single borrower in that particular fiscal year based on approved RUS and RTB lending authority.

\* \* \* \* \*

7. Section 1735.33 is added to read as follows:

**§ 1735.33 Variable interest rate loans.**

After June 10, 1991, and prior to November 1, 1993, RUS made certain variable rate loans at interest rates less than 5 percent but not less than 2 percent. For those borrowers that received variable rate loans, this section describes the method by which interest rates are adjusted. The interest rate used in determining feasibility is the rate charged to the borrower until the end of the Forecast Period for that loan. At the end of the Forecast Period, the interest rate for the loan may be annually adjusted by the Administrator upward to a rate not greater than 5 percent, or downward to a rate not less than the rate determined in the feasibility study on which the loan was based, based on the borrower's ability to pay debt service and maintain a minimum TIER of 1.0. Downward and upward adjustments will be rounded down to the nearest one-half or whole percent. To make this adjustment, projections set forth in the loan feasibility study will be revised annually by RUS (beginning within four months after the end of the Forecast Period) to reflect updated revenue and expense factors based on the borrower's current operating condition. Any such adjustment will be effective on July 1 of the year in which the adjustment was determined. If the Administrator determines that the borrower is capable of meeting the minimum TIER requirements of § 1735.22(f) at a loan interest rate of 5 percent on a loan made as described in this section, then the loan interest rate shall be fixed, for the remainder of the loan repayment period, at the standard interest rate of 5 percent.

8. In § 1735.43, paragraph (a) is revised, paragraph (b) is redesignated as new paragraph (f), and new paragraphs (b) through (e) are added to read as follows:

**§ 1735.43 Payments on Loans.**

(a) Except as described in this paragraph (a), RUS loans approved after [effective date of final rule] must be repaid with interest within a period that, rounded to the nearest whole year, equals the expected composite economic life of the facilities to be financed, as calculated by RUS; expected composite economic life means the depreciated life plus three years. The expected composite economic life shall be based on the depreciation rates for the facilities financed by the loan. In states where the borrower must obtain state regulatory commission approval of depreciation rates, the depreciation rates used shall be the rates currently approved by the state commission or rates for which the borrower has received state commission approval. In cases where a state regulatory commission does not approve depreciation rates, the expected composite economic life shall be based on the most recent median depreciation rates published by RUS for all borrowers (see 7 CFR 1737.70). Borrowers may request a repayment period that is longer or shorter than the expected composite economic life of the facilities financed. If the Administrator determines that, if a shorter period is likely to cause the borrower to experience hardship, the Administrator may agree to approve a period longer than requested. A shorter period may be approved as long as the Administrator determines that the loan remains feasible.

(b) Borrowers with RTB loans approved after [effective date of final rule] with a maturity that exceeds the expected composite economic life of the facilities to be financed by the loan by a period of more than three years, release of funds included in the loan shall be conditioned upon the borrower establishing and maintaining, pursuant to a plan approved by RUS, a funded reserve in such an amount that the balance of the reserve plus the value of the facilities less depreciation shall at all times be at least equal to the remaining principal payments on the loan. Funding of the reserve must begin within one year of approval of release of funds and must continue regularly over the expected composite economic life of the facilities financed.

(c) Borrowers that have demonstrated to the satisfaction of the Administrator an inability to maintain the funded

reserve or net plant to secured debt ratio requirements, if any, contained in their mortgage, may elect to replace notes with an original maturity that exceeded the composite economic life of the facilities financed with notes bearing a shorter maturity approximating the expected composite economic life of the facilities financed, if this will result in a shorter maturity for the loan. The principal balance of the notes (hereinafter in this section called the "refunding notes") issued to refund and substitute for the original notes would be the unpaid principal balance of the original notes. The refunding notes would mature at a date no later than the remaining economic life of the facilities financed by the loan, plus three years. Interest on the original note must continue to be paid through the closing date. All other payment terms, including the rate of interest on the refunding notes, would remain unchanged. Disposition of funds in the funded reserve will be determined by RUS at the closing date. RUS will notify the borrower in writing of the amendment of loan payment requirements and the terms and conditions thereof.

(d) A borrower qualifying under paragraph (c) of this section shall not be required to pay a prepayment premium on such portion of the payments under its new notes as exceeds the payments required under the notes being replaced.

(e) To apply for refunding notes, borrowers must send to the Area Office the following:

(1) A certified copy of a board resolution requesting an amendment of loan payment requirements and that certain notes be replaced;

(2) If applicable, evidence of approval by the regulatory body with jurisdiction over the telecommunications service provided by the borrower to issue refunding notes; and

(3) Such other documents as may be required by the RUS.

