

**DEPARTMENT OF AGRICULTURE****Rural Utilities Service****7 CFR Part 1710****RIN 0572-AB05****Load Forecasts****AGENCY:** Rural Utilities Service, USDA.**ACTION:** Final rule.

**SUMMARY:** The Rural Utilities Service (RUS) is amending its regulations to revise requirements for borrower load forecasts and load forecast work plans (historically referred to as power requirements studies and power requirements study work plans). These changes reduce the level of detail required in load forecasts filed by small power supply borrowers and their members and by distribution borrowers unaffiliated with a large power supply borrower. These changes also give borrowers greater flexibility in preparation of load forecasts required to be submitted to RUS.

**EFFECTIVE DATE:** April 19, 2000.**FOR FURTHER INFORMATION CONTACT:**

Georg A. Shultz, Chief, Energy Forecasting Branch, Electric Staff Division, Rural Utilities Service, U.S. Department of Agriculture, 1400 Independence Ave., SW., Room 1246-SBldg., STOP 1569, Washington, DC 20250-1569, telephone number: (202) 720-1920, fax: (202) 720-7491, E-mail: gshultz@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 Office of Management and Budget (OMB).

**Executive Order 12372**

This rule is excluded from the scope of Executive Order 12372, Intergovernmental Consultation, which may require consultation with State, and tribal governments or the private sector. See the final rule related notice entitled "Department Programs and Activities Excluded from Executive Order 12372," (50 FR 47034).

**Executive Order 12988**

This 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 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 a 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, receive 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 this rule under the Paperwork Reduction Act of 1993 (44 U.S.C. chapter 35) and assigned control number 0572-0032.

**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 No. 10.850, Rural Electrification Loans and Loan Guarantees. This catalog is available on a subscription basis from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402-9325. Telephone: (202) 512-1800.

**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 rule is not subject to the requirements of section 202 and 205 of the Unfunded Mandates Reform Act of 1995.

**Background**

The Rural Utilities Service (RUS) makes and guarantees loans to furnish and improve electric service in rural areas pursuant to the Rural Electrification Act of 1936. (7 U.S.C. 901 *et seq.*) (RE Act). Under the RE Act, RUS may make or guarantee a loan only if the Administrator determines that the security for the loan is reasonably adequate and that the loan will be repaid within the time agreed. Most borrowers apply for a new loan to meet system needs every two to three years. The security for these loans is generally a first lien on the borrower's electric system, evidenced through the filing of a mortgage. In order to determine the feasibility of a new loan and whether borrowers will have sufficient revenues to repay existing loans, RUS requires most borrowers to file load forecasts, historically called "power requirements studies" by RUS, containing current and detailed information and analyses on existing and expected future loads. Detailed information from the load forecasts are used in RUS' independent analysis and oversight of borrower systems.

RUS regulations on the preparation and approval of power requirements studies and power requirements work plans, contained at 7 CFR part 1710, subpart E, were last revised in 1992, at 57 FR 1053 and 57 FR 4513. Since then, the business and regulatory environment in the electric industry has undergone rapid change. State regulatory agencies, power supply systems, power pools, and other entities are modifying their power planning processes and requirements in the light of competitive changes in the industry. Even greater transformations lie ahead as many states move to adopt retail competition. In the years since the existing regulations were adopted, both RUS and our borrowers have gained greater familiarity with the development and use of load forecasts, and supporting analyses and data and the experience and sophistication of RUS financed systems have increased.

In response to changes in the industry and the Administration's ongoing commitment to improving customer service, RUS has amended a number of its regulations and practices involving its oversight of borrower systems to update and streamline these requirements. This regulation is part of RUS' continuing effort to improve customer service.

This final rule implements recommendations to modify load forecast requirements which arose out of the RUS strategic planning process.

