

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Part 1730

RIN 0572—AA74

Electric System Operations and Maintenance

AGENCY: Rural Utilities Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Utilities Service (RUS), successor to the Rural Electrification Administration (REA), proposes to amend its regulations by adding a new part concerning electric system operations and maintenance. These new regulations would codify and clarify RUS policy relating to the operations and maintenance of electric systems by RUS electric borrowers. Also included is RUS policy relating to the review and evaluation of borrowers' electric systems and facilities operations and maintenance practices. These policies are presently contained in RUS/REA Bulletin 161-5, which will be rescinded when the final rule becomes effective. This proposed action is intended to clarify the policies, procedures, and requirements, facilitate understanding and compliance, and improve program effectiveness with respect to electric system operations and maintenance.

DATES: Written comments must be received by RUS, or bear a postmark or equivalent, no later than June 16, 1997.

ADDRESSES: Submit written comments to George J. Bagnall, Director, Electric Staff Division, Rural Utilities Service, U.S. Department of Agriculture, Stop 1569, 1400 Independence Ave, SW., Washington, DC 20250-1569. RUS requires a signed original and 3 copies of all comments (§ 1700.30(e)).

Comments will be made available for public inspection at room 4034 South Building between 8:30 a.m. and 5 p.m. on official work days (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Mr. Fred J. Gatchell, Deputy Director,

Electric Staff Division, Rural Utilities Service, U.S. Department of Agriculture, Stop 1569, 1400 Independence Ave, SW., Washington, DC 20250-1569, telephone (202) 720-1398.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This proposed 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).

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. *et seq.*), and therefore, the Regulatory Flexibility Act does not apply to this proposed rule.

Information Collection and Recordkeeping Requirements

The recordkeeping and reporting burdens contained in this rule were approved by OMB pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended) under control number 0572-0025.

National Environmental Policy Act Certification

The Administrator 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.

Catalog of Federal Domestic Assistance

The program described by this proposed 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, telephone (202) 512-1800.

Executive Order 12372

This proposed rule is excluded from the scope of Executive Order 12372, Intergovernmental Consultation, which may require consultation with State and

local officials. A Notice of Final Rule entitled Department Programs and Activities Excluded from Executive Order 12372 (50 FR 47034) exempts RUS loans and loan guarantees from coverage under this order.

National Performance Review

This regulatory action is being taken as part of the National Performance Review program to eliminate unnecessary regulations and improve those that remain in force.

Executive Order 12988

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

Background

RUS has promulgated policies and procedures regarding the review and evaluation of the operations and maintenance practices of RUS financed electric systems. These policies and procedures are presently contained in RUS/REA Bulletin 161-5, Electric System Review and Evaluation. The mortgage and loan contract between RUS and electric borrowers set certain standards for the operation and maintenance of each borrower's electric system. The purpose of this proposed rule is to implement the operations and maintenance provisions of the mortgage and loan contract between RUS and electric borrowers and to consolidate and clarify RUS policies and procedures with respect to electric system operations and maintenance. Most of the provisions of this proposed rule represent policies and requirements that have been in effect for some time, whereas other provisions are an explicit statement of policies and procedures that formerly were implicit. One new provision will expand the requirement for electric system review and evaluation to include power supply borrowers in addition to the distribution borrowers presently covered by Bulletin 161-5. Proper operation and maintenance practices are equally significant for power supply borrowers, so RUS believes that power supply borrowers' operation and maintenance practices should be covered under the review and evaluation requirements of this rule. RUS Form 300, Review Rating Summary, has also been updated and

revised based on RUS' experience using this form.

List of Subjects in 7 CFR Part 1730

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

In view of the above, RUS proposes to amend 7 CFR chapter XVII by adding part 1730 to read as follows:

PART 1730—ELECTRIC SYSTEM OPERATIONS AND MAINTENANCE

Subpart A—General

Sec.