\* \* \* \* \*

9. In § 1735.46, paragraphs (b), (c) and (d) are revised, paragraphs (e) and (f) are removed, and paragraphs (g) and (h) are redesignated as paragraphs (e) and (f) to read as follows:

**§ 1735.46 Loan security documents.**

\* \* \* \* \*

(b) Loan security documents of borrowers with loans approved after [effective date of final rule] will provide limits on allowable cash distributions in any calendar year as follows:

(1) No more than 25 percent of the prior calendar year's net earnings or margins if the borrower's net worth is at

least 1 percent of its total assets after the distribution is made;

(2) No more than 50 percent of the prior calendar year's net earnings or margins if the borrower's net worth is at least 20 percent of its total assets after the distribution is made;

(3) No more than 75 percent of the prior calendar year's net earnings or margins if the borrower's net worth is at least 30 percent of its total assets after the distribution is made; or

(4) No limit on distributions if the borrower's net worth is at least 40 percent of its total assets after the distribution is made.

(c) Borrowers that have not received a loan after [effective date of final rule] may request the Administrator to apply these requirements to them. Borrowers may request in writing that RUS substitute the new requirements described in paragraphs (b)(1) through (b)(4) of this section. Upon request by the borrower, the provisions of the borrower's loan documents restricting cash distributions or investments shall not be enforced to the extent that such provisions are inconsistent with this section.

(d) Rural development investments meeting the criteria set forth in 7 CFR part 1744, subpart D, will not be counted against a borrower's allowable cash distributions in any calendar year (7 U.S.C. 926).

\* \* \* \* \*

#### **§ 1735.60 [Amended]**

10. § 1735.60, paragraph (a) introductory text is amended by removing the reference "(see 7 CFR part 1758)" and paragraph (a)(3) is removed.

#### **§ 1735.76 [Amended]**

11. § 1735.76, the second "or" is removed and the word "of" is added in its place.

### **PART 1737—PRE-LOAN POLICIES AND PROCEDURES COMMON TO INSURED AND GUARANTEED TELECOMMUNICATIONS LOANS**

12. The part heading for part 1737 is revised as set forth above.

13. The authority citation for part 1737 is revised to read as follows:

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

#### **§ 1737.70 [Amended]**

14. In § 1737.70, paragraph (d) is removed and reserved.

### **PART 1739—[REMOVED]**

15. Part 1739 is removed.

### **PART 1746—[REMOVED]**

16. Part 1746 is removed.

Dated: February 24, 1997.

Jill Long Thompson,

*Under Secretary, Rural Development.*

[FR Doc. 97-5223 Filed 3-6-97; 8:45 am]

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## **DEPARTMENT OF TRANSPORTATION**

### **Federal Aviation Administration**

#### **14 CFR Part 39**

[Docket No. 96-NM-120-AD]

RIN 2120-AA64

#### **Airworthiness Directives; Construcciones Aeronauticas, S.A. (CASA) Model C-212 Series Airplanes**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all CASA Model C-212 series airplanes. This proposal would require an initial inspection of the restrictor pistons on the shock absorbers of the left and right main landing gear (MLG) to determine the number and condition of threaded screw pins that are installed; replacement of any discrepant pin; and repetitive inspections of certain pistons. Modification of certain pistons by the installation of two additional pins would terminate these inspections. This proposal is prompted by reports indicating that the threaded screw pin that holds the restrictor piston on the slide tube of the shock absorber has been found to have loosened on some airplanes. The actions specified by the proposed AD are intended to prevent the loss of hydraulic damping in the MLG, due to failure of the screw pins that hold the restrictor pistons on the slide tubes of the shock absorbers, and consequent structural damage to the airplane.

**DATES:** Comments must be received by April 16, 1997.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 96-NM-120-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Construcciones Aeronauticas, S.A., Getafe, Madrid, Spain. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

#### **FOR FURTHER INFORMATION CONTACT:**

Gregory Dunn, Aerospace Engineer, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (206) 227-2799; fax (206) 227-1149.

#### **SUPPLEMENTARY INFORMATION:**

##### **Comments Invited**

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 96-NM-120-AD." The postcard will be date stamped and returned to the commenter.

##### **Availability of NPRMs**

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 96-NM-120-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

##### **Discussion**

The Dirección General de Aviación (DGAC), which is the airworthiness authority for Spain, has notified the FAA that an unsafe condition may exist on all CASA Model C-212 series airplanes. The DGAC advises that it has