These changes simplify the procedure and minimize the detail of information RUS needs for loan feasibility determinations. The revisions to the existing rule balance RUS' continuing need to maintain current up-to-date load forecast information for electric borrowers with its goal of reducing regulatory requirements and burdens on borrowers.

In the usual course of business, all prudent utilities engage in a continuing planning process incorporating objective load forecasts in order to provide reliable electric service for their existing and future customers. Borrowers submit their load forecasts and load forecast work plans to RUS in order to provide the necessary support for RUS approval of loans and a basis for RUS to monitor future borrower performance for loan security purposes. This rule modifies the existing requirements and reduce the number of borrower systems required to maintain current load forecasts on file with RUS. These changes allow borrowers greater flexibility in preparation of the load forecasts and supporting information submitted to RUS and will reduce burdens on both borrowers and the RUS electric program.

#### Comments

RUS received comments from two commenters to the proposed regulation published in the **Federal Register** on July 7, 1999, at 64 FR 36609. One commenter maintained that it was inappropriate for RUS to reduce its oversight of rural electric borrowers. In response to this comment RUS notes that most distribution borrowers and all power supply borrowers are required by the regulation to submit a separate and current load forecast when requesting a loan or loan guarantee. In addition, borrowers requesting relatively small loans must submit their load data and supporting material as part of their financial forecast. Because of the small size of the loans relative to the borrower's total utility plant, RUS believes that a detailed load forecast is not needed to evaluate a borrower's request. Power supply borrowers are required to submit a detailed load forecast but are not required to incorporate their member forecasts. Large power supply borrowers must provide a detailed forecast incorporating their member forecasts. RUS believes that this approach provides the agency with adequate decision support for the type and magnitude of the loans and guarantees under consideration. No changes in the proposed regulation are required.

The second commenter was a power supply borrower that had questions regarding what type forecast was necessary for members of a large power supply borrower that are not RUS borrowers. RUS believes that for a load forecast to be valid it must address 100 percent of the borrowers anticipated load. It is incumbent on the borrower to determine what constitutes an appropriate forecast. No changes in the proposed regulation are required.

#### List of Subjects 7 CFR Part 1710

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

For the reasons set out in the preamble, RUS amends 7 CFR chapter XVII as follows:

#### PART 1710—GENERAL AND PRE-LOAN POLICIES AND PROCEDURES COMMON TO INSURED AND GUARANTEED ELECTRIC LOANS

1. The authority citation for part 1710 is revised to read as follows:

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

2. Section 1710.2(a) is amended by revising the definition of *Power requirements study (PRS)* and by adding the remaining definitions in alphabetical order:

#### § 1710.2 Definitions and rules of construction.

\* \* \* \* \*

*Approved load forecast* means a load forecast that RUS has determined is current for RUS purposes and has been approved by RUS pursuant to 7 CFR part 1710, subpart E.

*Approved load forecast work plan* means a load forecast work plan that RUS has determined is current for RUS' purposes and has been approved pursuant to 7 CFR part 1710, subpart E.

\* \* \* \* \*

*Load forecast* means the thorough study of a borrower's electric loads and the factors that affect those loads in order to determine, as accurately as practicable, the borrower's future requirements for energy and capacity.

*Load forecast work plan* means the plan that contains the resources, methods, schedules, and milestones to be used in the preparation and maintenance of a load forecast.

\* \* \* \* \*

*Power requirements study (PRS)* has the same meaning as load forecast.

\* \* \* \* \*

*PRS work plan* has the same meaning as load forecast work plan.

\* \* \* \* \*

3. Revise § 1710.152(a) to read as follows:

#### § 1710.152 Primary Support Documents.

\* \* \* \* \*

(a) *Load forecast.* The load forecast provides the borrower and RUS with an understanding of the borrower's future system loads, the factors influencing those loads, and estimates of future loads. The load forecast provides a basis for projecting annual electricity (kWh) sales and revenues, and for engineering estimates of plant additions required to provide reliable service to meet the forecasted loads. Subpart E of this part contains the information to be included in a load forecast and when an approved load forecast is required.