- 1730.1 Introduction.
- 1730.2 RUS policy.
- 1730.3 RUS addresses.
- 1730.4 Definitions
- 1730.5–1730.19 [Reserved]

Subpart B—Operations and Maintenance Requirements

- 1730.20 General.
- 1730.21 Inspections and tests.
- 1730.22 Borrower analysis.
- 1730.23 Review rating summary, RUS Form 300.
- 1730.24 RUS review and evaluation.
- 1730.25 Corrective action.
- 1730.26 Engineer's certification.
- 1730.27–1730.99 [Reserved]

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

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

Subpart A—General

§ 1730.1 Introduction.

(a) This part contains the policies and procedures of the Rural Utilities Service (RUS) related to electric borrowers' operation and maintenance practices and RUS' review and evaluation thereof.

(b) The policies and procedures included in this part apply to all electric borrowers (both distribution borrowers and power supply borrowers) and are intended to clarify and implement certain provisions of the mortgage and loan contract between RUS and electric borrowers regarding operations and maintenance. This part is not intended to waive or supersede any provisions of the mortgage and loan contract between RUS and electric borrowers.

(c) The Administrator may waive, for good cause on a case by case basis, certain requirements and procedures of this part.

§ 1730.2 RUS policy.

It is RUS policy to require that all borrower property be operated and maintained properly in accordance with the requirements of the loan documents. It is also RUS policy to provide financial assistance only to borrowers whose operations and maintenance practices

and records are satisfactory or to those who are taking corrective actions expected to make their operations and maintenance practices and records satisfactory to RUS.

§ 1730.3 RUS addresses.

(a) Persons wishing to obtain forms referred to in this part should contact: Rural Utilities Service, U.S. Department of Agriculture, Stop 1522, 1400 Independence Ave. SW, Washington, DC 20250–1533, telephone (202) 720–8674. Borrowers or others may reproduce any of these forms in any number required.

(b) Documents required to be submitted to RUS under this part are to be sent to the office of the borrower's assigned RUS General Field Representative (GFR) or such other office as designated by RUS.

§ 1730.4 Definitions.

Terms used in this part have the meanings set forth in 7 CFR part 1710.2. References to specific RUS forms and other RUS documents, and to specific sections or lines of such forms and documents, shall include the corresponding forms, documents, sections and lines in any subsequent revisions of these forms and documents. In addition to the terms defined in 7 CFR part 1710.2, the term Prudent Utility Practice has the meaning set forth in Article 1, Section 1.01 of appendix A to subpart B of 7 CFR part 1718—Model Form of Mortgage for Electric Distribution Borrowers, for the purposes of this part.

§§ 1730.5–1730.19 [Reserved]

Subpart B—Operations and Maintenance Requirements

§ 1730.20 General.

Each distribution borrower and power supply borrower must operate and maintain its system in compliance with Prudent Utility Practice, in compliance with its loan documents, and in compliance with all applicable laws, regulations and orders, must maintain its systems in good repair, working order and condition, and must make all needed repairs, renewals, replacements, alterations, additions, betterments and improvements, in accordance with applicable provisions of the borrower's mortgage. Each borrower is responsible for on-going operations and maintenance programs, for maintaining records of the physical and electrical condition of its electric system and for the quality of services provided to its customers. The borrower is also responsible for all necessary inspections and tests of the component parts of its

system, and for maintaining records of such inspections and tests. Each borrower must budget sufficient resources to operate and maintain its system in accordance with the requirements of this part.

§ 1730.21 Inspections and tests.

(a) Each borrower shall conduct all necessary inspections and tests of the component parts of its electric system, and maintain adequate records of such inspections and tests.

(b) The frequency of inspection and testing will be determined by the borrower in conformance with applicable laws, regulations, national standards, manufacturer's recommendations, and Prudent Utility Practice. The frequency of inspection and testing will be determined giving due consideration to the type of facilities or equipment, age, operating environment and hazards to which the facilities are exposed, consequences of failure, and results of previous inspections and tests. The records of such inspections and tests will be retained in accordance with applicable legal requirements and Prudent Utility Practice. The retention period will be sufficient to identify long-term trends. Records must be retained at least until the applicable inspections or tests are repeated.

