

# 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