

Rules and Regulations

Federal Register

Vol. 63, No. 210

Friday, October 30, 1998

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Parts 1724 and 1726

RIN 0572-AB42

Electric Program Standard Contract Forms

AGENCY: Rural Utilities Service, USDA.

ACTION: Final rule.

SUMMARY: The Rural Utilities Service (RUS) is amending its regulations to change the manner in which it publishes the standard forms of contracts that borrowers are required to use when contracting for construction, procurement, engineering services, or architectural services financed through loans made or guaranteed by RUS. The required contract forms are currently published in text format in the Code of Federal Regulations (CFR). This final rule would eliminate this unnecessary and burdensome publication in the CFR.

DATES: Effective October 30, 1998.

FOR FURTHER INFORMATION CONTACT: F. Lamont Heppe, Jr., Director, Program Development and Regulatory Analysis, Rural Utilities Service, U.S. Department of Agriculture, Stop 1522, 1400 Independence Avenue, SW., Washington, DC 20250-1522. Telephone: (202) 720-9550. FAX: (202) 720-4120. E-mail: fheppe@rus.usda.gov.

SUPPLEMENTARY INFORMATION:

Executive Order 12372

This final 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) exempted RUS loans and loan guarantees from coverage under this order.

Executive Order 12866

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

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. RUS has determined that this rule meets the applicable standards provided in section 3 of the Executive Order. In addition, all state and local laws and regulations that are in conflict with this rule will be preempted. No retroactive effect will be given to this rule and 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, must be exhausted before an action against the Department or its agencies may be initiated.

Regulatory Flexibility Act Certification

The Administrator of RUS has determined that this rule will not have significant impact on a substantial number of small entities defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), and therefore, the Regulatory Flexibility Act does not apply to this rule.

National Environmental Policy Act Certification

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

Information Collection and Recordkeeping Requirements

The recordkeeping and reporting burdens contained in this final rule have been submitted to OMB for approval. The paperwork contained in this rule will not be effective until approved by OMB.

Send questions or comments regarding any aspect of this collection of information, including suggestions for reducing the burden, to F. Lamont Heppe, Jr., Director, Program Development and Regulatory Analysis, Rural Utilities Service, U.S. Department of Agriculture, Stop 1522, 1400 Independence Avenue, SW., Washington, DC 20250-1522.

Unfunded Mandates

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

Background

RUS will change the manner in which it publishes the standard forms of contracts that borrowers are required to use when contracting for construction, procurement, architectural, or engineering services financed through loans made or guaranteed by RUS.

The standard loan agreement between RUS and its borrowers provides that, in accordance with applicable RUS regulations, the borrower shall use standard forms of contracts promulgated by RUS for construction, procurement, engineering services, and architectural services financed by a loan made or guaranteed by RUS. See section 5.16 of appendix A to subpart C to part 1718. RUS currently implements these provisions of its loan agreement through parts 1724 and 1726 which generally prescribe when and how borrowers are required to use RUS standard form contracts and identify the standard contract forms to be used. Title 7 CFR part 1724 covers engineering and architectural services contract forms, and 7 CFR part 1726 covers construction and procurement contract forms.

The required standard contract forms currently are published in full text format in title 7 of the CFR (see, e.g.,

§§ 1724.74–1724.76 and § 1726.312–1726.352.) RUS also publishes forms of contracts which serve as guidance to borrowers and which borrowers may use at their discretion. All of these forms are available, in a format suitable for use as a contract, from RUS or the Government Printing Office (GPO), as provided in § 1724.70 and § 1726.300. If an RUS borrower is required by part 1724 or 1726 to use a form of contract, the borrower must use the contract form in that format available from RUS or GPO. RUS believes that the current system of publishing the complete text of the contract forms in the CFR is unnecessary and that, consistent with the agency's objective to streamline regulatory text and to provide borrowers with a user friendly regulatory system, the complete text of the required contract forms should no longer be published in the CFR.

