

(f) *Exceptions to and variations from the meal pattern.*—(1) *Meals provided by school food authorities.*—(i) *Meal pattern substitution.* School food authorities that are Program sponsors and that participate in the National School Lunch or School Breakfast Program during any time of the year may substitute the meal pattern requirements of the regulations governing those programs (Parts 210 and 220 of this chapter, respectively) for the meal pattern requirements in this section.

(ii) *Offer versus serve.* School food authorities that are Program sponsors may permit a child to refuse one or more items that the child does not intend to eat. The school food authority must apply this “offer versus serve” option under the rules followed for the National School Lunch Program, as described in part 210 of this chapter. The reimbursements to school food authorities for Program meals served under the “offer versus serve” must not be reduced because children choose not to take all components of the meals that are offered.

\* \* \* \* \*

#### **§ 225.18 [Amended]**

13. In § 225.18, remove paragraph (i).

Dated: December 21, 1999.

**Samuel Chambers, Jr.,**

*Administrator.*

[FR Doc. 99–33503 Filed 12–27–99; 8:45 am]

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## **DEPARTMENT OF AGRICULTURE**

### **Rural Utilities Service**

#### **7 CFR Part 1721**

#### **Post-Loan Policies and Procedures for Insured Electric Loans**

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

**ACTION:** Direct final rule.

**SUMMARY:** As a part of its ongoing program to streamline regulations, the Rural Utilities Service (RUS) is amending its regulation on the advance of funds to reflect an increase in the threshold limit from \$25,000 to \$100,000 for which plant investments may be made in the borrowers' systems and be eligible for insured loan fund financing without being included in an RUS-approved construction work plan (CWP). In addition, RUS has determined to no longer limit borrowers to 130 percent of the project cost estimate for projects in the CWP or amendment and approved loan, as amended, for which

prior RUS approval must be obtained. These changes will have the effect of reducing the number of actions by borrowers that would otherwise require RUS approval and will reduce administrative costs to borrowers and to the agency.

**DATES:** This rule will become effective February 11, 2000 unless we receive written adverse comments or notice of intent to submit adverse comments on or before January 27, 2000. If we receive such comments or notice, we will publish a timely withdrawal of the Direct Final Rule in the **Federal Register** stating that the rule will not become effective until we have addressed the comments received and published a final rule. A second public comment period will not be held. Parties interested in commenting on this action should do so at this time.

**ADDRESSES:** Submit adverse comments or notice of intent to submit adverse comments to F. Lamont Heppe, Jr., Director, Program Development and Regulatory Analysis, U.S. Department of Agriculture, Rural Utilities Service, Stop 1522, 1400 Independence Ave., SW., Washington, DC 20250–1522. RUS requests a signed original and three copies of all comments (7 CFR 1700.4). Comments will be available for public inspection during regular business hours (7 CFR 1.27(b)).

**FOR FURTHER INFORMATION CONTACT:** Charles M. Philpott, Chief, Engineering Branch, Northern Regional Division, U.S. Department of Agriculture, Rural Utilities Service, Room 4034 South Bldg., 1400 Independence Ave., SW., Washington, DC 20250–1522. Telephone: (202) 720–1432. E-mail: cphilpot@rus.usda.gov.

#### **SUPPLEMENTARY INFORMATION:**

##### **Executive Order 12866**

This rule has been determined to be not significant for 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 in accordance with Executive Order 12988, Civil Justice Reform. RUS has determined that this final 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 § 212(e) of the Department of Agriculture

Reorganization Act of 1994 (7 U.S.C. § 6912(e)) administrative appeal procedures, if any are required, must be exhausted prior to initiating litigation against the Department or its agencies.

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

The Administrator of RUS has determined that this rule relating to 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. RUS borrowers, as a result of obtaining federal financing, received economic benefits that exceed any direct economic costs associated with complying with RUS regulations and requirements.