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4. Revise subpart E of part 1710 to read as follows:

#### Subpart E—Load Forecasts

Sec.

1710.200 Purpose.

1710.201 General.

1710.202 Requirement to prepare a load forecast—power supply borrowers.

1710.203 Requirement to prepare a load forecast—distribution borrowers.

1710.204 Filing requirements for borrowers that must maintain a current RUS approved load forecast on an ongoing basis.

1710.205 Minimum requirements for all borrower load forecasts.

1710.206 Requirements for load forecasts prepared pursuant to RUS approved load forecast work plans.

1710.207 RUS approval criteria for approval of load forecasts by distribution borrowers not required to maintain a current load forecast on an ongoing basis.

1710.208 RUS approval criteria for load forecasts submitted by all power supply borrowers and by distribution borrowers required to maintain a current load forecast on an ongoing basis.

1710.209 Requirements for load forecast work plans.

1710.210 Waiver of requirements or approval criteria.

1710.211–1710.249 [Reserved]

#### Subpart E—Load Forecasts

##### § 1710.200 Purpose.

This subpart contains RUS policies for the preparation, review, approval and use of load forecasts and load forecast work plans. A load forecast is a thorough study of a borrower's electric loads and the factors that affect those loads in order to estimate, as accurately as practicable, the borrower's future requirements for energy and capacity. The load forecast of a power supply borrower includes and integrates the load forecasts of its member systems. An approved load forecast, if required by

this subpart, is one of the primary documents that a borrower is required to submit to support a loan application.

#### **§ 1710.201 General.**

(a) The policies, procedures and requirements in this subpart are intended to implement provisions of the loan documents between RUS and the electric borrowers and are also necessary to support approval by RUS of requests for financial assistance.

(b) Notwithstanding any other provisions of this subpart, RUS may require any power supply or distribution borrower to prepare a new or updated load forecast for RUS approval or to maintain an approved load forecast on an ongoing basis, if such documentation is necessary for RUS to determine loan feasibility, or to ensure compliance under the loan documents.

#### **§ 1710.202 Requirement to prepare a load forecast—power supply borrowers.**

(a) A power supply borrower with a total utility plant of \$500 million or more must maintain an approved load forecast that meets the requirements of this subpart on an ongoing basis and provide an approved load forecast in support of any request for RUS financial assistance. The borrower must also maintain an approved load forecast work plan. The borrower's approved load forecast must be prepared pursuant to the approved load forecast work plan.

(b) A power supply borrower that is a member of another power supply borrower that has a total utility plant of \$500 million or more must maintain an approved load forecast that meets the requirements of this subpart on an ongoing basis and provide an approved load forecast in support of any request for RUS financial assistance. The member power supply borrower may comply with this requirement by participation in and inclusion of its load forecasting information in the approved load forecast of its power supply borrower. The approved load forecasts must be prepared pursuant to the RUS approved load forecast work plan.

(c) A power supply borrower that has total utility plant of less than \$500 million and that is not a member of another power supply borrower with a total utility plant of \$500 million or more must provide an approved load forecast that meets the requirements of this subpart in support of an application for any RUS loan or loan guarantee which exceeds \$50 million. The borrower is not required to maintain on an ongoing basis either an approved load forecast or an approved load forecast work plan.

#### **§ 1710.203 Requirement to prepare a load forecast—distribution borrowers.**

(a) A distribution borrower that is a member of a power supply borrower with a total utility plant of \$500 million or more must maintain an approved load forecast that meets the requirements of this subpart on an ongoing basis and provide an approved load forecast in support of any request for RUS financial assistance. The distribution borrower may comply with this requirement by participation in and inclusion of its load forecasting information in the approved load forecast of its power supply borrower. The distribution borrower's load forecast must be prepared pursuant to the approved load forecast work plan of its power supply borrower.

