

forms, provided or designated by the Licensing Authority, and shall be submitted in accordance with § 6.36(b). All parts of the application shall be completed. The application, if mailed, shall be postmarked no earlier than September 1 and no later than midnight October 15 of the year preceding that for which license application is made. The application, if submitted electronically, shall be transmitted no earlier than September 1 and no later than midnight October 15 of the year preceding that for which license application is made. The Licensing Authority will not accept incomplete applications or unpostmarked mailed applications.

(b)(1) Where the applicant seeks to establish eligibility on the basis of imports, applications shall include identification of entries (if submitted electronically) or Customs Form 7501 (if submitted by mail), sufficient to establish the applicant as the importer of record of entries required under § 6.23, during the 12-month period ending August 31 prior to the quota year for which license is being sought.

\* \* \* \* \*

(c) However, if the applicant is applying on the basis of more than eight shipments, the application, if mailed, shall include:

\* \* \* \* \*

■ 3. Amend § 6.26 by revising paragraph (a) and the introductory text of paragraph (c) to read as follows:

**§ 6.26 Surrender and reallocation.**

(a) If a licensee determines that it will not enter the entire amount of an article permitted under its license, such licensee shall surrender its license right to enter the amount that it does not intend to enter. Surrender shall be made to the Licensing Authority in writing by mail or electronic submission, postmarked or electronically submitted, in accordance with § 6.36(b), no later than October 1. Any surrender shall be final and shall be only for that quota year, except as provided in § 6.25(b). The amount of the license not surrendered shall be subject to the license use requirements of § 6.23(c)(1).

\* \* \* \* \*

(c) Any person who has been issued a license for a quota year may apply to receive additional license, or addition to an existing license for a portion of the amount being reallocated. The application shall be submitted to the Licensing Authority by mail or electronic submission, in accordance with § 6.36(b), no earlier than September 1 and not later than September 15, and shall specify:

\* \* \* \* \*

■ 4. Amend § 6.28 by revising paragraph (b) to read as follows:

**§ 6.28 Transfer of license.**

\* \* \* \* \*

(b) The parties seeking transfer of license shall give written notice to the Licensing Authority of the intended sale or conveyance described in paragraph (a) of this section by mail as required in § 6.36(b). The notice must be received by the Licensing Authority at least 20 working days prior to the intended consummation of the sale or conveyance. Such written notice shall include copies of the documents of sale or conveyance. The Licensing Authority will review the documents for compliance with the requirements of paragraph (a) of this section and advise the parties in writing of its findings by the end of the 20-day period. The parties shall have the burden of demonstrating to the satisfaction of the Licensing Authority that the contemplated sale or conveyance complies with the requirements of paragraph (a) of this section. Within 15 days of the consummation of the sale or conveyance, the parties shall mail copies of the final documents to the Licensing Authority, in accordance with § 6.36(b). The Licensing Authority will not transfer the licenses unless the documents are submitted in accordance with this paragraph.

\* \* \* \* \*

■ 5. Amend § 6.33 by revising paragraphs (b), (c), and (d) to read as follows:

**§ 6.33 License fee.**

\* \* \* \* \*

(b) The license fee for each license issued is due and payable in full by mail or electronic submission, postmarked or electronically submitted in accordance with § 6.36(b), no later than May 1 of the year for which the license is issued. The fee for any license issued after May 1 of any quota year is due and payable in full by mail or electronic submission, postmarked or electronically submitted in accordance with § 6.36(b), no later than 30 days from the date of issuance of the license. Fee payments, if made by mail, shall be made by certified check or money order payable to the Treasurer of the United States. Fee payments, if made electronically, shall be made utilizing the electronic software designated for the purpose by the Licensing Authority.

(c) If the license fee is not paid by the final payment date, a hold will be placed on the use of the license and no articles will be permitted entry under that license. The Licensing Authority shall send a warning letter by certified

mail, return receipt requested, advising the licensee that if payment is not mailed in accordance with § 6.36(b) or received within 21 days from the date of the letter, that the license will be revoked. Where the license at issue is a historical license, this will result, pursuant to § 6.23(b), in the person's loss of historical eligibility for such license.

