

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Rural Business-Cooperative Service

#### 7 CFR Part 1942

RIN 0570-AA32

#### Rural Business Enterprise Grants and Television Demonstration Grants

**AGENCY:** Rural Business-Cooperative Service, USDA.

**ACTION:** Interim final rule with request for comments.

**SUMMARY:** The Rural Business-Cooperative Service (RBS) is amending the Rural Business Enterprise Grant (RBEG) Program regulation by revising the definition of small and emerging private business enterprise. The current definition burdens the grantee by placing too many eligibility restrictions on the businesses to be assisted by the grantee. This amendment will ensure the grantee can assist small businesses in rural areas without eligibility restrictions for the use of technological innovations or commercialization of new products or processes.

**DATES:** Effective May 16, 2001. Comments must be received on or before July 16, 2001.

*Applicability Date:* The small business definition change will be retroactive starting August 11, 1988.

**ADDRESSES:** Written comments may be submitted, in duplicate, to the Regulations and Paperwork Management Branch, Attention Cheryl Thompson, Rural Development, U.S. Department of Agriculture, STOP 0742, 1400 Independence Avenue SW., Washington, DC 20250-0742. Comments may be submitted via the Internet by addressing them to [comments@rus.usda.gov](mailto:comments@rus.usda.gov) and must contain the word "small" in the subject. All written comments will be available for public inspection during normal

working hours at 300 E Street, SW., Washington, DC.

#### FOR FURTHER INFORMATION CONTACT:

Amy Cavanaugh, Rural Development Specialist, Specialty Lenders Division, Rural Business-Cooperative Service, U.S. Department of Agriculture, STOP 3225, 1400 Independence Ave. SW., Washington, DC 20250, Telephone (202) 690-2516. The TTD number is (800) 877-8339 or (202) 708-9300.

#### SUPPLEMENTARY INFORMATION:

##### Classification

This rule has been determined to be non-significant and has not been reviewed by the Office of Management and Budget.

##### Programs Affected

The Catalog of Federal Domestic Assistance number for the program impacted by this action is 10.769, Rural Development Grants.

##### Paperwork Reduction Act

There are no reporting and recordkeeping requirements associated with this interim rule.

##### Intergovernmental Review

The RBEG Program is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with state and local officials. RBS will conduct intergovernmental consultation in the manner delineated in RD Instruction 1940-J, "Intergovernmental Review of Rural Development Programs and Activities," and in 7 CFR part 3015, subpart V.

##### Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601-602), the undersigned has determined and certified by signature of this document that this rule will not have a significant economic impact on a substantial number of small entities. New provisions included in this rule will not impact a substantial number of small entities to a greater extent than large entities. Therefore, a regulatory flexibility analysis was not performed.

##### Civil Justice Reform

This interim rule has been reviewed under Executive Order 12988, Civil Justice Reform. In accordance with this rule: (1) All State and local laws and regulations that are in conflict with this

rule will be preempted; (2) retroactive effect will be given to this rule starting August 11, 1988; and (3) administrative proceedings in accordance with the regulations of the Agency at 7 CFR part 11 must be exhausted before bringing suit in court challenging action taken under this rule unless those regulations specifically allow bringing suit at an earlier time.

##### Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, "Environmental Program." RBS has determined that this proposed action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.* an Environmental Impact Statement is not required.

##### Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. Under section 202 of the UMRA, RBS must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to state, local or tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. When such a statement is needed for a rule, section 205 of UMRA generally requires RBS to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost effective or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for state, local, and tribal governments or the private sector. Thus this rule is not subject to the requirements of sections 202 and 205 of UMRA.

##### Background

This regulatory package is an Agency initiative to make the RBEG Program more effective at stimulating economic development by reducing certain eligibility requirements for small and emerging private business enterprise (small business) located in rural areas.

There has been much confusion on the definition of small business since it was first published in the **Federal Register**, August 11, 1988. At that time, the RBEG Program was called the Industrial Development Grant Program. The name of the program was changed in 1992 and still contained the small business definition. The RBEG Program has been administered by two separate agencies since inception of the program. The Farmers Home Administration (FmHA) originally administered the RBEG Program. In 1996, it was transferred to RBS. FmHA misinterpreted the definition of small business in its regulations as only needing to meet the first two parts of the definition in order to be eligible for assistance and funded grants based on this misinterpretation. RBS has recently determined the FmHA interpretation is not consistent with the actual regulatory language. Therefore, the Agency wants to correct the definition language and make it retroactive starting August 11, 1988, so the reversed definition will be applicable to existing grants. Retroactive application of the definition will validate existing grants, which might not otherwise have been eligible under a strict application of the regulatory criteria defining a small business. This will ultimately streamline the regulation and reduce the burden to the applicant in meeting the restricted definition.