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

The Office of Management and Budget has approved the reporting and recordkeeping requirements contained in 7 CFR part 1721 under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) and assigned control number 0572–0032. This rule contains no additional information collection or recordkeeping requirements.

#### **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 number 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.

##### **Executive Order 12372**

This rule is excluded from the scope of Executive Order 12372, Intergovernmental Consultation, which may require consultation with State local, and tribal governments or the private sector. A final rule related notice entitled, “Department Programs and Activities Excluded from Executive

Order 12372," (50 FR 47034) determined that RUS loans and loan guarantees were not covered by Executive Order 12372.

#### Unfunded Mandates

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

#### Background

RUS is amending its regulations to change the definition of a minor project from the current threshold level of \$25,000 or less, to a project costing \$100,000 or less. Section 1721.1 restricts borrowers to advances of insured loan funds for projects, except for minor projects, that are included in an RUS approved borrower's construction work plan (CWP) or CWP amendment. A minor project is defined as a project costing \$25,000 or less. A minor project is eligible for insured loan funding without being included in an RUS-approved CWP or amendment. In RUS' review of the impact of this rule on borrowers, we have determined that the \$25,000 limit for a minor project is creating unneeded paperwork and cost burdens on borrowers requiring unnecessary CWP amendments to be approved by RUS, without producing significant benefits. The increase to \$100,000 for a minor project will allow borrowers greater flexibility in their construction programs and reduce the number of CWP amendments requiring RUS approval. The level of \$100,000 is considered reasonable and adequate for purposes of monitoring borrowers' construction programs and will provide sufficient safeguards to assure that RUS loan funds are being used for intended loan purposes.

RUS is further amending its regulations to eliminate the requirement that funding requests from borrowers not exceed 130 percent of the project cost estimate, previously approved by RUS in the borrowers' CWP or CWP amendment and in an approved loan.

Under § 1721.1, the "130 percent rule" applies to each major project included in the borrower's CWP and RUS approved loan. In RUS' review of compliance with this rule, we have determined that the majority of cases of noncompliance occur when borrowers exceed 130 percent of the cost estimate for projects coded in the 100 and 600 series. These project codes relate to the construction of distribution line

extensions and the installation of miscellaneous line equipment required to provide electric service to new customers. Since a borrower cannot accurately predict the number of new customers, significant cost variations can and do occur in these projects from the time the cost estimates were originally prepared in the CWP. In view of this, RUS is amending the rule to remove the 130 percent limitation for the projects coded 100 and 600.

Further, in reviewing the 130 percent rule as applied to the remaining major project codes in the CWP and approved loan, most borrowers are either providing good cost estimates for the projects in the CWP and loan or are amending the CWP, as needed, based on factors other than an increase in cost. Therefore, RUS is amending the regulation to eliminate the "130 percent rule" in its entirety for all major projects included in the borrowers' CWPs and RUS-approved insured loans.

RUS believes that the changes under this rule will reduce administrative costs to borrowers and to the Government and will relax the RUS requirements under which borrowers may qualify for RUS insured fund financing.

#### List of Subjects in 7 CFR Part 1721

Electric power, Loan programs—energy, Rural areas.

For the reasons set forth in the preamble, RUS amend 7 CFR chapter XVII as follows:

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

1. The authority citation for part 1721 is revised to read as follows:

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

2. Section 1721.1 is revised to read as follows:

##### § 1721.1 Advances.

(a) *Purpose and amount.* With the exception of minor projects, insured loan funds will be advanced only for projects which are included in an RUS approved borrower's construction work plan (CWP) or approved amendment and in an approved loan, as amended. Loan fund advances can be requested in an amount representing actual costs incurred.

(b) *Minor project.* Minor project means a project costing \$100,000 or less. Such a project qualifies for advance of loan funds even though it may not have been included in an RUS-approved borrower's CWP, amendment to such CWP, or approved loan. Total advances

requested shall not exceed the total loan amount. All projects for which loan fund advances are requested must be constructed to achieve purposes permitted by terms of the loan contract between the borrower and RUS.