(d) Licensees may elect not to accept certain licenses issued to them; however, the Licensing Authority must be so notified by mail or electronic e-mail, postmarked or electronically submitted in accordance with § 6.36(b) no later than May 1 of the year for which the license is issued.

■ 6. Amend § 6.36 by revising paragraph (b) to read as follows:

**§ 6.36 Miscellaneous.**

\* \* \* \* \*

(b) All submissions required under this subpart shall be made either by registered or certified mail, return receipt requested, with a postmarked receipt, with proper postage affixed and properly addressed to the Dairy Import Licensing Group, STOP 1021, U.S. Department of Agriculture, 1400 Independence Avenue SW., Washington DC 20250-1021, or by electronic submission utilizing the electronic software designated for this purpose by the Licensing Authority.

Signed at Washington, DC, on September 24, 2004.

A. Ellen Terpstra,  
Administrator, Foreign Agricultural Service.

[FR Doc. 04-22444 Filed 10-5-04; 8:45 am]

BILLING CODE 3410-10-P

**DEPARTMENT OF AGRICULTURE**

**Rural Utilities Service**

**7 CFR Part 1776**

**RIN 0572-AB93**

**Household Water Well System Grant Program**

**AGENCY:** Rural Utilities Service, USDA.  
**ACTION:** Direct final rule.

**SUMMARY:** The Rural Utilities Service (RUS), an agency delivering the United States Department of Agriculture's Rural Development Utilities Programs, is issuing regulations in order to establish the Household Water System Program as authorized by section 306E of the Consolidated Farm and Rural Development Act (CONACT). This direct final rule will establish a lending program for the construction, refurbishing, and servicing of

individually-owned household water well systems in rural areas that are or will be owned by the eligible individuals. In addition, the rule outlines the process by which applicants can apply for the program and how RUS will administer the grant program.

**DATES:** This rule will become effective November 22, 2004, unless RUS receives written adverse comments or a written notice of intent to submit adverse comments on or before November 5, 2004. If RUS receives such comments or notice, RUS will publish a timely notice in the **Federal Register** withdrawing the rule. Comments received will be considered under the proposed rule published in this edition of the **Federal Register** in the proposed rule section. A second public comment period will not be held. Comments must be received by RUS or carry a postmark or equivalent no later than November 5, 2004.

Comments regarding the information collection requirements under the Paperwork Reduction Act must be received on or before December 6, 2004, to be assured of consideration.

**ADDRESSES:** Submit adverse comments or notice of intent to submit adverse comments by any of the following methods:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- Agency Web Site: <http://www.usda.gov/rus/index2/Comments.htm>. Follow the instructions for submitting comments.
- E-mail: [RUSComments@usda.gov](mailto:RUSComments@usda.gov). Include in the subject line of the message "7 CFR 1776."
- Mail: Addressed to Richard Annan, Acting Director, Program Development and Regulatory Analysis, Rural Utilities Service, United States Department of Agriculture, 1400 Independence Avenue, SW., STOP 1522, Washington, DC 20250-1522.
- Hand Delivery/Courier: Addressed to Richard Annan, Acting Director, Program Development and Regulatory Analysis, Rural Utilities Service, United States Department of Agriculture, 1400 Independence Avenue, SW., Room 5168-S, Washington, DC 20250-1522.

**Instructions:** All submissions received must include RUS and the subject heading "7 CFR 1776". All comments received must identify the name of the individual (and the name of the entity, if applicable) who is submitting the comment. All comments received will be posted without change to <http://www.usda.gov/rus/index2/>

*Comments.htm*, including any personal information provided.

**FOR FURTHER INFORMATION CONTACT:** Cheryl Francis, Loan Specialist, Water Programs Division, Rural Utilities Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 2239-S, Stop 1570, Washington, DC 20250-1570. Telephone (202) 720-1937. E-Mail: [Cheryl.Francis@usda.gov](mailto:Cheryl.Francis@usda.gov).