(b) A distribution borrower that is a member of a power supply borrower which is itself a member of another power supply borrower that has a total utility plant of \$500 million or more must maintain an approved load forecast that meets the requirements of this subpart on an ongoing basis and provide an approved load forecast in support of any request for RUS financial assistance. The distribution borrower may comply with this requirement by participation in and inclusion of its load forecasting information in the approved load forecast of its power supply borrower. The distribution borrower's approved load forecast must be prepared pursuant to the approved load forecast work plan of the power supply borrower with total utility plant in excess of \$500 million.

(c) A distribution borrower that is a member of a power supply borrower with a total utility plant of less than \$500 million must provide an approved load forecast that meets the requirements of this subpart in support of an application for any RUS loan or loan guarantee that exceeds \$3 million or 5 percent of total utility plant, whichever is greater. The distribution borrower may comply with this requirement by participation in and inclusion of its load forecasting information in the approved load forecast of its power supply borrower. The borrower is not required to maintain on an ongoing basis either an approved load forecast or an approved load forecast work plan.

(d) A distribution borrower with a total utility plant of less than \$500 million and that is unaffiliated with a power supply borrower must provide an approved load forecast that meets the requirements of this subpart in support of an application for any RUS loan or loan guarantee which exceeds \$3 million or 5 percent of total utility

plant, whichever is greater. The borrower is not required to maintain on an ongoing basis either an approved load forecast or an approved load forecast work plan.

(e) A distribution borrower with a total utility plant of \$500 million or more must maintain an approved load forecast that meets the requirements of this subpart on an ongoing basis and provide an approved load forecast in support of any request for RUS financing assistance. The borrower must also maintain an approved load forecast work plan. The distribution borrower may comply with this requirement by participation in and inclusion of its load forecasting information in the approved load forecast of its power supply borrower.

#### **§ 1710.204 Filing requirements for borrowers that must maintain an approved load forecast on an ongoing basis.**

(a) *Filing of load forecasts and updates.* A power supply or distribution borrower required to maintain an approved load forecast on an ongoing basis under § 1710.202 or § 1710.203 may elect either of the following two methods of compliance:

(1) Submitting a new load forecast to RUS for review and approval at least every 36 months, and then submitting updates to the load forecast to RUS for review and approval in each intervening year; or

(2) Submitting a new load forecast to RUS for review and approval not less frequently than every 24 months.

(b) *Extensions.* RUS may extend any time period required under this section for up to 3 months at the written request of the borrower's general manager. A request to extend a time period beyond 3 months must be accompanied by a written request from the borrower's general manager, an amendment to the borrower's approved load forecast work plan incorporating the extension, a board resolution approving the extension request and any amendment to the approved load forecast work plan, and any other relevant supporting information. RUS may extend the time periods contained in this section for up to 24 months.

#### **§ 1710.205 Minimum approval requirements for all load forecasts.**

(a) *Documents required for RUS approval of a borrower's load forecast.* The borrower must provide the following documents to obtain RUS approval for a load forecast:

(1) The load forecast and supporting documentation;

(2) A memorandum from the borrower's general manager to the board

of directors recommending that the board approve the load forecast and its uses; and

(3) A board resolution from the borrower's board of directors approving the load forecast and its uses.

(b) *Contents of Load Forecast.* All load forecasts submitted by borrowers for approval must include:

(1) A narrative describing the borrower's system, service territory, and consumers;

(2) A narrative description of the borrower's load forecast including future load projections, forecast assumptions, and the methods and procedures used to develop the forecast;

(3) Projections of usage by consumer class, number of consumers by class, annual system peak demand, and season of peak demand for the number of years agreed upon by RUS and the borrower;

(4) A summary of the year-by-year results of the load forecast in a format that allows efficient transfer of the information to other borrower planning or loan support documents;

(5) The load impacts of a borrower's demand side management activities, if applicable;

(6) Graphic representations of the variables specifically identified by management as influencing a borrower's loads; and

(7) A database that tracks all relevant variables that might influence a borrower's loads.