(c) *Certification.* Pursuant to the applicable provisions of the RUS loan contract, borrowers shall certify with each request for funds to be approved for advance that such funds are for projects in compliance with this section and shall also provide for those that cost in excess of \$100,000, a contract or work order number as applicable and a CWP cross-reference project coded identification number. For a minor project not included in an RUS approved borrower's CWP, the Borrower shall describe the project and do one of the following to satisfy RUS' environmental requirements (see 7 CFR part 1794).

(1) If applicable, state that the project is a categorical exclusion of a type described in § 1794.21(b), which normally does not require preparation of an Environmental Report (ER); or

(2) If applicable, state that the project is a categorical exclusion of a type that normally requires an ER and then:

(i) Submit the ER with the request for funds to be approved for advance, or

(ii) If applicable, certify that it has analyzed the minor project with respect to a comprehensive service area environmental map and data base collected and used in preparing the ER for its RUS-approved borrower's CWP, and that on the basis of that information, the minor project will not be located in an environmentally sensitive area or location.

(d) *Noncompliance.* Where insured loan funds are found to have been advanced in noncompliance with this section, borrowers will be required to deposit the appropriate amount of the over-advance in the construction fund-trustee account and pay any accrued and unpaid interest to RUS. The Administrator will require borrowers, in order to remedy such noncompliance, to pay an additional amount equal to the interest on the funds over-advanced for the period such funds were outstanding, calculated at a rate equal to the difference between the RUS loan interest rate and the most recent rate at which RUS sold Certificates of Beneficial Ownership (CBO's). While RUS will generally permit the amount of over-advance deposited in the construction fund-trustee account to be subsequently used by the borrower for RUS approved projects, nothing in this section shall be construed to preclude RUS from exercising any rights or

remedies which RUS may have pursuant to the loan contract.

Dated: December 21, 1999.

**Jill Long Thompson,**

*Under Secretary, Rural Development.*

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## DEPARTMENT OF AGRICULTURE

### Food Safety and Inspection Service

#### 9 CFR Parts 317 and 381

[Docket No. 99-050IF]

RIN 0583-AC65

#### Food Labeling; Nutrient Content Claims, Definition of Term: Healthy

**AGENCY:** Food Safety and Inspection Service, USDA.

**ACTION:** Interim final rule.

**SUMMARY:** The Food Safety and Inspection Service (FSIS) is extending until January 1, 2003, the effective date of the requirements that, to bear the claim "healthy" or any other derivative of the term "health," individual meat and poultry products can contain no more than 360 milligrams (mg) sodium, and that meal-type products can contain no more than 480 mg sodium.

**DATES:** *Effective date:* December 28, 1999.

*Comment date:* Written comments should be received by January 27, 2000.

**ADDRESSES:** Submit one original and two copies of written comments to the FSIS Docket Clerk, Docket #99-050IF, Room 102, Cotton Annex Building, 300 12th Street, SW, Washington, DC 20250-3700. All comments will be available for public inspection in the Docket Clerk's office between 8:30 a.m. and 4:30 p.m., Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** William J. Hudnall, Assistant Deputy Administrator, Office of Policy, Program Development and Evaluation; telephone (202) 205-0495 or FAX (202) 401-1760.

#### SUPPLEMENTARY INFORMATION:

##### Background

In the May 10, 1994 **Federal Register** (59 FR 24220), FSIS published a final rule to establish a definition of the term "healthy" or any other derivative of the term "health" and similar terms on meat and poultry product labeling. The final rule provided a definition for the implied nutrient content claim "healthy" for individual meat and poultry products and for meal-type products. The rule defined two separate timeframes in which different criteria

for sodium content would be effective. According to the regulations, the first timeframe would last through the first 24 months of implementation (i.e., through November 10, 1997), and the second would begin after the first 24 months of implementation (after November 10, 1997).

