



BILLING CODE 3410-15P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Part 1780

RIN 0572-AC36

Water and Waste Loans and Grants

AGENCY: Rural Utilities Service, USDA.

ACTION: Final rule.

SUMMARY: The Rural Utilities Service (RUS), a Rural Development agency of the United States Department of Agriculture (USDA), is revising the regulation used to process water and waste disposal loans and grants to remove the reference to the 11-GO Bond Buyer Index. This change will allow the Agency to respond to changes in indices and potentially reduce the budget authority necessary to fund the program.

DATES: This rule is effective [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Susan Woolard, Community Programs Specialist, Rural Utilities Service, U.S. Department of Agriculture, STOP 1570, 1400 Independence Ave. SW., Washington, DC 20250-0787, telephone: (202) 720-9631. Email contact susan.woolard@wdc.usda.gov. Additional Information about Rural Development and its programs is available on the Internet at <https://www.rd.usda.gov>.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

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

Catalog of Federal Domestic Assistance

The affected programs are listed in the Catalog of Federal Domestic Assistance (CFDA) Program under 10.760, Water and Waste Disposal Systems for Rural Communities. This catalog is available electronically through the free CFDA Web site on the Internet at <https://www.cfda.gov/>. The print edition may be purchased by calling the

Superintendent of Documents at (202) 512-1800 or toll free at (866) 512-1800, or by ordering online at <https://bookstore.gpo.gov/>.

Executive Order 12372, Intergovernmental Review of Federal Programs

This program is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. RUS conducts intergovernmental consultations for each loan in the manner delineated in 2 CFR part 200 and 400.

Executive Order 13175, Consultation and Coordination with Indian Tribal Governments

The Agency has determined that this final rule does not have a substantial direct effect on one or more Indian tribe(s) or on either the relationship or the distribution of powers and responsibilities between the Federal Government and Indian tribes. Thus, this final rule is not subject to the requirements of Executive Order 13175. Consequently, the Agency will not conduct tribal consultation sessions.

Executive Order 12988, Civil Justice Reform

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. In accordance with this final 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) Administrative proceedings of the National Appeals Division (7 CFR

part 11) must be exhausted before bringing suit in court challenging action taken under this rule.

National Environmental Policy Act Certification

The final rule has been reviewed in accordance with 7 CFR part 1970, Environmental Policies and Procedures. The Agency has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment and, in accordance with the National Environmental Policy Act (NEPA) of 1969, 42 U.S.C. 4321 et seq., an Environmental Impact Statement is not required. Loan and grant applications will be reviewed individually to determine compliance with Agency environmental regulations and with NEPA.

Unfunded Mandates Reform Act

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

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

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601-602)(RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act (APA) or any other statute. This final rule; however, is not subject to the APA under 5 U.S.C. 553(a)(2) and 5 U.S.C. 553(b)(3)(A) nor any other statute.

Executive Order 13132, Federalism

It has been determined, under EO 13132, Federalism, that the policies contained in this final rule do not have any substantial direct effect on states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Nor does this final rule impose substantial direct compliance costs on state and local governments. Therefore, consultation with the states is not required.

E-Government Act Compliance

The Agency is committed to complying with the E-Government Act, which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible and to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

Information Collection and Recordkeeping Requirements

In accordance with the Paperwork Reduction Act of 1995, the paperwork burden associated with this final rule has been approved by the Office of Management and Budget (OMB) under the currently approved OMB Control Number 0572-0121. The Agency has determined that the changes in the rule do not substantially change current data collection.

USDA Non-Discrimination Statement

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights in any program or activity conducted or funded by the Department. (Not all prohibited basis will apply to all programs and/or

employment activities.) Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English. To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form (PDF), found online at http://www.ascr.usda.gov/complaint_filing_cust.html, or at any USDA office, or write a letter addressed to USDA and provide in the letter all of the information requested in the form.

To request a copy of the complaint form, call (866) 632-9992 to request the form.

Submit your completed complaint form or letter to USDA by:

(1) Mail at U.S. Department of Agriculture, Office of Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, DC 20250-9410, by Fax (202) 690-7442 or Email at program.intake@usda.gov.

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Background and Discussion of the Rule

The Rural Utilities Service's (RUS) water and waste program is administered by Water and Environmental Programs (WEP). The water and waste loan and grant

programs are authorized by various sections of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926 et seq.), as amended to provide loan and grant funds to rural areas (populations of 10,000 or less) to construct, enlarge, extend, or otherwise improve rural water, sanitary sewage, solid waste disposal, and storm wastewater disposal facilities.

Agency regulations provide for a three-tier interest rate structure for its direct water and waste disposal loans. The tiers are market, intermediate, and poverty. Currently, market rate is set using as guidance the average of the Bond Buyer (11-GO Bond) Index for the four weeks prior to the first Friday of the last month before the beginning of the quarter, with intermediate and poverty rates set as percentages of the market rate at 80 percent and 60 percent respectively. In addition to providing the interest rate for Agency direct loans, these rates play an integral part in the modeling of the subsidy rate for the program.

In order to more effectively manage the subsidy rate and reduce the need for appropriations, beginning in fiscal year 2018, the Agency is issuing a final rule to use the 20-GO Bond Index to set the market rate. In order for the Agency to respond more quickly to indices changes, the Agency is issuing a final rule to change the current reference from a specific bond index to reflect that the Agency is using as guidance the average of the Bond Buyer Index (available in any Agency office or the program's website) for the four weeks prior to the first Friday of the last month before the beginning of the quarter.

To implement this change the Agency will publish this as a final rule. The Administrative Procedure Act exempts from prior notice rules, "relating to agency

management or personnel or to public property, loans, grants, benefits, or contracts” (5 U.S.C. 553(b)(A)).

Summary of Changes to Rule

Rates and Terms (§ 1780.13)

This section outlines how rates are set for Agency loans, qualifications for each interest rate, and, repayment terms. The Agency revises § 1780.13(e) to remove the reference to the 11-GO Bond index in order to allow greater flexibility to respond to changes in bond indices.

List of Subjects in 7 CFR Part 1780

Community development, Credit, Loan programs, Rural areas, Waste treatment and disposal, Water supply and treatment.

For the reasons set forth in the preamble, under the authority at 5 U.S.C. 301, 7 U.S.C. 1989, and 16 U.S.C. 1005, RUS amends Chapter XVII, Title 7, of the Code of Federal Regulations, as follows:

PART 1780-WATER AND WASTE LOANS AND GRANTS

1. The authority citation for part 1780 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989; 16 U.S.C. 1005.

2. Amend § 1780.13 by revising paragraph (d) to read as follows:

§ 1780.13 Rates and terms.

(d) Market rate. The market interest rate will be set using as guidance the average of the Bond Buyer Index (available in any Agency office or the program's website) for the four weeks prior to the first Friday of the last month before the beginning of the quarter. The market rate will apply to all loans that do not qualify for a different rate under paragraph (b) or (c) of this section.

Dated: August 29, 2017.

CHRISTOPHER A. McLEAN

Acting Administrator

Rural Utilities Service

[FR Doc. 2017-19839 Filed: 9/18/2017 8:45 am; Publication Date: 9/19/2017]