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DEPARTMENT OF AGRICULTURE
Agricultural Marketing Service
7 CFR Part 1230 [No. LS-88-035]

Pork Promotion, Research, and Consumer Information Program; Amendments to the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this final rule is to amend the Pork Promotion, Research, and Consumer Information Order as proposed in the June 10, 1988, Federal Register to (1) require market agencies, which sell on behalf of a producer porcine animals used for breeding, to collect assessments on such animals and remit them to the National Pork Board; (2) modify the requirements for annual reports from organizations receiving funds distributed by the National Pork Board; (3) require the use of USDA data to determine the number of porcine animals in each State when nominating producers by petition to the National Pork Producers Delegate Body; and (4) make a clarifying editorial change in §1230.58.

Most market agencies, i.e., livestock auction markets, commission firms who sell livestock on behalf of producers, would be classified as small businesses under the RFA.

Since the same form currently used by market agencies in reporting and remitting assessments to the Board on feeder pigs and slaughter hogs sold on behalf of producers will be used for breeding stock, this requirement to collect and remit assessments on breeding stock will not appreciably increase market agencies reporting and recordkeeping. Most of the breeding stock are sold through private sales in which the producer (seller) is required to remit the assessment, so the additional collection and remittance activity for market agencies will be minimal.

Modifying the requirements that annual financial reports for State pork producer associations be prepared by a certified public accountant will reduce the cost of reporting for State pork producer associations receiving less than $10,000 in annual assessments. The cost savings will make increased funding available for financing promotion and research programs.

The information collection requirements contained in the provisions of the Pork Promotion, Research, and Consumer Information Order revised by this final rule have been previously approved by the Office of Management and Budget (OMB) and assigned OMB control number 0851-0151.

The Pork Promotion, Research, and Consumer Information Act of 1985 (7 U.S.C. 4601-4619) approved December 23, 1985, authorizes the establishment of a national pork promotion, research, and consumer information program. The program is funded by an assessment rate of 0.25 percent of the market value of all porcine animals marketed in the United States and an equivalent amount of assessment on imported porcine animals, pork, and pork products. The final order establishing a pork promotion, research, and consumer information program was published in the September 5, 1986, issue of the Federal Register (51 FR 31898; as corrected at 51 FR 36383), and assessments began on November 1, 1986.

The Order requires that producers pay to the Board an assessment of 0.25 percent of the market value of each porcine animal upon sale. However, for purposes of collecting and remitting assessments, porcine animals are divided into three separate categories: (1) Feeder pigs, (2) slaughter hogs, and (3) breeding stock. The Order specifies that purchasers of feeder pigs and slaughter hogs shall collect an assessment on these animals if assessments are due. The Order further stipulates that for the purpose of collecting and remitting assessments, persons engaged as a commission merchant, auction market, or livestock market in the business of receiving such porcine animals for sale on commission for or on behalf of a producer shall be deemed to be a purchaser.

The procedures for collection and remittance of assessments are specified in §1230.71 of the Order. Under that section, purchasers of porcine animals are required to collect assessments from producers upon the sale of porcine animals, if an assessment is due, and
remit such assessment to the Board by the 10th day of the month following the month in which porcine animals were marketed. In § 1230.71(b)(1) of the Order, a person buying feeder pigs or market hogs; and, for purposes of collection and remittance of assessments, any person engaged as a commission merchant, an auction market, or livestock market in the business of receiving porcine animals for sale on commission for or on behalf of a producer is a purchaser. That section did not provide for collection and remittance of assessments on breeding stock sold for or on behalf of a producer by a purchaser who is a commission merchant, an auction market, or similar market agency. The Order does specify that producers remit assessments due on breeding stock upon sale. Even though most porcine animals marketed annually as breeding stock are sold through private sales, some producers market porcine animals used as breeding stock through market agencies. Therefore, to bring uniformity and consistency to the Order language for collecting and remitting assessments on all porcine animals sold through a market agency, § 1230.71 is revised to specify that those purchasers who are commission merchants, auction markets, or similar market agencies in the business of selling porcine animals for or on behalf of producers collect and remit assessments on such animals sold as breeding stock. Producers selling breeding stock through private sales will continue to remit assessments upon sale of such porcine animals.