Rather than publish the complete text of the standard contract forms in the CFR, RUS will identify in § 1724.74 and § 1726.304 all required contract forms by number, issue date, name, purpose, and source. To the extent that RUS may be required to publish its forms of contract pursuant to section 552(a) of the Administrative Procedure Act (APA) (5 U.S.C. 552(a)) or otherwise, such requirement is met by the identification of the standard contract forms in parts 1724 and 1726. Moreover, RUS provides all borrowers with actual notice of the forms of contract they are required to use in contracting. As the rule states in § 1724.73 and § 1726.303, upon initially entering into a loan agreement with RUS, borrowers are provided with copies of contract forms. Thereafter, should RUS promulgate new or revised standard contract form(s), following the procedures discussed below, RUS will revise the list of standard forms as set forth in § 1724.74 or § 1726.304 or both and send the new or revised standard forms to all affected borrowers by regular or electronic mail. Borrowers, as well as the public, can obtain copies of all standard contract forms from RUS or GPO.

In addition to identifying standard forms and eliminating full publication of the text of each standard contract form in the CFR, RUS will clarify the procedures that will be followed when RUS promulgates a new or revised standard contract form. To the extent that RUS is required by section 553 of the APA (5 U.S.C. 553) or otherwise to provide notice in the FR and an opportunity for public comment in promulgating standard contract forms, RUS will publish a FR notice of rulemaking announcing, as appropriate, a revision in, or a proposal to revise the

list of standard contract forms set forth in sections 1724.74 or 1726.304 or both. The revision may change the existing list by, for example, identifying a new required contract form or changing the issuance date of a listed form. The supplementary information section of the FR notice will describe the substantive change in the identified standard contract form and may append the standard contract form or relevant portions thereof. As appropriate, the notice will provide an opportunity for interested persons to provide comments. A copy of each such **Federal Register** notice will be sent by regular or electronic mail to all borrowers.

Finally, this final rule clarifies certain aspects of the requirement that borrowers use RUS standard forms of contract. Absent a waiver by RUS, borrowers are required to use those standard forms in effect as of the date the borrower issues bid package to bidders. Borrowers can determine the appropriate standard form based on the issuance date of the form as identified by the most recently published list set forth in § 1724.74 and § 1726.304. RUS may waive for good cause, on a case by case basis, the requirement to use RUS standard forms of contracts pursuant to procedures set forth in the regulation. A failure on the part of the borrower to use standard forms of contracts as prescribed in parts 1724 or 1726 is a violation of the terms of its loan agreement with RUS and RUS may exercise any and all remedies available under the terms of the agreement or otherwise. Consistent with the changes discussed above, RUS is amending those sections of existing regulations that currently set forth the full text of contracts for the purpose of deleting such text. Deletion of the full text from the CFR will not affect the requirement that borrowers use the prescribed forms of contracts. The rule also relocates and makes minor revisions to information regarding contractors bonds and interest on overdue accounts.

List of Subjects

7 CFR Part 1724

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

7 CFR Part 1726

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

Accordingly, 7 CFR Chapter XVII is amended as follows:

PART 1724—ELECTRIC ENGINEERING, ARCHITECTURAL SERVICES AND DESIGN POLICIES AND PROCEDURES

1. The authority citation for part 1724 continues to read as follows:

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

2. Section 1724.3 is amended by adding definitions in alphabetical order to read as follows:

§ 1724.3 Definitions.

* * * * *

GPO means Government Printing Office.

* * * * *

RE Act means the Rural Electrification Act of 1936 as amended (7 U.S.C. 901 *et seq.*).

RUS means Rural Utilities Service

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3. Section 1724.10 is added to subpart A to read as follows:

§ 1724.10 Standard forms of contracts for borrowers.

The standard loan agreement between RUS and its borrowers provides that, in accordance with applicable RUS regulations in this chapter, the borrower shall use standard forms of contracts promulgated by RUS for construction, procurement, engineering services, and architectural services financed by a loan made or guaranteed by RUS. This part implements these provisions of the RUS loan agreement. Subparts A through E of this part prescribe when and how borrowers are required to use RUS standard forms of contracts for engineering and architectural services. Subpart F of this part prescribes the procedures that RUS follows in promulgating standard contract forms and identifies those contract forms that borrowers are required to use for engineering and architectural services.