(c) Inspections of facilities must include a determination of the facility's compliance with the National Electrical Safety Code, National Electrical Code, and applicable local regulations. Any serious or life-threatening deficiencies must be promptly repaired, disconnected, or isolated in accordance with applicable codes or regulations. Any other deficiencies found as a result of such inspections and tests are to be recorded and those records are to be maintained until such deficiencies are corrected or for the retention period required by paragraph (b) of this section, whichever is longer.

§ 1730.22 Borrower analysis.

(a) Each borrower must periodically analyze its operations and maintenance policies, practices, and procedures to determine if they are appropriate and if they are being followed. The records of inspections and tests are also to be analyzed to identify any trends which could indicate deterioration in the physical condition or the operational effectiveness of the system or suggest a need for changes in operations or maintenance practices.

(b) When a borrower's operations and maintenance policies, practices, and procedures are to be reviewed and evaluated by RUS, the borrower shall:

(1) Conduct the analysis required by paragraph (a) of this section not more than 90 days prior to the scheduled RUS review;

(2) Complete RUS Form 300, Review Rating Summary, and other related forms, prior to RUS' review and evaluation; and

(3) Make available to RUS the borrower's completed RUS Form 300 (including a written explanation of the basis for each rating) and records related to the operations and maintenance of the borrower's system.

(c) For those facilities not included on the RUS Form 300 (e.g., generating plants), the borrower shall prepare and complete an appropriate supplemental form for such facilities.

§ 1730.23 Review rating summary, RUS Form 300.

RUS Form 300 in appendix A shall be used when required by this part.

§ 1730.24 RUS review and evaluation.

RUS will initiate and conduct a periodic review and evaluation of the operations and maintenance practices of each borrower for the purpose of assessing loan security and determining borrower compliance with RUS policy as outlined in this part. This review will normally be done at least once every three years. The borrower will make available to RUS the borrower's policies, procedures, and records related to the operations and maintenance of its system. RUS may inspect facilities as well as records, and may also observe construction and maintenance work in the field. Key borrower personnel responsible for the facilities being inspected are to accompany RUS during such inspections, unless otherwise determined by RUS. RUS personnel may prepare an independent summary of the operations and maintenance practices of the borrower.

§ 1730.25 Corrective action.

(a) For any items on the RUS Form 300 rated unsatisfactory (i.e., 0 or 1) by the borrower or by RUS, the borrower must prepare a corrective action plan (CAP) outlining the steps (both short term and long term) the borrower will take to improve existing conditions and to maintain an acceptable rating. The CAP must include a time schedule and cost estimate for corrective actions, and must be approved by the borrower's Board of Directors. The CAP must be submitted to RUS for approval within 90 days after the completion of RUS' evaluation noted in § 1730.24.

(b) The borrower must periodically report to RUS progress under the CAP. This report must be submitted to RUS

every six months until all unsatisfactory items are corrected unless RUS prescribes a different reporting schedule.

§ 1730.26 Engineer's certification.

Where provided for in the borrower's loan documents, RUS may require the borrower to provide an "Engineer's Certification" as to the condition of the borrower's system (including, but not limited to, all mortgaged property.) Such certification shall be in form and substance satisfactory to RUS and shall be prepared by a professional engineer satisfactory to RUS. If RUS determines that the Engineer's Certification discloses a need for improvements to the condition of its system or any other operations of the borrower, the borrower shall, upon notification by RUS, promptly undertake to accomplish such improvements.

§§ 1730.27—1730.99 [Reserved].

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

Borrower Designation _____

Date Prepared _____

Ratings on form are:

0: Unsatisfactory—no records

1: Unsatisfactory—corrective action needed

2: Acceptable, but should be improved—see attached recommendations

3: Satisfactory—no additional action required at this time

N/A: Not applicable

Part I—Transmission and Distribution Facilities

1. Substations (Transmission and Distribution)

a. Safety, Clearance, Code Compliance Rating: _____

b. Physical Condition: Structure, Major Equipment, Appearance Rating: _____

c. Inspection Records Each Substation Rating: _____

d. Oil Spill Prevention Rating: _____

2. Transmission Lines

a. Right-of-Way: Clearing, Erosion, Appearance, Intrusions Rating: _____

b. Physical Condition: Structure, Conductor, Guying Rating: _____

c. Inspection Program and Records Rating: _____

3. Distribution Lines—Overhead

a. Inspection Program and Records Rating: _____

b. Compliance with Safety Codes: Clearances Rating: _____

Compliance with Safety Codes: Foreign Structures Rating: _____

Compliance with Safety Codes: Attachments Rating: _____

c. Observed Physical Condition from Field Checking: Right-of-Way Rating: _____

Observed Physical Condition from Field Checking: Other Rating: _____

4. Distribution—Underground Cable

a. Grounding and Corrosion Control Rating: _____

b. Surface Grading, Appearance Rating: _____

c. Riser Poles: Hazards, Guying, Condition Rating: _____

5. Distribution Line Equipment: Conditions and Records

a. Voltage Regulators Rating: _____

b. Sectionalizing Equipment Rating: _____

c. Distribution Transformers Rating: _____

d. Pad Mounted Equipment—Safety: Locking, Dead Front, Barriers Rating: _____

Pad Mounted Equipment—Appearance: Settlement, Condition Rating: _____

e. Kilowatt-hour and Demand Meter Reading and Testing Rating: _____

Part II—Operation and Maintenance

6. Line Maintenance and Work Order Procedures

a. Work Planning and Scheduling Rating: _____

b. Work Backlogs: Right-of-Way Maintenance Rating: _____

Work Backlogs: Poles Rating: _____

Work Backlogs: Retirement of Idle Services Rating: _____

Work Backlogs: Other Rating: _____

7. Service Interruptions

a. Average Annual Hours/Consumer by Cause (Complete for each of the previous 5 years)

1. Power Supplier _____

2. Major Storm _____

3. Scheduled _____

4. All Other _____

5. Total _____

Rating: _____

b. Emergency Restoration Plan Rating: _____

8. Power Quality

General Freedom from Complaints Rating: _____

9. Loading and Load Balance

a. Distribution Transformer Loading Rating: _____

b. Load Control Apparatus Rating: _____

c. Substation and Feeder Loading Rating: _____

10. Maps and Plant Records

a. Operating Maps: Accurate and Up-to-Date Rating: _____

b. Circuit Diagrams Rating: _____

c. Staking Sheets Rating: _____

Part III—Engineering

11. System Load Conditions and Losses

a. Annual System Losses, _____ % Rating: _____

b. Annual Load Factor, _____ % Rating: _____

c. Power Factor at Monthly Peak, _____ % Rating: _____

d. Ratio of Individual Substation Peak kW to kVA, _____ Rating: _____

12. Voltage Conditions

a. Voltage Surveys Rating: _____

b. Substation Transformer Output Voltage Spread Rating: _____

13. Load Studies and Planning

a. Long Range Engineering Plan Rating: _____

b. Construction Work Plan Rating: _____

c. Sectionalizing Study Rating: _____

d. Load Data for Engineering Studies

Rating: _____

e. Power Requirements Data Rating: _____

Part IV—Operation and Maintenance Budgets

For Previous 2 Years:

Normal Operation—Actual \$ _____

Normal Maintenance—Actual \$ _____

Total—Actual \$ _____

For Present Year:

Normal Operation

Budget \$ _____

Staff Hours _____

Normal Maintenance

Budget \$ _____

Staff Hours _____

Total

Budget \$ _____

Staff Hours _____

For Future 3 Years:

Normal Operation

Budget \$ _____

Staff Hours _____

Normal Maintenance

Budget \$ _____

Staff Hours _____

Additional (Deferred) Maintenance

Budget \$ _____

Staff Hours _____

Total

Budget \$ _____

Staff Hours _____

14. Budgeting

Adequacy of Budgets For Needed Work

Rating: _____

15. Date Discussed with Board of Directors

Remarks: _____

Explanatory Notes

Item No. _____

Comments _____

Rated by _____

Title _____

Date _____

Reviewed by _____

Manager _____

Date _____

Reviewed by _____

RUS GFR _____

Date _____

Dated: April 10, 1997.

Jill Long Thompson,

Under Secretary, Rural Development.