(c) *Formats.* RUS does not require a specific format for the narrative, documentation, data, and other information in the load forecast, provided that all required information is included and available. All data must be in a tabular form that can be transferred electronically to RUS computer software applications. RUS will evaluate borrower load forecasts for readability, understanding, filing, and electronic access. If a borrower's load forecast is submitted in a format that is not readily usable by RUS or is incomplete, RUS will require the borrower to submit the load forecast in a format acceptable to RUS.

(d) *Document retention.* The borrower must retain its latest approved load forecasts, and supporting documentation until RUS approval of its next load forecast. Any approved load forecast work plan must be retained as part of the approved load forecast.

(e) *Consultation with RUS.* The borrower must designate and make appropriate staff and consultants available for consultation with RUS to facilitate RUS review of the load forecast work plan and the load forecast when requested by RUS.

(f) *Correlation and consistency with other RUS loan support documents.* If a borrower relies on an approved load forecast or an update of an approved load forecast as loan support, the borrower must demonstrate that the approved load forecast and the other primary support documentation for the loan were reconciled. For example, both the load forecast and the financial forecast require input assumptions for wholesale power costs, distribution costs, other systems costs, average revenue per kWh, and inflation. Also, a borrower's engineering planning documents, such as the construction work plan, incorporate consumer and usage per consumer projections from the load forecast to develop system design criteria. The assumptions and data common to all the documents must be consistent.

(g) *Coordination.* Power supply borrowers and their members that are subject to the requirement to maintain an approved load forecast on an ongoing basis are required to coordinate preparation of their respective load forecasts, updates of load forecasts, and approved load forecast work plan. A load forecast of a power supply borrower must consider the load forecasts of all its member systems.

**§ 1710.206 Approval requirements for load forecasts prepared pursuant to approved load forecast work plans.**

(a) *Contents of load forecasts prepared under an approved load forecast work plan.* In addition to the minimum requirements for load forecasts under § 1710.205, load forecasts developed and submitted by borrowers required to have an approved load forecast work plan shall include the following:

(1) Scope of the load forecast. The narrative shall address the overall approach, time periods, and expected internal and external uses of the forecast. Examples of internal uses include providing information for developing or monitoring demand side management programs, supply resource planning, load flow studies, wholesale power marketing, retail marketing, cost of service studies, rate policy and development, financial planning, and evaluating the potential effects on electric revenues caused by competition from alternative energy sources or other electric suppliers. Examples of external uses include meeting state and Federal regulatory requirements, obtaining financial ratings, and participation in reliability council, power pool, regional transmission group, power supplier or member system forecasting and planning activities.

(2) Resources used to develop the load forecast. The discussion shall identify and discuss the borrower personnel, consultants, data processing, methods and other resources used in the preparation of the load forecast. The borrower shall identify the borrower's member and, as applicable, member personnel that will serve as project leaders or liaisons with the authority to make decisions and commit resources within the scope of the current and future work plans.

(3) A comprehensive description of the database used in the study. The narrative shall describe the procedures used to collect, develop, verify, validate, update, and maintain the data. A data dictionary thoroughly defining the database shall be included. The borrower shall make all or parts of the database available or otherwise accessible to RUS in electronic format, if requested.

(4) A narrative for each new load forecast or update of a load forecast discussing the methods and procedures used in the analysis and modeling of the borrower's electric system loads as provided for in the load forecast work plan.

(5) A narrative discussing the borrower's past, existing, and forecast of future electric system loads. The narrative must identify and explain substantive assumptions and other pertinent information used to support the estimates presented in the load forecast.