Section 1230.74(b) of the Order requires that organizations receiving distributions of funds from the Board shall furnish the Board with an annual report prepared by a certified public accountant (CPA) of all funds distributed to such organizations. State pork producer associations receive a percentage of the annual net assessments collected in their State pursuant to § 1230.72 (a) and (b). As a result, these State associations are subject to this CPA audit provision of the Order. However, some of the smaller State pork producer associations receive relatively small amounts of assessments, and the cost of an annual report prepared by a CPA could represent a significant proportion of their total annual assessments. There were 45 State pork producer associations which received distributed assessments in 1987. The amount of annual assessments distributed ranged from less than $1,000 to more than $970,000. Thirteen States received less than $10,000, and four of those States received less than $2,000. To minimize the cost of annual financial reports for the smaller States, the National Pork Board recommended that any State pork producer association receiving less than $10,000 in distributed assessments annually be exempted from the required annual report prepared by a CPA and instead be permitted to submit to the Board an unaudited financial statement prepared by or for the association. Such unaudited financial statements would be certified by at least two members of the association. Additionally, each such State pork producer association would have to submit a CPA-audited annual financial statement at least once every 5 years or more frequently if the Board or the Secretary deemed it to be necessary. States receiving less than $2,000 in distributed assessments will be audited by the Board once every 5 years in lieu of the annual financial statement prepared by a CPA every 5 years. Section 1230.74 (Prohibited use of distributed assessments) has been amended to include these provisions. Additionally, § 1230.74(b) is amended to specify that the annual report from State pork producer associations is a financial statement which is audited rather than prepared by a CPA.

It was also proposed that the latest available published USDA data be used to determine the number of pork producers in a State for purposes of determining the number of pork producer signatures needed for nominations of pork producers to the National Pork Producers Delegate Body by written petition. The Delegate Body is appointed each year by the Secretary from pork producers who are nominated by State pork producer associations or who are nominated by written petition. Members are appointed for a 1-year term. Under § 1230.32(b)(2), pork producers in a State may be nominated for appointment to the Delegate Body by written petition signed by 100 producers in that State or by 5 percent of the producers in that State, whichever number is less.

In the 1987 and 1988 nominations and appointments to the Delegate Body, the Department used, when necessary, data contained in the latest available issue of the "Hogs and Pigs" report prepared by USDA's Agricultural Statistics Board, National Agricultural Statistics Service, to determine the number of pork producer signatures needed. That report enumerates the number of farming operations with hogs in each State for a calendar year. Section 1230.32(b)(2) has been amended to require that the number of pork producers in a State will be determined by the Department based on such latest available information.

This rule also makes an editorial change in § 1230.56(g) which delineates the powers and duties of the National Pork Board. The phrase, "To appoint or employ such persons as staff * * *

The proposed rule requested comments from interested persons by July 11, 1988. The Department received 14 comments—one from an individual pork producer; one from the National Pork Board; one from a national pork producer organization; and 11 from State pork producer associations. The individual commenters expressed opposition to the Order but did not address the proposed changes. The other 13 commenters were in favor of the proposed changes and most expressed the opinion that the proposed changes would clarify the intent of the Order and facilitate more efficient collection of assessments and preparation and submission of reports.

It is found that good cause exists for not postponing the effective date of these revisions until 30 days after publication in the Federal Register (5 U.S.C. 553). The amendments clarify the intent of the Order; improve assessment collection procedures, and facilitate the preparation and submission of reports. As such, these changes should be implemented as soon as possible. These changes do not require additional time for compliance with the amended provisions. Further, all the comments received specifically addressing the proposed changes were in support of such changes. Accordingly, these changes should become effective upon publication.

List of Subjects in 7 CFR Part 1230


For reasons set forth in the preamble, 7 CFR, Part 1230, is amended as set forth below:

PART 1230—PORK PROMOTION, RESEARCH, AND CONSUMER INFORMATION

1. The authority citation for 7 CFR Part 1230 continues to read as follows: Authority: 7 U.S.C. 4601-4619.
2. Revise § 1230.32(b)(2) to read as follows:

   § 1230.32 Conduct of election.
   (b) The number of pork producers in a State shall be determined by the Department based on the latest available Department information, which tabulates by State the number of farming operations with porcine animals.

3. Revise § 1230.58(g) to read as follows:

   § 1230.58 Powers and duties of the Board.
   (g) To appoint or employ staff persons as it may deem necessary, to define the duties and determine the compensation of each, to protect the handling of Board funds through fidelity bonds, and to conduct routine business.

4. Section 1230.71(b)(2), (b)(3), and (b)(4) are redesignated as (b)(3), (b)(4), and (b)(5), respectively, and a new (b)(2) added to read as follows:

   § 1230.71 (Amended)
   (b) Assessments on porcine animals raised as breeding stock which are sold by a commission merchant, auction, market, or livestock market in the business of receiving such porcine animals for sale on commission for or on behalf of a producer shall be collected and remitted by the commission merchant, auction market, or livestock market selling such porcine animals.

