

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Rural Utilities Service

#### 7 CFR Part 1710

RIN 0572-AB80

#### Useful Life of Facility Determination

AGENCY: Rural Utilities Service, USDA.

ACTION: Final rule.

**SUMMARY:** The Rural Utilities Service (RUS) is changing the requirement to use depreciation rates for determining loan terms. Depreciation rates contain other variables such as cost of removal and salvage value which preclude using these rates to determine useful life of a facility when these other variables are unknown. RUS depreciation requirements for financial statement purposes remain in effect.

If the proposed useful life of a facility is deemed inappropriate by RUS, other means to establish an appropriate term for the loan will apply. Current reliance solely on depreciation rates has been determined to not be as appropriate as looking at proposals on a case-by-case basis. This rule is made as part of the RUS efforts to continually look for ways to streamline lending requirements and make regulations useful and direct.

EFFECTIVE DATE: May 7, 2003.

**FOR FURTHER INFORMATION CONTACT:** Patrick R. Sarver, Management Analyst, Rural Utilities Service, Electric Program, Room 4024 South Building, Stop 1560, 1400 Independence Ave., SW., Washington, DC 20250-1560, Telephone: 202-690-2992, FAX: 202-690-0717, E-mail: psarver@rus.usda.gov.

#### SUPPLEMENTARY INFORMATION:

#### Executive Order 12866

This rule has been determined to be not significant for purposes of Executive Order 12866 and, therefore, has not

been reviewed by the Office of Management and Budget (OMB).

#### Executive Order 12372

This rule is excluded from the scope of Executive Order 12372, Intergovernmental Consultation, which may require consultation with State and local officials. See the final rule related notice titled "Department Programs and Activities Excluded from Executive Order 12372" (50 FR 47034) advising that RUS loans and loan guarantees were not covered by Executive Order 12372.

#### Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. RUS has determined that this proposed 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 section 212(e) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6912 (e)), administrative appeals procedures, if any are required, must be exhausted before an action against the Department or its agencies may be initiated.

#### Regulatory Flexibility Act Certification

It has been determined that the Regulatory Flexibility Act is not applicable to this rule since the Rural Utilities Service is not required by 5 U.S.C. 551 *et seq.* or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

#### Information Collection and Recordkeeping Requirements

This rule contains no additional information collection or recordkeeping requirements under OMB control number 0572-0032 that would require approval under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

#### Unfunded Mandates

This 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 proposed rule is not subject to the requirements of

sections 202 and 205 of the Unfunded Mandates Reform Act.

#### 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 number (202) 512-1800.

#### Background

RUS is authorized to make loans and loan guarantees with a final maturity of up to 35 years. The final maturity is based on the useful life of the facilities to be financed. When determining the useful life of such facilities, current regulations require that the useful life determination be consistent with the borrower's proposed depreciation rates for facilities. The depreciation requirements contained in RUS Bulletin 183-1 remain in effect for financial statement preparation and allocation of asset costs. However, depreciation rates cannot be readily converted to determine a facility's useful life.

In the electric utility industry depreciation is designed to allocate the costs of electric plant, including net salvage (cost of removal less salvage), over the estimated useful life of the plant. The depreciation rates, therefore, include components for estimated cost of removal and net salvage. In recent years net salvage has, in many cases, become a significant factor in depreciation rates. As a result, without knowing the net salvage components, the depreciation rates cannot readily be converted to determine the estimated useful life of electric plant.

RUS will continue to allow borrowers the option of utilizing the depreciation rates contained in RUS Bulletin 183-1 and avoid the cost of individual

depreciation studies to determine the components of its depreciation rates. This rule will eliminate the requirement for a useful life determination based solely upon the depreciation rates as found in Bulletin 183-1. If the useful life being proposed by the borrower is not satisfactory to RUS, the depreciation rates listed in RUS Bulletin 183-1 will no longer be used in lieu thereof for loan term calculation. RUS will consider an independent evaluation, the manufacturer's estimated useful-life or RUS experience with like-property as alternatives to an unsatisfactory proposal made by the borrower. RUS views this new back-stop approach to reviewing and approving the determination of the useful life of a facility as a more appropriate method. The increased difficulties in establishing net salvage values and recent experience in using the fixed range of depreciation rates as found in Bulletin 183-1, dictates a more flexible approach.