Before November 10, 1997, under §§ 317.363(b)(3) and 381.463(b)(3), for an individual meat or poultry product to qualify to bear the term "healthy" or a derivative of the term "health" on the labeling, the product could contain no more than 480 mg of sodium (first-tier sodium level): (1) Per reference amount customarily consumed (RACC) per eating occasion; (2) Per labeled serving size; and (3) Per 50 grams (g) for products with small RACC's (i.e., 30 g or less or 2 tablespoons or less). With regard to the last provision, for dehydrated products that must be reconstituted with water or a diluent containing an insignificant amount of all nutrients, the per-50-gram criterion refers to the prepared form. After November 10, 1997, to qualify to bear this term, the product could contain no more than 360 mg of sodium (second-tier sodium level) per RACC, per labeled serving size, and per 50 g for products with small RACC's. Under 317.363(b)(3)(i) and 381.463(b)(3)(i), a meal-type product could contain no more than 600 mg of sodium per labeled serving size before November 10, 1997, and no more than 480 mg of sodium per labeled serving size after November 10, 1997.

Also in the **Federal Register** of May 10, 1994 (59 FR 24232), the Food and Drug Administration (FDA) published a final rule to define the term "healthy" under section 403(r) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 343(r)). FDA's rule also defined two separate timeframes in which different criteria for sodium content associated with the use of the "healthy" claim would be effective. FDA's rule established the same sodium levels that the FSIS rule established for two separate timeframes; however, the timeframes in FDA's rule were different (i.e., before January 1, 1998, and after January 1, 1998).

On December 7, 1996, FSIS received a petition from ConAgra, Inc., requesting that §§ 317.363(b)(3) and 381.463(b)(3) be amended to "eliminate the sliding scale sodium requirement for foods labeled 'healthy' by eliminating the entire second tier levels of 360 mg sodium requirements for individual foods and 480 mg sodium for meal-type products." As an alternative, the petitioner requested that the effective date of November 10, 1997 be delayed

until food technology can develop acceptable products with reduced sodium content, and until there is a better understanding of the relationship between sodium and hypertension.

In response to the petition, FSIS issued an interim final rule on February 13, 1998, (63 FR 7279) to amend §§ 317.363(b)(3) and 381.463(b)(3) to extend the effective date for the lower sodium standards associated with the term "healthy" until January 1, 2000. The extension of the effective date was intended: (1) To allow time for FSIS to reevaluate the standard, including the data contained in the petition and any additional data that the Agency might receive; (2) to conduct any necessary rulemaking; and (3) to allow time for industry to respond to the rule or to any change in the rule that may result from the Agency's reevaluation.

FDA also received a petition from ConAgra, Inc., requesting that the lower sodium standards associated with use of the term "healthy" be removed from the regulations. In the **Federal Register** of April 1, 1997 (62 FR 15390), FDA announced a stay until January 1, 2000, of the provisions relating to the lower sodium standards.

In its February 13, 1998, interim final rule, FSIS asked for data concerning the technological feasibility of reducing the sodium content of individual foods to 360 mg per RACC and of meal-type dishes to 480 mg sodium per labeled serving and for additional information or views on consumer acceptance of meat and poultry foods with such sodium levels. With regard to technological feasibility, the Agency asked for information about the availability or lack of availability of acceptable sodium substitutes, the difficulties in manufacturing different lines of meat and poultry products with lowered sodium levels, and the impact of these sodium levels on the shelf-life stability and the safety of the food. The Agency also asked for comments on other approaches to reduce the amount of sodium in meat and poultry products labeled "healthy."

FSIS received 20 responses to the interim final rule. The comments responding to the rule presented strong and opposing views on whether FSIS should let the second-tier sodium levels take effect. They also contained a significant amount of data relating to use of the term "healthy."

FSIS has reviewed the comments and has also made an independent assessment of the number of foods labeled as "healthy." Based on the information available, the Agency tentatively concludes that, in some cases, the second-tier sodium levels may