5. Section 1230.74(b) is revised and a new (c) is added to read as follows:

   § 1230.74 Prohibited use of distributed assessments.
   (b) Except as provided for in paragraph (c) of this section, organizations receiving distributions of assessments from the Board shall furnish the Board with an annual financial statement audited by a certified public accountant of all funds distributed to such organization pursuant to this subpart and any other requirements of paragraph (b)(2) of the section above by providing unaudited annual financial statements to the Board prepared by State association staff members or individuals who prepare annual financial statements for the State association provided that such financial statements are attested to and certified by two members of the State associations. Notwithstanding any provisions herein to the contrary, State associations receiving less than $10,000 in distributed assessments annually, which submit unaudited annual financial statements to the Board, shall be required to submit an annual financial statement audited by a certified public accountant at least once every 5 years or more frequently if deemed necessary by the Board or the Secretary. If State pork producer associations receive less than $2,000 in distributed assessments annually, the Board may elect to conduct its own audit of those State associations annual financial statements every 5 years in lieu of the required financial statements.

Done at Washington, DC, on August 3, 1988.

J. Patrick Boyle,
Administrator.

BILLING CODE 3410-02-M

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Part 1942

Industrial Development Grants

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends the Agency's policies and procedures governing the administration of Industrial Development Grants. This action is necessary to comply with the Omnibus Budget Reconciliation Act of 1987 and the continuing resolution for 1988, which allows private nonprofit organizations to participate with public agencies as grant recipients and expands the use of grant funds to include the financing of small emerging rural businesses. The net effect of this action will result in enterprise development and job creation in distressed rural communities.


FOR FURTHER INFORMATION CONTACT: Frederick R. Young, Branch Chief, Community Facilities Division, Farmers Home Administration, U.S. Department of Agriculture, Room 9316, South Agriculture Building, 14th and Independence Avenue SW., Washington, DC 20250; Telephone: (202) 363-9699.

SUPPLEMENTARY INFORMATION:

Classification

This action has been reviewed under USDA procedures established in Department Regulation 1812-1 which implements Executive Order 12291, and has been determined to be nonmajor since the annual effect on the economy is less than $100 million and there will be no increase in costs or prices for consumers, individual industries, organizations, governmental agencies or geographic regions. There will be no significant adverse effects on competition, employment, investment, productivity innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Public reporting burden for this collection of information is estimated to vary from 30 minutes to 40 hours per response, with an average of 2 hours per response including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

Environmental Impact Statement

This document has been reviewed in accordance with FmHA Instruction 1940-G, "Environmental Program." FmHA 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 of 1969, Pub. L. 91-190, an Environmental Impact Statement is not required.

Regulatory Flexibility Act

The Administrator, Farmers Home Administration, has determined this action will not have a significant economic impact on a substantial number of small entities, because the action will not affect a significant number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601).
Program Affected

This program, Industrial Development Grants, is listed in the Catalog of Federal Domestic Assistance under Number 10.424. The FmHA program and projects which are affected by this instruction are subject to the provisions of Executive Order 12275 which requires intergovernmental consultation with State and local officials. FmHA conducts intergovernmental consultation in the manner delineated in FmHA Instruction 1001-J.

Comments

A proposed rule was published in the Federal Register (53 FR 17953) on May 19, 1988, and invited comments for 30 days ending June 20, 1988. Four comments were received by the close of business on June 20, 1988. The comments were considered in developing the final rule. The following is a discussion of comments received:

One respondent commented that it is not clear that the establishment of a revolving fund is an eligible grant purpose under §1942.306. The Agency reviewed this comment and determined that the term “finance” in this section means that grant funds may be used by an approved Grantee to make loans to develop private business enterprises. This is the establishment of a revolving loan fund. Therefore, the Agency does not feel further clarification is necessary in this particular section.

One respondent commented that priority ranking/scoring should not be an appealable item. The Agency reviewed this comment and determined that priority ranking of an application requires judgment in the analysis of some of the ranking factors. Since judgment enters into the decision making process, the Agency feels this item must continue to be an appealable item and, therefore, no change is necessary.

One respondent commented the Agency should change the proposed rule to (1) establish how long a priority scoring is valid, and (2) to subject preapplications/applications to a second ranking when all information is not received in a given time period. The Agency reviewed this comment and determined that priority scoring does not have an adverse affect on an application until a State or the National Office is making a determination of projects to be funded in a funding cycle. Priority ranking is only utilized during the selection for funding process. If applicants are not processing an application in a timely manner, there are administrative remedies available which enable the approval official to terminate grant processing. Therefore, the Agency has made no change in this provision.