4. Section 1724.70 is revised to read as follows:

§ 1724.70 Standard forms of contracts for borrowers.

(a) *General.* The standard loan agreement between RUS and its borrowers provides that, in accordance with applicable RUS regulations in this chapter, the borrower shall use standard forms of contract promulgated by RUS for construction, procurement, engineering services, and architectural services financed by a loan made or guaranteed by RUS. (See section 5.16 of appendix A to subpart C of part 1718 of this chapter.) This subpart prescribes RUS procedures in promulgating electric program standard contract forms

and identifies those forms that borrowers are required to use.

(b) *Contract forms.* RUS promulgates standard contract forms, identified in the List of Required Contract Forms, § 1724.74(c), that borrowers are required to use in accordance with the provisions of this part. In addition, RUS promulgates standard contract forms identified in the List of Guidance Contract Forms contained in § 1724.74(c) that the borrowers may but are not required to use in the planning, design, and construction of their electric systems. Borrowers are not required to use these guidance contract forms in the absence of an agreement to do so.

5. Section 1724.71 is revised to read as follows:

§ 1724.71 Borrower contractual obligations.

(a) *Loan agreement.* As a condition of a loan or loan guarantee under the RE Act, borrowers are normally required to enter into RUS loan agreements pursuant to which the borrower agrees to use RUS standard forms of contracts for construction, procurement, engineering services and architectural services financed in whole or in part by the RUS loan. Normally, this obligation is contained in section 5.16 of the loan contract. To comply with the provisions of the loan agreements as implemented by this part, borrowers must use those forms of contract (hereinafter sometimes called "listed contract forms") identified in the List of Required Standard Contract Forms contained in § 1724.74(c).

(b) *Compliance.* If a borrower is required by this part to use a listed contract form, the borrower shall use the listed contract form in the format available from RUS. The forms shall not be retyped, changed, modified, or altered in any manner not specifically authorized in this part or approved by RUS in writing. Any modifications approved by RUS must be clearly shown so as to indicate the difference from the listed contract form. Electronic reproduction is not acceptable.

(c) *Amendment.* Where a borrower has entered into a contract in the form required by this part, no change may be made in the terms of the contract, by amendment, waiver or otherwise, without the prior written approval of RUS.

(d) *Waiver.* RUS may waive for good cause, on a case by case basis, the requirements imposed on a borrower pursuant to this part. Borrowers seeking a waiver by RUS must provide RUS with a written request explaining the need for the waiver.

(e) *Violations.* A failure on the part of the borrower to use listed contracts as prescribed in this part is a violation of the terms of its loan agreement with RUS and RUS may exercise any and all remedies available under the terms of the agreement or otherwise.

6. Section 1724.72 is added to read as follows:

§ 1724.72 Notice and publication of listed contract forms.

(a) *Notice.* Upon initially entering into a loan agreement with RUS, borrowers will be provided with all listed contract forms. Thereafter, new or revised listed contract forms promulgated by RUS, including RUS approved exceptions and alternatives, will be sent by regular or electronic mail to the address of the borrower as identified in its loan agreement with RUS.

(b) *Availability.* Listed contract forms are published by RUS. Interested parties may obtain the forms from: Rural Utilities Service, Program Development and Regulatory Analysis, U.S. Department of Agriculture, Stop 1522, 1400 Independence Avenue, SW, Stop 1522, Washington, DC 20250-1522, telephone number (202) 720-8674. The list of contract forms can be found in § 1724.74(c), List of Required Contract Forms.

7. Section 1724.73 is added to read as follows:

§ 1724.73 Promulgation of new or revised contract forms.