(6) A narrative discussing load forecast uncertainty or alternative futures that may determine the borrower's actual loads. Examples of economic scenarios, weather conditions, and other uncertainties that borrowers may decide to address in their analysis include:

- (i) Most-probable assumptions, with normal weather;
- (ii) Pessimistic assumptions, with normal weather;
- (iii) Optimistic assumptions, with normal weather;
- (iv) Most-probable assumptions, with severe weather;
- (v) Most-probable assumptions, with mild weather;
- (vi) Impacts of wholesale or retail competition; or
- (vii) new environmental requirements.

(7) A summary of the forecast's results on an annual basis. Include alternative futures, as applicable. This summary shall be designed to accommodate the transfer of load forecast information to a borrower's other planning or loan support documents. Computer-generated forms or electronic

submissions of data are acceptable. Graphs, tables, spreadsheets or other exhibits shall be included throughout the forecast as appropriate.

(8) A narrative discussing the coordination activities conducted between a power supply borrower and its members, as applicable, and between the borrower and RUS.

(b) *Compliance with an approved load forecast work plan.* A borrower required to maintain an approved load forecast work plan must also be able to demonstrate that both it and its RUS borrower members are in compliance with its approved load forecast work plan for the next load forecast or update of a load forecast.

**§ 1710.207 RUS criteria for approval of load forecasts by distribution borrowers not required to maintain an approved load forecast on an ongoing basis.**

Load forecasts submitted by distribution borrowers that are unaffiliated with a power supply borrower, or by distribution borrowers that are members of a power supply borrower that has a total utility plant less than \$500 million and that is not itself a member of another power supply borrower with a total utility plant of \$500 million or more must satisfy the following minimum criteria:

(a) The borrower considered all known relevant factors that influence the consumption of electricity and the known number of consumers served at the time the study was developed;

(b) The borrower considered and identified all loads on its system of RE Act beneficiaries and non-RE Act beneficiaries;

(c) The borrower developed an adequate supporting data base and considered a range of relevant assumptions; and

(d) The borrower provided RUS with adequate documentation and assistance to allow for a thorough and independent review.

**§ 1710.208 RUS criteria for approval of all load forecasts by power supply borrowers and by distribution borrowers required to maintain an approved load forecast on an ongoing basis.**

All load forecasts submitted by power supply borrowers and by distribution borrowers required to maintain an approved load forecast must satisfy the following criteria:

(a) The borrower objectively analyzed all known relevant factors that influence the consumption of electricity and the known number of customers served at the time the study was developed;

(b) The borrower considered and identified all loads on its system of RE

Act beneficiaries and non-RE Act beneficiaries;

(c) The borrower developed an adequate supporting database and analyzed a reasonable range of relevant assumptions and alternative futures;

(d) The borrower adopted methods and procedures in general use by the electric utility industry to develop its load forecast;

(e) The borrower used valid and verifiable analytical techniques and models;

(f) The borrower provided RUS with adequate documentation and assistance to allow for a thorough and independent review; and

(g) In the case of a power supply borrower required to maintain an approved load forecast on an ongoing basis, the borrower adequately coordinated the preparation of the load forecast work plan and load forecast with its member systems.

**§ 1710.209 Approval requirements for load forecast work plans.**

(a) In addition to the approved load forecast required under §§ 1710.202 and 1710.203, any power supply borrower with a total utility plant of \$500 million or more and any distribution borrower with a total utility plant of \$500 million or more must maintain an approved load forecast work plan. RUS borrowers that are members of a power supply borrower with a total utility plant of \$500 million or more must cooperate in the preparation of and submittal of the load forecast work plan of their power supply borrower.

(b) An approved load forecast work plan establishes the process for the preparation and maintenance of a comprehensive database for the development of the borrower's load forecast, and load forecast updates. The approved load forecast work plan is intended to develop and maintain a process that will result in load forecasts that will meet the borrowers' own needs and the requirements of this subpart. An approved work plan represents a commitment by a power supply borrower and its members, or by a large unaffiliated distribution borrower, that all parties concerned will prepare their load forecasts in a timely manner pursuant to the approved load forecast work plan and they will modify the approved load forecast work plan as needed with RUS approval to address changing circumstances or enhance the usefulness of the approved load forecast work plan.