Two respondents indicated that the proposed §1942.305(b)(3)(iii) provided grant selection priority points for experience in administering a rural economic development program and stated that few units of general purpose local governments have experience in administering a rural economic development program. One of these respondents also indicated that our proposal was unclear as to whether FmHA would give points for successful experience or unsuccessful experience. FmHA is revising this section to clarify that the experience should be successful to receive points in this area.

One of the respondents also commented that the requirement to provide past experience information with the application as proposed in §1942.311(a)(2) was also biased against units of general purpose local governments. The Agency feels that to successfully carry out the grant purposes of this program, several factors must be considered, as set forth under the selection priorities. Successful experience is one of several areas FmHA will consider in rating applications. The Agency does not feel that these requirements are biased against general purpose local governments.

A respondent indicated that under §1942.305(b)(3)(v) concerning grant selection priority points, the criteria for discretionary points is unclear. The proposed rule reflects that in certain cases FmHA may assign points in addition to those set forth in §1942.305(b)(3)(i) through (iv). Examples of those certain cases when FmHA may assign discretionary points are set forth in §1942.305(b)(3)(vi) are: Geographic distribution of funds, substantial employment improvement, or mitigation of economic distress of a community. FmHA has determined that the criteria are sufficiently clear. The Agency, however, is changing the responsibility for granting discretionary points from the State Director to the Administrator.

Two respondents suggested: eliminating the proposal of granting discretionary points to applicants that are units of general purpose government. This suggestion is being adopted.

One respondent commented that proposed §1942.305(b)(3)(iii) was unclear as to who determines if experience is adequate to grant selection priority points. The Agency has determined that the regulation clearly states that the State Director will rate applications and, therefore, feels further clarification is unnecessary. The Agency, however, is changing the cited section to read, “successful experience” rather than “substantial experience.”

One respondent felt that in the proposed §1942.305(b)(3)(iii), the granting of selection priority points to applicants located in communities under 25,000 population would exclude clearly rural areas. The use of population density was suggested. The policy of using population rather than population density is legislatively mandated and the Agency cannot administratively change this policy.

Two respondents feel that the proposal of allocating funds to the states be eliminated because of the limited funds available to the program. One of these respondents also suggested transferring all the responsibilities of rating applications to the National Office. The Agency is partially adopting this suggestion by transferring the responsibility of granting discretionary points to the Administrator. The Agency is also modifying the proposed rule to eliminate allocation of funds to the states.

One respondent felt a definition of industrial or business sites is needed. The Agency feels that these are commonly used terms in the industry and clarification is not needed.

One respondent suggested expanding the use of technical assistance for proposed Grantee projects to include local entities who would identify potential in a modified rural business incubator approach. The Agency feels that this is beyond the intent of the law.

The Agency is adopting the proposed rule with the following changes:

The Agency has changed the proposed rule under §1942.305(b)(2) to remove the policy of allocating funds to the States. The proposal to allocate funds is considered impractical considering the limited funds available to the program.

The Agency has changed the proposed rule under §1942.305(b)(3) to transfer from the State Directors to the Administrator, the responsibility of granting discretionary points to applications. This was determined necessary to obtain geographic distribution of the funds.

The Agency has changed the proposed rule under Section §1942.305(b)(3)(i)(B) to refer to the Community Services Block Grant Act (42 U.S.C. 9902 (2)). This section under the proposed rule referred to Office of Management and Budget under section 624 of EO Act of 1964. This change is necessary to be consistent with other FmHA Community Programs. This information is presently available in FmHA Offices.
§ 1942.302 Policy.
(a) The grant program will be used to support the development of small and emerging private business enterprises in rural areas.

(b) FmHA officials will maintain liaison with officials of other federal, state, regional, and local development agencies to coordinate related programs to achieve rural development objectives.

(c) FmHA officials shall cooperate with appropriate State agencies in making grants that support State strategies for rural area development.

(d) Funds allocated for use in accordance with this Subpart are also to be considered for use of Indian tribes within the State regardless of whether State development strategies include Indian reservations within the State’s boundaries. Indians residing on such reservations must have equal opportunity along with other rural residents to benefit from these programs. This includes equal application of outreach activities of FmHA County and District Offices.