RUS may, from time to time, undertake to promulgate new contract forms or revise or eliminate existing contract forms. In so doing, RUS shall publish notice of rulemaking in the **Federal Register** announcing, as appropriate, a revision in, or a proposal to amend § 1724.74, List of Electric Program Standard Contract Forms. The amendment may change the existing identification of a listed contract form; for example, changing the issuance date of a listed contract form or by identifying a new required contract form. The notice of rulemaking will describe the new standard contract form or the substantive change in the listed contract form, as the case may be, and the issues involved. The standard contract form or relevant portions thereof may be appended to the supplementary information section of the notice of rulemaking. As appropriate, the notice of rulemaking shall provide an opportunity for interested persons to provide comments. A copy of each such **Federal Register** document shall be sent by regular or electronic mail to all borrowers.

8. Section 1724.74 is revised to read as follows:

§ 1724.74 List of electric program standard contract forms.

(a) *General.* The following is a list of RUS electric program standard contract forms for architectural and engineering services. Paragraph (c) of this section contains the list of required contract forms, *i.e.*, those forms of contracts that borrowers are required to use by the terms of their RUS loan agreements as implemented by the provisions of this part. Paragraph (d) of this section contains the list of guidance contract forms, *i.e.*, those forms of contracts provided as guidance to borrowers in the planning, design, and construction of their systems. All of these forms are available from RUS. See § 1724.72(b) for availability of these forms.

(b) *Issuance date.* Where required by this part to use a standard form of contract in connection with RUS financing, the borrower shall use that form identified by issuance date in the List of Required Contract Forms in paragraph (c) of this section, as most recently published as of the date the borrower executes the contract.

(c) *List of required contract forms.* (1) RUS Form 211, Rev. 6-98, Engineering Service Contract for the Design and Construction of a Generating Plant. This form is used for engineering services for generating plant construction.

(2) RUS Form 220, Rev. 6-98, Architectural Services Contract. This form is used for architectural services for building construction.

(3) RUS Form 236, Rev. 6-98, Engineering Service Contract—Electric System Design and Construction. This form is used for engineering services for distribution, transmission, substation, and communications and control facilities.

(d) *List of guidance contract forms.* (1) RUS Form 179, Rev. 9-66, Architects and Engineers Qualifications. This form is used to document architects and engineers qualifications.

(2) RUS Form 215, Rev. 5-67, Engineering Service Contract—System Planning. This form is used for engineering services for system planning.

(3) RUS Form 234, Rev. 3-57, Final Statement of Engineering Fee. This form is used for the closeout of engineering services contracts.

(4) RUS Form 241, Rev. 3-56, Amendment of Engineering Service Contract. This form is used for amending engineering service contracts.

(5) RUS Form 244, Rev. 12-55, Engineering Service Contract—Special

Services. This form is used for miscellaneous engineering services.

(6) RUS Form 258, Rev. 4-58, Amendment of Engineering Service Contract—Additional Project. This form is used for amending engineering service contracts to add an additional project.

(7) RUS Form 284, Rev. 2-84, Final Statement of Cost for Architectural Service. This form is used for the closeout of architectural services contracts.

(8) RUS Form 297, Rev. 12-55, Engineering Service Contract—Retainer for Consultation Service. This form is used for engineering services for consultation service on a retainer basis.

(9) RUS Form 459, Rev. 9-58, Engineering Service Contract—Power Study. This form is used for engineering services for power studies.

§§ 1724.75 and 1724.76 [Removed and Reserved]

9. Sections 1724.75 and 1724.76 are removed and reserved.

PART 1726—ELECTRIC SYSTEM CONSTRUCTION POLICIES AND PROCEDURES

10. The authority citation for part 1726 is revised to read as follows:

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

11. Section 1726.24 is amended by revising the section heading and paragraph (a) to read as follows:

§ 1726.24 Standard forms of contracts for borrowers.

(a) *General.* The standard loan agreement between RUS and the borrowers provides that, in accordance with applicable RUS regulations in this chapter, the borrower shall use standard forms of contracts promulgated by RUS for construction, procurement, engineering services, and architectural services financed by a loan made or guaranteed by RUS. This part implements these provisions of the RUS loan agreement. Subparts A through H and J of this part prescribe when and how borrowers are required to use RUS standard forms of contracts in procurement and construction. Subpart I of this part prescribes the procedures that RUS follows in promulgating standard contract forms and identifies those contract forms that borrowers are required to use for procurement and construction.