[FR Doc. 97-9849 Filed 4-15-97; 8:45 am]

BILLING CODE 3410-15-P

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 13

RIN 1024-AB99

**Glacier Bay National Park, Alaska;
Commercial Fishing Regulations**

AGENCY: National Park Service, Interior.

ACTION: Proposed rule; withdrawal of earlier proposed rule.

SUMMARY: The National Park Service (NPS) proposes this rule to provide the legal basis for reinitiating public discussion in order to arrive at a prompt final resolution of the longstanding controversy concerning commercial fishing activities in Glacier Bay National Park (NP) by the end of 1997. In addition to seeking comments, NPS expects during the comment period to continue discussions on the record with interested parties including the State of Alaska.

The proposed rule, intended to provide a framework for enhanced review and comment by all interested parties, would implement fair measures to ensure protection of the values and purposes of Glacier Bay NP, including the preservation, enjoyment, and scientific value of the park's unique marine ecosystem. In general, the proposed rule would prohibit all commercial fishing in Glacier Bay proper but provide certain limited exemptions over a 15 year phase-out period, and authorize established commercial fishing in the park's marine waters outside Glacier Bay proper subject to reexamination at the end of 15 years.

To authorize the specific commercial fishing activities, the proposed rule would provide specific exemptions for Glacier Bay NP from the nationwide prohibition on such activities in units of the National Park System. For the phase-out in Glacier Bay proper, the proposed rule would exempt qualifying commercial fishermen who can demonstrate a reasonable history of participation in a specific fishery to continue fishing for a limited period of time on a seasonal basis. For the marine waters outside Glacier Bay proper, the proposed rule would generally exempt existing commercial fishing activities under a Federal-State cooperative management program consistent with protection of park resource values.

With respect to designated wilderness waters in Glacier Bay NP, since the Wilderness Act prohibits this kind of commercial enterprise in designated wilderness, commercial fishing activities must cease in these areas. However, certain crab fishermen essential to an existing multi-agency research project in the Beardslee Islands area may be authorized to take crab in the locations specified by the research project for the remaining five to seven years of the project pursuant to a "research project" special use permit. NPS has previously determined that this research project is consistent with, and

is likely to produce significant benefits for, wilderness resource management.

The proposed rule would not address legislatively authorized commercial fishing and related activities in the Dry Bay area of Glacier Bay National Preserve.

This proposed rule supersedes and withdraws a previously proposed rulemaking on this subject published on August 5, 1991 (56 FR 37262).

DATES: Written comments postmarked on or before October 15, 1997, will be accepted. For information on public meetings and discussion sessions, see Public Participation at the end of

SUPPLEMENTARY INFORMATION:

ADDRESSES: Comments should be directed to James M. Brady, Superintendent, Glacier Bay National Park and Preserve, P.O. Box 140, Gustavus, Alaska 99826.

FOR FURTHER INFORMATION CONTACT: James M. Brady, Superintendent, National Park Service, Glacier Bay National Park and Preserve, P.O. Box 140, Gustavus, Alaska, 99827, telephone: (907) 697-2230.

SUPPLEMENTARY INFORMATION:

Background

Establishment of Glacier Bay National Park and Preserve

Glacier Bay National Monument was established by presidential proclamation dated February 26, 1925, 43 Stat. 1988. The monument was established to protect a number of tidewater and other glaciers, and a variety of post glacial forest and other vegetative covering, and also to provide opportunities for scientific study of glacial activity and post glacial biological succession. The early monument included marine waters within Glacier Bay north of a line running approximately from Geikie Inlet on the west side of the bay to the northern extent of the Beardslee Islands on the east side of the bay. The monument was expanded by a second presidential proclamation on April 18, 1939, 53 Stat. 2534. The expanded monument included additional lands and marine waters consisting of all of Glacier Bay; portions of Cross Sound, North Inian Pass, North Passage, Icy Passage, and Excursion Inlet; and Pacific coastal waters to a distance of three miles seaward between Cape Spencer to the south and Sea Otter Creek, north of Cape Fairweather.

Glacier Bay National Monument was redesignated as Glacier Bay National Park and Preserve and enlarged in 1980 by the Alaska National Interest Lands Conservation Act (ANILCA), 16 U.S.C.