§ 1942.304 Definitions.
(a) Industrial Development (ID) grants. Grants made to finance and facilitate development of small and emerging private business enterprises in rural areas. Grants are made from FmHA funds under authority of the Consolidated Farm and Rural Development Act, as amended, section 310B (7 U.S.C. 1932).

(b) Technical Assistance. A function performed for the benefit of a grantee project and is a problem solving activity such as market research, product and/or service improvement, feasibility study, etc.

(c) Project. The result of the use of program funds, i.e., a facility, whether constructed by the applicant or a third party from a loan or grant made with grant funds; technical assistance; startup operating costs or working capital. A party from a loan or grant made with grant funds; technical assistance; startup operating costs or working capital. A revolving fund established in whole or in part with grant funds will also be considered a project for the purpose of the intergovernmental and Environmental Review under § 1942.310 paragraphs (b) and (c), as well as the specific uses of the revolving funds.

(b) Small and emerging private business enterprise. Generally any private business which will employ 80 or less new employees and has less than $1.0 million in projected gross revenues and has or will utilize technological innovation and commercialization of (i) new products that can be used in rural areas and (ii) new processes that can be used in such production.

§ 1942.305 Eligibility and priority.
(a) Eligibility. (1) ID grants may be made to public bodies and private nonprofit corporations serving rural areas. Public bodies include states, counties, cities, townships, and incorporated towns and villages, boroughs, authorities, districts, and Indian tribes on Federal and State reservations and other Federally recognized Indian Tribal groups in rural areas. The State Director will proceed as follows in rural area determinations: When the FmHA State Director determines an area to be urbanized or urbanizing, the State Director must then determine the population density per square mile. If the area appears to be eligible, the State Director will request the National Office to provide the correct density figure. All such density determinations will be made on the basis of minor civil division or census county division as used by the Bureau of the Census. In making the density calculations, large nonresidential tracts devoted to urban land uses such as railroad yards, airports, industrial sites, parks, golf courses, and cemeteries of land set aside for such purposes will be excluded.

(b) Project selection process. The following paragraphs indicate items and conditions which must be considered in selecting applications for further development. When ranking eligible applications for consideration for limited funds, FmHA officials must consider the priority items met by each application and the degree to which those priorities are met, and apply good judgment.

(1) Applications. The application and supporting information submitted with it will be considered in determining the proposed project’s priority for available funds.

(2) State Office review. All applications will be reviewed and scored for funding priority. The State Director will request funds from the National Office. Such requests will be considered along with all others on hand. If an application cannot be funded, the State Director will be notified. Eligible applicants that cannot...
be funded should be advised by the State Director that funds are not available, and requested to advise whether they wish to have their application maintained in an active file for future consideration.

(3) Selection priorities. The priorities described below will be used by the State Director to rate applications.

Points will be distributed as indicated in paragraphs (b)(3)(i) through (iv) of this section. A copy of the score sheet should be placed in the case file for future reference.

(i) Population. Proposed project(s) will primarily be located in a community of under 25,000 population—10 points.

(ii) Economic conditions.

(A) Proposed project(s) will primarily be located in areas where the unemployment rate (7) exceeds the State rate by 25% or more—20 points. (2) exceeds the State rate by less than 25%—10 points, (3) is equal to or less than the State rate—0 points.

(B) Proposed project(s) will primarily be located in areas where Median Household Income (MHI) as prescribed by section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) for a family of 4 for the State is:

(1) Less than poverty line—25 points, (2) more than poverty line but less than 85% of State MHI—15 points, (3) between 85% and 100% of State MHI—10 points, (4) equal or greater than State MHI—0 points.

(iii) Experience. Applicant has successful experience in administering a rural economic development program—15 points.

(iv) Other.

(A) Applicant has industry or business committed to locate in the sites—25 points.

(B) Grant request contains evidence of substantial commitment of funds from nonfederal sources for proposed projects—25 points.

(v) Discretionary. In certain cases the Administrator may assign up to 50 points in addition to those that may be assigned in paragraphs (b)(3)(i) through (iv) of this section. Use of these points must include a written justification from the State Director which will be based on factors such as geographic distribution of funds, criteria which will result in substantial employment improvement, mitigation of economic distress of a community through the creation or salvation of jobs or emergency situations.

6. Section 1942.306 is amended by revising paragraphs (a) and (b) to read as follows:

§ 1942.306 Purposes of grants.

(a) Grant funds may be used to finance and develop small and emerging private business enterprises in rural areas including, but not limited to, the following:

(1) Acquisition and development of land, easements and rights-of-way.

(2) Construction, conversion, enlargement, repairs or modernization of buildings, plants, machinery, equipment, access streets and roads, parking areas, utilities, and pollution control and abatement facilities.