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12. Section 1726.26 is added to read as follows:

§ 1726.26 Interest on overdue accounts.

Certain RUS contract forms contain a provision concerning payment of interest on overdue accounts. Prior to issuing the invitation to bidders, the borrower must insert an interest rate equal to the lowest “Prime Rate” listed in the “Money Rates” section of the Wall Street Journal on the date such invitation to bid is issued. If no prime rate is published on that date, the last such rate published prior to that date must be used. The rate must not, however, exceed the maximum rate allowed by any applicable state law.

13. Section 1726.27 is added to read as follows:

§ 1726.27 Contractor's bonds.

(a) RUS Form 168b, Contractor's Bond, shall be used when a contractor's bond is required by RUS Forms 200, 201, 203, 257, 764, 786, 790, 792, 830, or 831 unless the contractor's surety has accepted a Small Business Administration guarantee and the contract is for \$1 million or less.

(b) RUS Form 168c, Contractor's Bond, shall be used when a contractor's bond is required by RUS Form 200, 201, 203, 257, 764, 786, 790, 792, 830, or 831 and the contractor's surety has accepted a Small Business Administration guarantee and the contract is for \$1 million or less.

(c) Surety companies providing contractor's bonds shall be listed as acceptable sureties in the U.S. Department of the Treasury Circular No. 570, Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies. Copies of the circular and interim changes may be obtained directly from the Government Printing Office (202) 512-1800. Interim changes are published in the **Federal Register** as they occur. The list is also available through the Internet at <http://www.fms.treas.gov/c570/index.html> and on the Department of the Treasury's computerized public bulletin board at (202) 874-6887.

14. Section 1726.300 is revised to read as follows:

§ 1726.300 Standard forms of contracts for borrowers.

(a) *General.* The standard loan agreement between RUS and its borrowers provides that, in accordance with applicable RUS regulations in this chapter, the borrower shall use standard forms of contract promulgated by RUS for construction, procurement, engineering services, and architectural services financed by a loan made or guaranteed by RUS. (See section 5.16 of appendix A to subpart C of part 1718 of

this chapter.) This subpart prescribes RUS procedures in promulgating standard contract forms and identifies those forms that borrowers are required to use.

(b) *Contract forms.* RUS promulgates standard contract forms, identified in the List of Required Contract Forms, § 1726.304(c), that borrowers are required to use in accordance with the provisions of this part. In addition, RUS promulgates standard contract forms contained in § 1726.304(d) that the borrowers may but are not required to use in the construction of their electric systems. Borrowers are not required to use these guidance contract forms in the absence of an agreement to do so.

15. Section 1726.301 is revised to read as follows:

§ 1726.301 Borrower contractual obligations.

(a) *Loan agreement.* As a condition of a loan or loan guarantee under the Rural Electrification Act, borrowers are normally required to enter into RUS loan agreements pursuant to which the borrower agrees to use RUS standard forms of contracts for construction, procurement, engineering services and architectural services financed in whole or in part by the RUS loan. Normally, this obligation is contained in section 5.16 of the loan contract. To comply with the provisions of the loan agreements as implemented by this part, borrowers must use those forms of contract (hereinafter sometimes called “listed contract forms”) identified in the List of Required Contract Forms, § 1724.304(c).

(b) *Compliance.* If a borrower is required by this part or by the loan agreement to use a listed contract form, the borrower shall use the listed contracts in the format available from RUS or GPO. The forms shall not be retyped, changed, modified, or altered in any manner not specifically authorized in this part or approved by RUS in writing. Any modifications approved by RUS must be clearly shown so as to indicate the difference from the listed contract form. Electronic reproduction is not acceptable except where indicated in § 1726.304(c).