This rule change was first issued as a proposed rule and published in the **Federal Register**, Vol. 67, No. 68, Tuesday, April 9, 2002. One comment was received in full support of the rule change and provided specific reasons why reliance on Bulletin 183-1 alone may not be the best method for determining the useful life of a facility. The RUS is making this change to regulations as part of its ongoing effort to minimize administrative burden, streamline the loan process, and update regulations to reflect current requirements. This change in regulations will provide greater latitude in establishing the useful life of a facility being financed but at the same time maintain RUS approval for making the determination.

#### List of Subjects in 7 CFR Part 1710

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

■ For the reasons set forth in the preamble, chapter XVII of title 7 of the Code of Federal Regulations, is amended 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 continues to read as follows:

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

#### Subpart C—Loan Purposes and Basic Policies

■ 2. Amend § 1710.115 by revising paragraph (b) to read as follows:

##### § 1710.115 Final maturity.

\* \* \* \* \*

(b) Loans made or guaranteed by RUS for facilities owned by the borrower generally must be repaid with interest within a period, up to 35 years, that approximates the expected useful life of the facilities financed. The expected useful life shall be based on the weighted average of the useful lives that the borrower proposes for the facilities financed by the loan, provided that the proposed useful lives are deemed appropriate by RUS. RUS Form 740c, Cost Estimates and Loan Budget for Electric Borrowers, submitted as part of the loan application must include, as a note, either a statement certifying that at least 90 percent of the loan funds are for facilities that have a useful life of 33 years or longer, or a schedule showing the costs and useful life of those facilities with a useful life of less than 33 years. If the useful life determination proposed by the borrower is not deemed appropriate by RUS, RUS will base expected useful life on an independent evaluation, the manufacturer's estimated useful-life or RUS experience with like-property, as applicable. Final maturities for loans for the implementation of programs for demand side management and energy resource conservation and on and off grid renewable energy sources not owned by the borrower will be determined by RUS. Due to the uncertainty of predictions over an extended period of time, RUS may add up to 2 years to the composite average useful life of the facilities in order to determine final maturity.

\* \* \* \* \*

Dated: March 17, 2003.

**Hilda Gay Legg,**

*Administrator, Rural Utilities Service.*

[FR Doc. 03-11241 Filed 5-6-03; 8:45 am]

**BILLING CODE 3410-15-P**

#### DEPARTMENT OF TRANSPORTATION

##### Federal Aviation Administration

#### 14 CFR Part 25

[Docket No. NM251, Special Conditions No. 25-234-SC]

#### Special Conditions: Raytheon HS.125 Series 700A/B Airplanes; High Intensity Radiated Fields (HIRF)

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final special conditions; request for comments.

**SUMMARY:** These special conditions are issued for Raytheon HS.125A Series 700A/B airplanes, modified by Midcoast Aviation, Inc. These modified airplanes will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. The modification incorporates the installation of dual Rockwell Collins Air Data Computers (ADC-87A) and ALI-80A altimeters. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for the protection of these systems from the effects of high-intensity radiated fields (HIRF). These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that provided by the existing airworthiness standards.

**DATES:** The effective date of these special conditions is April 22, 2003. Comments must be received on or before June 6, 2003.

**ADDRESSES:** Comments on these special conditions may be mailed in duplicate to: Federal Aviation Administration, Transport Airplane Directorate, Attn: Rules Docket (ANM-113), Docket No. NM251, 1601 Lind Avenue, SW., Renton, Washington, 98055-4056; or delivered in duplicate to the Transport Airplane Directorate at the above address. All comments must be marked: Docket No. NM251.

**FOR FURTHER INFORMATION CONTACT:** Greg Dunn, FAA, Airplane and Flight Crew Interface Branch, ANM-111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue, SW., Renton, Washington, 98055-4056; telephone (425) 227-2799; facsimile (425) 227-1320.

#### SUPPLEMENTARY INFORMATION:

#### FAA Determination as to Need for Public Process

The FAA has determined that notice and opportunity for prior public