(3) Startup operating cost and working capital.

(4) Technical assistance for proposed grantee projects.

(5) Reasonable fees and charges for professional services necessary for the planning and development of the project including packaging. Services must be provided by individuals licensed in accordance with appropriate State accreditation associations.

(b) Environmental requirements. (1) General applicability. Unless specifically modified by this section, the requirements of Subpart G of Part 1940 of this Chapter apply to this Subpart. The FmHA will give particular emphasis to ensuring compliance with the environmental policies contained in §§ 1940.303 and 1940.304 in Subpart G of Part 1940 of this Chapter. Although the purpose of the grant program established by this Subpart is to improve business, industry and employment in rural areas, this purpose is to be achieved, to the extent practicable, without adversely affecting important environmental resources of rural areas such as important farmlands and forest lands, prime rangelands, wetlands and floodplains. Prospective recipients of grants, therefore, must consider the potential environmental impacts of their applications at the earliest planning stages and develop plans, grants and projects that minimize the potential to adversely impact the environment.

(2) Technical assistance. The application for a technical assistance project is generally excluded from FmHA’s environmental review process by § 1940.310(e)(1) of Subpart G of Part 1940 of this Chapter. However, as further specified in § 1940.330 of Subpart G of Part 1940 of this Chapter, the recipient for a technical assistance grant, in the process of providing technical assistance, must consider the potential environmental impacts of the recommendations provided to the recipient of the technical assistance.

(3) Applications for Direct Construction Project. The application by a potential grantee who intends to directly use grant funds for a nontechnical assistance project, such as a construction project, shall be reviewed and processed under the applicable requirements of Subpart G of Part 1940 of this Chapter.

(4) Applications for Grants to Provide Economic Assistance to Third Party Recipients. As part of the preapplication, the applicant must provide a complete Form FmHA 1940-
20. "Request for Environmental Information," for each project specifically identified in its plan to provide financial assistance to third parties who will undertake eligible projects with such assistance. FmHA will review the preapplication, supporting materials and any required Forms FmHA 1940-20 and initiate a Class II assessment for the preapplication. This assessment will focus on the potential cumulative impacts of the projects as well as any environmental concerns or problems that are associated with individual projects and that can be identified at this time from the information submitted. Because FmHA's approval of this type of grant application does not constitute FmHA's commitment to the use of grant funds for any identified third party projects (see § 1942.316 of this Subpart), no public notification requirements for a Class II assessment will apply to the preapplication. After the grant is approved, each third party project to be assisted under the grant will undergo the applicable environmental review and public notification requirements in Subpart G of Part 1940 of this Chapter, prior to FmHA providing its consent to the grantee to assist the third party project.

5) Combined Applications. Whenever an applicant files a preapplication that includes a direct construction project and a plan to provide financial assistance to third parties who will undertake eligible projects, the following environmental requirements will apply.

(i) The proposed direct construction project(s) will be reviewed under the requirements of paragraph (b)(3) of this section prior to authorization of the application.

(ii) The plan to provide financial assistance to third parties will be reviewed and processed under the requirements of paragraph (b)(4) of this section. Additionally, the Class II assessment required for the plan shall address and analyze the cumulative impacts of all proposed projects, direct or third party, identified within the preapplication.

(d) Management assistance. Grant recipients will be supervised as necessary to assure that projects are completed in accordance with approved plans and specifications and that funds are expended for approved purposes. Grants made under this Subpart will be administered under and are subject to 7 CFR 3015 and 7 CFR 3016 as appropriate, and established FmHA guidelines.

(b) Flood or mudslide hazard area precautions. If the grantee financed project is in a flood or mudslide area, then flood or mudslide insurance must be provided.

(i) Termination of Federal requirements. Once the grantee has provided assistance to projects from a revolving fund, in an amount equal to the grant provided by FmHA, the requirements imposed on the grantee shall not be applicable to any new projects thereafter financed from the revolving fund. Such new projects shall not be considered as being derived from Federal funds.

9. Section 1942.311 is amended by removing paragraph (b) and redesignating paragraph (c) as (b), and by revising paragraph (a) to read as follows:

§ 1942.311 Application processing.

(a) Preapplications and applications. (1) The application review and approval procedures outlined in § 1942.2 of this Subpart A of Part 1942 of this Chapter will be followed as appropriate. The State Director or the State Director should assist the applicant in application assembly and processing. If the application is for the development of facilities, the application shall use Form AD-624, "Application for Federal Assistance (for Construction Programs)." If the application is for the financing of facilities, the applicant shall use Form AD-623 "Application for Federal Assistance (NonConstruction Programs)."