(c) *Amendment.* Where a borrower has entered into a contract in the form required by this part, no change may be made in the terms of the contract, by amendment, waiver or otherwise, without the prior written approval of RUS.

(d) *Waiver.* RUS may waive for good cause, on a case by case basis, the requirements imposed on a borrower pursuant to this part. Borrowers seeking a waiver by RUS must provide RUS

with a written request explaining the need for the waiver. Waiver requests should be made prior to issuing the bid package to bidders.

(e) *Violations.* A failure on the part of the borrower to use listed contracts as prescribed in this part is a violation of the terms of its loan agreement with RUS and RUS may exercise any and all remedies available under the terms of the agreement or otherwise.

16. Section 1726.302 is revised to read as follows:

§ 1726.302 Notice and publication of listed contract forms.

(a) *Notice.* Upon initially entering into a loan agreement with RUS, borrowers will be provided with all listed contract forms. Thereafter, new or revised listed contract forms promulgated by RUS, including RUS approved exceptions and alternatives, will be sent by regular or electronic mail to the address of the borrower as identified in its loan agreement with RUS.

(b) *Availability.* Listed contract forms are available from either RUS or the Government Printing Office (GPO), as indicated in § 1726.304. Interested parties may obtain the forms from: Rural Utilities Service, Program Development and Regulatory Analysis, U.S. Department of Agriculture, Stop 1522, 1400 Independence Avenue, SW, Washington DC 20250-1522, telephone number (202) 720-8674, or the Superintendent of Documents, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954, telephone number (202) 512-1800. The listed contract forms can be found in § 1724.304(c), List of Required Contract Forms.

17. Section 1726.303 is revised to read as follows:

§ 1726.303 Promulgation of new or revised contract forms.

RUS may, from time to time, undertake to promulgate new contract forms or revise or eliminate existing contract forms. In so doing, RUS shall publish notice of rulemaking in the **Federal Register** announcing, as appropriate, a revision in, or a proposal to amend § 1726.304, List of Electric Program Standard Contract Forms. The amendment may change the existing identification of a listed contract form; for example, changing the issuance date of a listed contract form or by identifying a new required contract form. The notice of rulemaking will describe the new standard contract form or the substantive change in the listed contract form, as the case may be, and the issues involved. The standard contract form or relevant portions thereof may be appended to the

supplementary information section of the notice of rulemaking. As appropriate, the document shall provide an opportunity for interested persons to provide comments. A copy of each such **Federal Register** document will be sent by regular or electronic mail to all borrowers.

18. Section 1726.304 is added to read as follows:

§ 1726.304 List of electric program standard contract forms.

(a) *General.* This section contains a list of RUS electric program standard contract forms. Paragraph (c) of this section contains the list of required contract forms, *i.e.*, those forms of contracts that borrowers are required to use by the terms of their RUS loan agreements as implemented by the provisions of this part. Paragraph (d) of this section sets forth the list of guidance contract forms, *i.e.*, those forms of contracts provided as guidance to borrowers in the construction of their systems. See § 1726.302(b) for availability of these forms.

(b) *Issuance date.* Where required by this part to use a standard form of contract in connection with RUS financing, the borrower shall use that form identified by issuance date in the List of Required Contract Forms in paragraph (c) of this section, as most recently published as of the date the borrower issues the bid package to bidders.

(c) *List of required contract forms.* (1) RUS Form 168b, Rev. 2-95, Contractor's Bond. This form is used to obtain a surety bond and is included in RUS Forms 200, 201, 203, 257, 764, 786, 790, 792, 830, and 831.

(2) RUS Form 168c, Rev. 2-95, Contractor's Bond (less than \$1 million). This form is used in lieu of RUS Form 168b to obtain a surety bond when contractor's surety has accepted a Small Business Administration guarantee. This form is available from RUS.

(3) RUS Form 180, Rev. 2-95, Construction Contract Amendment. This form is used to amend distribution line construction contracts. This form is available from RUS.