(c) An approved load forecast work plan for a power supply borrower and its members must cover all member systems, including those that are not

borrowers. However, only members that are borrowers, including the power supply borrower, are required to follow the approved load forecast work plan in preparing their respective load forecasts. Each borrower is individually responsible for forecasting all its RE Act beneficiary and non-RE Act beneficiary loads.

(d) An approved load forecast work plan must outline the coordination and preparation requirements for both the power supply borrower and its members.

(e) An approved load forecast work plan must cover a period of 2 or 3 years depending on the applicable compliance filing schedule elected under § 1710.204.

(f) An approved load forecast work plan must describe the borrower's process and methods to be used in producing the load forecast and maintaining current load forecasts on an ongoing basis.

(g) Approved load forecast work plans for borrowers with residential demand of 50 percent or more of total kWh must provide for a residential consumer survey at least every 5 years to obtain data on appliance and equipment saturation and electricity demand. Any such borrower that is experiencing or anticipates changes in usage patterns shall consider surveys on a more frequent schedule. Power supply borrowers shall coordinate such surveys with their members. Residential consumer surveys may be based on the aggregation of member-based samples or on a system-wide sample, provided that the latter provides for relevant regional breakdowns as appropriate.

(h) Approved load forecast work plans must provide for RUS review of the load forecasts as the load forecast is being developed.

(i) A power supply borrower's work plan must have the concurrence of the majority of the members that are borrowers.

(j) The borrower's board of directors must approve the load forecast work plan.

(k) A borrower may amend its approved load forecast work plan subject to RUS approval. If RUS concludes that the existing approved load forecast work plan will not result in a satisfactory load forecast, RUS may require a new or revised load forecast work plan.

**§ 1710.210 Waiver of requirements or approval criteria.**

For good cause shown by the borrower, the Administrator may waive any of the requirements applicable to borrowers in this subpart if the

Administrator determines that waiving the requirement will not significantly affect accomplishment of RUS' objectives and if the requirement imposes a substantial burden on the borrower. The borrower's general manager must request the waiver in writing.

#### §§ 1710.211–1710.249 [Reserved]

Dated: March 10, 2000.

Jill Long Thompson,

*Under Secretary, Rural Development.*

[FR Doc. 00–6761 Filed 3–17–00; 8:45 am]

BILLING CODE 3410–15–P

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 72

#### RIN 3150–AG 18

#### List of Approved Spent Fuel Storage Casks: TN–32 Addition

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Final rule.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is amending its regulations to add the Transnuclear TN–32 cask system to the list of approved spent fuel storage casks. This amendment allows the holders of power reactor operating licenses to store spent fuel in this approved cask system under a general license.

**EFFECTIVE DATE:** This final rule is effective on April 19, 2000.

**FOR FURTHER INFORMATION CONTACT:**

Merri Horn, telephone (301) 415–8126, e-mail mlh1@nrc.gov of the Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

**SUPPLEMENTARY INFORMATION:**

#### Background

Section 218(a) of the Nuclear Waste Policy Act of 1982, as amended (NWPAA), requires that “[t]he Secretary [of Energy] shall establish a demonstration program, in cooperation with the private sector, for the dry storage of spent nuclear fuel at civilian nuclear reactor power sites, with the objective of establishing one or more technologies that the [Nuclear Regulatory] Commission may, by rule, approve for use at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site-specific approvals by the Commission.” Section 133 of the NWPAA states, in part, “[t]he Commission shall, by rule, establish

procedures for the licensing of any technology approved by the Commission under Section 218(a) for use at the site of any civilian nuclear power reactor.”