(2) Applications which propose to establish revolving loan programs shall contain detail on the applicant's experience operating a revolving loan program, proposed projects to be funded from the revolving fund, applicant's financial ability to administer a revolving fund, need for a revolving fund, and other funds available to leverage funds made available under this program.

(3) Each application for assistance will be carefully reviewed in accordance with the priorities established in § 1942.306(b)(3) of this Subpart. A priority rating will be assigned to each application. Applications selected for funding will be based on the priority rating assigned each application and the total funds available. All applications submitted for funding should contain sufficient information to permit FmHA to complete a thorough priority rating.

§§ 1942.312 and 1942.313 (Removed and Reserved)

10. Sections 1942.312 and 1942.313 are removed and reserved.

11. Section 1942.314 is added and reads as follows:

§ 1942.314 Scope of Work.

For applications involving a loan to a third party, the applicant shall develop a Scope of Work. As a minimum the Scope of Work should contain the following:

(a) The specific purposes for which grant funds will be utilized.

(b) Timeframes or dates by which action surrounding the use of grant funds will be accomplished.

(c) Who will be carrying out the purpose for which the grant is made.

(d) How the grant purposes will be accomplished.

12. Section 1942.315 is amended by revising paragraph (b) to read as follows:

§ 1942.315 Docket preparation and Letter of Conditions.

(b) The State Director or the State Director's designated representative will prepare a Letter of Conditions outlining the conditions under which the grant will be made. It will include those matters necessary to assure that the proposed development is completed in accordance with approved plans and specifications, that grant funds are expended for authorized purposes, and that the terms of the Scope of Work and requirements as prescribed in Parts 3015 and 3016 of 7 CFR are complied with. The Letter of Conditions will be addressed to the applicant, signed by the State Director or other designated FmHA representative, and mailed or handed to appropriate applicant officials. Each Letter of Conditions will contain the following paragraphs.

"This letter established conditions which must be understood and agreed to by you before further consideration may be given to the application."

"This letter is not to be considered as grant approval nor as a representation as to the availability of funds. The docket may be completed on the basis of a grant not to exceed $.

"Please complete and return the attached Form FmHA 442-46, "Letter of Intent to Meet Conditions," if you desire further consideration be given your application."

Other items in the Letter of Conditions should include those relative to:

Maximum amount of grant,

contributions, interim financing, final plans and specifications, construction contract documents and bidding, required project audit, evidence of compliance with all applicable Federal, State, and local requirements, closing instructions, DOL certifications, compliance with any required environmental mitigation measures, and
other requirements including those of Regional Commissions when a grant is being made by a Regional Commission.

13. Section 1942.316 is amended by revising the heading and paragraph (c) to read as follows:

§ 1942.316 Grant approval, fund obligation and third party financial assistance.

(c) Third party financial assistance. Approval of a grant to an applicant who will use grant funds to provide financial assistance to a third party does not constitute approval of the projects financed by the grantee. The review, approval and disbursement of funds for specific projects financed by grantees will be completed in accordance with applicable sections of this Subpart.

14. Sections 1942.317, 1942.318, 1942.319, and 1942.320 are removed and reserved.

§§ 1942.317, 1942.318, 1942.319, and 1942.320 [Removed and Reserved]

§ 1942.322 [Removed and Reserved]

15. Section 1942.322 is removed and reserved.

§ 1942.350 [Redesignated as § 1942.349]

17. New § 1942.350 is added to read as follows:

§ 1942.350 OMB control number.

The collection of information requirements in this regulation have been approved by the Office of Management and Budget and have been assigned OMB control number 0575-0132. In accordance with 5 CFR Part 1320 summarized below is the annualized public reporting burden for this regulation.