(4) RUS Form 181, Rev. 2-95, Certificate of Completion, Contract Construction for Buildings. This form is used for the closeout of RUS Form 257. This form is available from RUS.

(5) RUS Form 187, Rev. 2-95, Certificate of Completion, Contract Construction. This form is used for the closeout of and is included in RUS Forms 200, 203, 764, 786, 830, and 831.

(6) RUS Form 198, Rev. 2-95, Equipment Contract. This form is used

for equipment purchases. This form is available from RUS.

(7) RUS Form 200, Rev. 2-95, Construction Contract—Generating. This form is used for generating plant construction or for the furnishing and installation of major items of equipment. This form is available from RUS.

(8) RUS Form 201, Rev. 2-95, Right-of-Way Clearing Contract. This form is used for distribution line right-of-way clearing work which is to be performed separate from line construction. This form is available from RUS.

(9) RUS Form 203, Rev. 2-95, Transmission System Right-of-Way Clearing Contract. This form is used for transmission right-of-way clearing work which is to be performed separate from line construction. This form is available from RUS.

(10) RUS Form 213, Rev. 2-95, Certificate ("Buy American"). This form is used to document compliance with the "Buy American" requirement. This form is available from RUS.

(11) RUS Form 224, Rev. 2-95, Waiver and Release of Lien. This form is used for the closeout of and is included in RUS Forms 200, 203, 764, 786, 830, and 831.

(12) RUS Form 231, Rev. 2-95, Certificate of Contractor. This form is used for the closeout of and is included in RUS Forms 200, 203, 764, 786, 830, and 831.

(13) RUS Form 238, Rev. 2-95, Construction or Equipment Contract Amendment. This form is used to amend contracts except distribution line construction contracts. This form is available from RUS.

(14) RUS Form 251, Rev. 2-95, Material Receipt. This form is used to document receipt of owner furnished materials and is included in RUS Forms 764, 830, and 831. Electronic reproduction is acceptable for RUS Form 251.

(15) RUS Form 254, Rev. 2-95, Construction Inventory. This form is used for the closeout of RUS Forms 203, 764, 830, and 831. This form is available from RUS. Electronic reproduction is acceptable for RUS Form 254.

(16) RUS Form 257, Rev. 2-95, Contract to Construct Buildings. This form is used to construct headquarters buildings and other structure construction. This form is available from GPO.

(17) RUS Form 307, Rev. 2-95, Bid Bond. This form is used to obtain a bid bond and is included in RUS Forms 200, 203, 257, 764, 830, and 831.

(18) RUS Form 764, Rev. 2-95, Substation and Switching Station Erection Contract. This form is used to

construct substations and switching stations. This form is available from RUS.

(19) RUS Form 786, Rev. 2-95, Electric System Communications and Control Equipment Contract. This form is used for delivery and installation of equipment for system communications. This form is available from RUS.

(20) RUS Form 790, Rev. 2-95, Distribution Line Extension Construction Contract (Labor and Materials). This form is used for limited distribution construction accounted for under work order procedure. This form is available from GPO.

(21) RUS Form 792, Rev. 2-95, Distribution Line Extension Construction Contract (Labor Only). This form is used for limited distribution construction accounted for under work order procedure. This form is available from GPO.

(22) RUS Form 792b, Rev. 2-95, Certificate of Construction and Indemnity Agreement. This form is used for the closeout of and is included in RUS Forms 201, 790, 792.

(23) RUS Form 792c, Rev. 2-95, Supplemental Contract for Additional Project. This form is used to amend other contracts and is included in RUS Forms 201, 790, 792.

(24) RUS Form 830, Rev. 2-95, Electric System Construction Contract (Labor and Materials). This form is used for distribution and transmission line project construction. This form is available from GPO.

(25) RUS Form 831, Rev. 2-95, Electric Transmission Construction Contract (Labor and Materials). This form is used for transmission line project construction. This form is available from GPO.

(d) *List of guidance contract forms.* (1) RUS Form 172, Rev. 9-58, Certificate of Inspection, Contract Construction. This form is used to notify RUS that construction is ready for inspection. This form is available from RUS.