To implement this mandate, the NRC approved dry storage of spent nuclear fuel in NRC-approved casks under a general license, publishing a final rule in 10 CFR Part 72 entitled “General License for Storage of Spent Fuel at Power Reactor Sites” (55 FR 29181; July 18, 1990). This rule also established a new Subpart L within 10 CFR Part 72 entitled, “Approval of Spent Fuel Storage Casks” containing procedures and criteria for obtaining NRC approval of dry storage cask designs.

#### Discussion

This rule will add the Transnuclear TN–32 cask system to the list of NRC approved casks for spent fuel storage in 10 CFR 72.214. Following the procedures specified in 10 CFR 72.230 of Subpart L, Transnuclear submitted an application for NRC approval with the Safety Analysis Report (SAR) entitled, “TN–32 Dry Storage Cask Topical Safety Analysis Report (TSAR).” The NRC evaluated the Transnuclear submittal and issued a preliminary Safety Evaluation Report (SER) and a proposed Certificate of Compliance (CoC) for the Transnuclear TN–32 cask system. The NRC published a proposed rule in the **Federal Register** (64 FR 45923; August 23, 1999) to add the TN–32 cask system to the listing in 10 CFR 72.214. The comment period ended on November 8, 1999. Four comment letters were received on the proposed rule.

Based on NRC review and analysis of public comments, the NRC staff has modified, as appropriate, its proposed CoC and the Technical Specifications (TSs) for the TN–32 cask system. The NRC staff has also removed the bases section from the TSs. The NRC staff has modified its preliminary SER. The NRC staff has also modified the rule language by changing the word “Certification” to “Certificate” to clarify that it is the Certificate that expires.

The proposed CoC has been revised to clarify the requirements for making changes to the CoC by specifying that the CoC holder must submit an application for an amendment to the certificate if a change to the CoC, including its appendices, is desired. The CoC has also been revised to delete the proposed exemption from the requirements of 10 CFR 72.124(b) because a recent amendment of this regulation makes the exemption unnecessary (64 FR 33178; June 22, 1999). The staff has also updated the CoC, including the addition of explicit

conditions governing acceptance tests and maintenance program, approved contents, design features, and authorization, and has removed the bases section from the TSs attached to the CoC to ensure consistency with NRC's format and content. In addition, other minor, nontechnical changes have been made to CoC 1021 to ensure consistency with NRC's new standard format and content for CoCs.

The NRC finds that the TN–32 cask system, as designed and when fabricated and used in accordance with the conditions specified in its CoC, meets the requirements of 10 CFR Part 72. Thus, use of the TN–32 cask system, as approved by the NRC, will provide adequate protection of public health and safety and the environment. With this final rule, the NRC is approving the use of the TN–32 cask system under the general license in 10 CFR Part 72, Subpart K, by holders of power reactor operating licenses under 10 CFR Part 50. Simultaneously, the NRC is issuing a final SER and CoC that will be effective on April 19, 2000. Single copies of the CoC and SER are available for public inspection and/or copying for a fee at the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

#### Summary of Public Comments on the Proposed Rule

The NRC received four comment letters on the proposed rule. The commenters included the applicant, a user's group, and two letters from members of the public. Copies of the public comments are available for review in the NRC Public Document Room, 2120 L Street, NW (Lower Level), Washington, DC 20003–1527.

#### Comments on the TN–32 Cask System

The comments and responses have been grouped into nine subject areas: general, radiation protection, accident analysis, criticality analysis, thermal, materials, design, technical specifications, and miscellaneous issues. Several of the commenters provided specific comments on the draft CoC, the NRC staff's preliminary SER, and the TSs. To the extent possible, all of the comments on a particular subject are grouped together. The listing of the TN–32 cask system within 10 CFR 72.214, “List of approved spent fuel storage casks” has not been changed as a result of the public comments. A review of the comments and the NRC staff's responses follow:

##### A. General

*Comment A.1:* One commenter stated that the NRC is certifying more casks