### 7 CFR 1942-G INDUSTRIAL DEVELOPMENT GRANTS—JULY 1988

<table>
<thead>
<tr>
<th>Section of regulations</th>
<th>Title</th>
<th>Form No. if any</th>
<th>Estimated No. of respondents</th>
<th>Reports filed annually</th>
<th>Total annual responses (d) x (e)</th>
<th>Estimated No. of manhrs. per response</th>
<th>Estimated total man hours (f) x (g)</th>
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<tr>
<td>1942.310(b)(4)</td>
<td>Request for Environmental Information.</td>
<td>1940-20 (0575-0020).</td>
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<td>1942.311(a)</td>
<td>Application for Federal Assistance (for Non Construction Programs).</td>
<td>AD-623 (0348-0006).</td>
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<td>1942.315(b)</td>
<td>Letter of Intent to meet Conditions.</td>
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<td>Attachment 1, Sec. A II B</td>
<td>Preapplication for Federal Assistance.</td>
<td>FmHA 400-1 (0575-0010).</td>
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<td>Equal Opportunity Agreement.</td>
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<td>Request for Advance or Reimbursement.</td>
<td>SF-270 (0348-0005).</td>
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<td>Financial Status Report.</td>
<td>SF-269 (0348-0006).</td>
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<td>Federal Cash Transaction Report.</td>
<td>SF-272 (0348-0006).</td>
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### Reporting Requirements—No Forms

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<td>Plan to Provide Financial Assistance to Third Parties.</td>
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### 12 CFR Part 510a

**Use of Penalty Mail in the Location and Recovery of Missing Children**

**Date:** August 1, 1988.

**AGENCY:** Federal Home Loan Bank Board.

**ACTION:** Final rule.

**SUMMARY:** In response to Congressional legislation, the Federal Home Loan Bank Board ("Board") is amending its regulation authorizing the use of official United States Government mail franked for Board use ("penalty mail") to assist in the recovery of missing children.

**EFFECTIVE DATE:** August 1, 1988.

**FOR FURTHER INFORMATION CONTACT:**

**SUPPLEMENTARY INFORMATION:** On August 9, 1985, Congress enacted Pub. L. 99-87, which added a new section 3220 to title 39, United States Code. That provision authorized federal agencies to place photographs and biographical data of missing children on penalty mail in accordance with guidelines promulgated by the Department of Justice. Section 5 of Pub. L. No. 99-87 (See 39 U.S.C. 3220 n. "Termination Date" (Supp. III 1985)), stated that this authorization would expire two and one-half years after its enactment. The Board regulations implementing 39 U.S.C. 3320 therefore stated that they would terminate on February 9, 1988, in accordance with the terms of the statute. However, on December 22, 1987, Congress amended Pub. L. No. 99-87 to provide that the use of missing children photographs and biographical data on penalty mail would be continued until December 31, 1993. The amendment, at section 627(a) of the Treasury, Postal Service and General Government Appropriations Act of 1986, was enacted as part of House Joint Resolution No. 395, Continuing Appropriations, Fiscal Year 1988, Pub. L. No. 100-202, section 101(m), 101 Stat. 1329, 1329-430 (1987). Consequently, the Board is amending 12 CFR 510a.6 to provide that the Board’s use of penalty mail in the location of missing children shall continue until December 31, 1992.

Pursuant to 12 CFR 508.11 and 508.14, the Board finds that, because this amendment relates to Board procedure and practice, notice and public procedure are unnecessary, as is the 30 day delay of the effective date.

**List of Subjects in 12 CFR Part 510a**

Missing children, Penalty mail, Reporting and record keeping requirements.

Accordingly, the Board hereby amends Part 510a, Subchapter A, Chapter V, Title 12, Code of Federal Regulations, as set forth below.

**SUBCHAPTER A—GENERAL**

**PART 510a—USE OF PENALTY MAIL IN THE LOCATION AND RECOVERY OF MISSING CHILDREN**

1. The authority citation for Part 510a continues to read as follows:

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2. Revise §510a.6 to read as follows:

§510a.6 Expiration date.

This part is effective May 8, 1987, and shall cease to be effective upon the close of the Board’s business on December 31, 1992.

By the Federal Home Loan Bank Board.

Nadine Y. Washington,
Assistant Secretary.

**12 CFR Part 524**

**Operations of the Banks**

**Date:** August 1, 1988.

**AGENCY:** Federal Home Loan Bank Board.

**ACTION:** Final rule.

**SUMMARY:** The Federal Home Loan Bank Board ("Board") is amending its regulation pertaining to the preparation and submission of budgets by the Federal Home Loan Banks ("Banks"). The Board is removing the requirement that a Bank submit a certificate of compliance to the Board along with its budget. This will remove a requirement which the Board feels is no longer necessary.

**EFFECTIVE DATE:** The regulation is effective August 1, 1988.

**FOR FURTHER INFORMATION CONTACT:** William Carey, Director, Bank Liaison Division, Office of District Banks, (202) 377-6664; or Charles Szlenker, Attorney, Office of General Counsel, (202) 377-6664, Federal Home Loan Bank Board, 1700 G Street NW, Washington, DC 20552.

**SUPPLEMENTARY INFORMATION:** 12 CFR 524.6 requires each Federal Home Loan