(2) RUS Form 173, Rev. 3-55, Materials Contract. This form is used for distribution, transmission, and general plant material purchases. This form is available from RUS.

(3) RUS Form 274, Rev. 6-81, Bidder's Qualifications. This form is used to document bidder's qualifications. This form is available from RUS.

(4) RUS Form 282, Rev. 11-53, Subcontract. This form is used for subcontracting. This form is available from RUS.

(5) RUS Form 458, Rev. 3-55, Materials Contract. This form is used to obtain generation plant material and equipment purchases not requiring

acceptance tests at the project site. This form is available from RUS.

§§ 1726.310—1726.352 [Removed and Reserved]

18. Sections 1726.310 through 1726.352 are removed and reserved.

Dated: October 23, 1998.

Jill Long Thompson,

Under Secretary, Rural Development.

[FR Doc. 98-29131 Filed 10-29-98; 8:45 am]

BILLING CODE 3410-15-P

DEPARTMENT OF ENERGY

10 CFR Part 1003

RIN 1901-AA55

Amendments to Office Of Hearings and Appeals Procedural Regulations

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) adopts several minor technical amendments to its procedural regulations governing most proceedings before the Office of Hearings and Appeals (OHA), a quasi-judicial branch of the DOE, pertaining to matters within the jurisdiction of that Office. These amendments adjust OHA's procedural regulations to reflect the physical relocation of its public reference room and a change of the public reference room's business hours. In addition, these regulatory amendments implement OHA's new policy of publishing certain information on its Internet World Wide Web site rather than publishing that information in the **Federal Register**.

DATES: This rule is effective November 30, 1998.

FOR FURTHER INFORMATION CONTACT: Steven L. Fine, Attorney-Examiner, or Robert B. Palmer, Attorney-Examiner, Office of Hearings and Appeals, U.S. Department of Energy 1000, Independence Avenue, SW., Washington, DC 20585-0107, Telephone: (202) 426-1449, Internet: steven.fine@hq.doe.gov and robert.palmer@hq.doe.gov.

SUPPLEMENTARY INFORMATION:

I. Discussion

These regulatory amendments result from OHA's continuing reinvention efforts. In order to serve the public more efficiently, the OHA has consolidated all of its operations in one work space. Previously, OHA's operations were conducted at three locations in two separate buildings. This consolidation

has required the relocation of OHA's Public Reference Room from the Forrestal Building, 1000 Independence Ave., S.W., Washington, D.C., to 950 L'Enfant Plaza, Washington, D.C. In addition, OHA has determined that significant cost savings could be achieved by discontinuing OHA's current practice of publishing certain information in the **Federal Register**.

Instead, OHA will publish this information on its Internet web site at www.oha.doe.gov. By placing this information on the Internet, OHA will be making it more accessible to the majority of Americans, while conserving economic and natural resources. These rules are merely technical in nature and do not effect any substantive changes in the existing regulations.

II. Procedural Requirements

A. Executive Order 12866

Today's regulatory action has been determined not to be a "significant regulatory action" under Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993). Accordingly, today's action was not subject to review under the Executive Order by the Office of Information and Regulatory Affairs.

B. Executive Order 12612

Executive Order 12612 requires that regulations or rules be reviewed for direct effects on States, on the relationship between the national government and the States, or in the distribution of power among various levels of government. If there are sufficient substantial direct effects, then Executive Order 12612 requires preparation of a federalism assessment to be used in all decisions involved in promulgating or implementing a regulation or rule. Today's regulations do not affect any traditional State function. There are therefore no substantial direct effects requiring evaluation or assessment under Executive Order 12612.

C. Regulatory Flexibility Analysis

With regard to regulations for which a general notice of proposed rulemaking is required by law, the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of a regulatory flexibility analysis unless the issuing agency certifies that the regulations will not have a significant economic impact on a substantial number of small entities. This action only effects minor technical changes in existing procedural regulations, and under the Administrative Procedure Act, such regulations are excepted from the