#### Discussion of Interim Final Rule

It is the policy of this Department that rules relating to public property, loans, grants, benefits or contracts shall be published for comment notwithstanding the exemption of 5 U.S.C. 553 with respect to such rules. However, it would be contrary to the public interest to wait for public comment before implementing the revision to the small business definition. There is an immediate need to provide funds to the public to help alleviate the lack of money available for economic development in rural areas and to alleviate confusion caused by past misinterpretation and misapplication of regulatory requirements. Using the FmHA interpretation of the small business definition will allow more small businesses to stimulate the economy and provide jobs. Comments will be accepted for 60 days after publication of this interim final rule and will be considered in the development of the final rule.

#### List of Subjects in 7 CFR Part 1942

Business and industry, Grant programs—Housing and community development, Industrial park, Rural areas.

Therefore, chapter XVIII, title 7, Code of Federal Regulations, is amended as follows:

#### PART 1942—ASSOCIATIONS

1. The authority citation for part 1942 is revised to read as follows:

**Authority:** 5 U.S.C. 301, 7 U.S.C. 1932, 7 U.S.C. 1989, and 16 U.S.C. 1005.

#### Subpart G—Rural Business Enterprise Grants and Television Demonstration Grants

2. Section 1942.304 is amended by revising the definition of *small and emerging private business enterprise* to read as follows:

##### § 1942.304 Definitions.

\* \* \* \* \*

*Small and emerging private business enterprise.* Any private business which will employ 50 or fewer new employees and has less than \$1 million in projected gross revenues.

\* \* \* \* \*

Dated: May 9, 2001.

**Dawn R. Riley,**

*Acting Deputy Under Secretary.*

[FR Doc. 01-12249 Filed 5-15-01; 8:45 am]

**BILLING CODE 3410-XY-P**

#### DEPARTMENT OF TRANSPORTATION

#### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 2000-CE-72-AD; Amendment 39-12230; AD 2001-10-04]

**RIN 2120-AA64**

#### Airworthiness Directives; Air Tractor, Inc. AT-400, AT-500, and AT-800 Series Airplanes

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

**ACTION:** Final rule; request for comments.

**SUMMARY:** This amendment supersedes Airworthiness Directive (AD) 2000-14-51, which requires inspection of the wing lower spar cap for cracks on Air Tractor, Inc. (Air Tractor) Models AT-501, AT-502, and AT-502A airplanes, and modification or replacement of any cracked wing lower spar cap. This AD lowers the safe life for the wing lower spar cap on Air Tractor AT-400, AT-500, and AT-800 series airplanes. This AD is the result of numerous reports of cracks in the 3/8-inch bolthole of the wing lower spar cap on the affected airplanes. The actions specified by this

AD are intended to prevent fatigue cracks from occurring in the wing lower spar cap before the originally established safe life is reached. Fatigue cracks in the wing lower spar cap, if not detected and corrected, could result in the wing separating from the airplane during flight.

**DATES:** This AD becomes effective on June 8, 2001.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulation as of June 8, 2001.

The Federal Aviation Administration (FAA) must receive any comments on this rule on or before July 13, 2001.

**ADDRESSES:** Submit comments in triplicate to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000-CE-72-AD, 901 Locust, Room 506, Kansas City, Missouri 64106.

You may get the service information referenced in this AD from Air Tractor, Incorporated, P.O. Box 485, Olney, Texas 76374. You may look at this information at FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000-CE-72-AD, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Rob Romero, Aerospace Engineer, FAA, Fort Worth Airplane Certification Office, 2601 Meacham Boulevard, Fort Worth, Texas 76193-0150; telephone: (817) 222-5102; facsimile: (817) 222-5960.

#### SUPPLEMENTARY INFORMATION:

#### Discussion

##### *What Events Have Caused This AD?*

Several reports of cracked wing lower spar caps on Air Tractor AT-400, AT-500, and AT-800 series airplanes have caused the manufacturer (Air Tractor) to recalculate the fatigue life of the wing lower spar cap on these airplanes. One report was an accident where the wing separated from the airplane during flight. The cracks are originating in the outboard 3/8-inch bolthole of the wing lower spar cap.

Air Tractor fatigue tested 24 wings and all had cracks in the area of the 3/8-inch bolthole. Follow-on field inspections revealed more cracks in this area.

##### *What Are the Consequences if the Condition Is Not Corrected?*

This condition could result in fatigue cracks in the wing lower spar cap before the originally established safe life is reached. Fatigue cracks in the wing lower spar cap, if not detected and