**SUPPLEMENTARY INFORMATION:**

**Executive Order 12866**

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

**Executive Order 12372**

This program is not subject to the requirements of Executive Order 12372, "Intergovernmental Review of Federal Programs," as implemented under USDA's regulations at 7 CFR part 3015.

**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 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 the rule; and, in accordance with Section 212(e) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. section 6912(e)) administrative appeal procedures, if any are required, must be exhausted prior to initiating any action against the Department or its agencies.

**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 the law to publish a notice of final rule making with respect to the subject matter of this rule.

**Information Collection and Recordkeeping Requirements**

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), RUS invites comments on this information collection for which RUS intends to request approval from the Office of Management and Budget (OMB). These requirements have been approved by emergency clearance under OMB Control Number 0572-0139.

Comments on this notice must be received by December 6, 2004.

Comments are invited on (a) whether the collection of information is

necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumption used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent to Michele Brooks, Management Analyst, Program Development and Regulatory Analysis, Rural Utilities Service, U.S. Department of Agriculture, 1400 Independence Ave., SW., Stop 1522, Room 5168 South Building, Washington, DC 20250-1522. FAX: (202) 720-4120. E-mail: [michele.brooks@usda.gov](mailto:michele.brooks@usda.gov).

*Title:* 7 CFR 1776, Household Water System Program.

*Type of Request:* Extension of a currently approved collection.

*Abstract:* The Household Water System program will provide grant funds to establish a lending program for the construction, refurbishing, and servicing of individually-owned household water well systems in rural areas that are or will be owned by the eligible individuals. The collection of information covered by this Notice consists of forms, certifications, and written materials in support of an application for a grant. Failure to collect proper information could result in improper determinations of eligibility, improper use of funds, or hindrances in making grant(s) authorized by the Household Water System Program.

*Estimate of Burden:* Public reporting burden for this collection of information is estimated to average 6 hours per response.

*Respondents:* Not for profit institutions and Business or other for profit.

*Estimated Number of Respondents:* 5.  
*Estimated Number of Responses per Respondent:* 13.

*Estimated Total Annual Burden on Respondents:* 401 hours.

Copies of this information collection can be obtained from Michele Brooks, Program Development and Regulatory Analysis, at (202) 690-1078.

All responses to this information collection and recordkeeping notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

### 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 number 10.862. This catalog is available on a subscription basis from the Superintendent of Documents, the United States Government Printing Office, Washington, DC, 20402-9325, telephone number (202) 512-1800.

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

### Executive Order 13132, Federalism

The policies contained in this 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 rule impose substantial direct compliance costs on state and local governments. Therefore, consultation with states is not required.

### Background

On May 13, 2002, the Farm Security and Rural Investment Act of 2002 (Farm Bill) was signed into law as Public Law 107-171. The CONACT was amended by section 6012 of the Farm Bill, by adding a grant program to establish a lending program. For this program, the Secretary may make grants to private nonprofit organizations for the purpose of providing loans to eligible individuals for the construction, refurbishing, and servicing of individual household water well systems in rural areas that are or will be owned by the eligible individuals.

The CONACT defines an "eligible individual" to mean an individual who is a member of a household the members of which have a combined income (for the most recent 12-month period for which the information is

available) that is not more than 100 percent of the median nonmetropolitan household income for the State or territory in which the individual resides, according to the most recent decennial census of the United States.

This program is authorized to be appropriated \$10,000,000 for fiscal years (FY) 2003 through 2007.

There was no funding appropriated in FY 2003. However, the Consolidated Appropriations Act, 2004, Public Law 108-199 (Jan. 23, 2004; 118 Stat.3) includes \$1,000,000 for the grant program in FY 2004.

Due to the modest size of this program and the maximum dollar amount of loans to be made hereunder, RUS has determined that loans may be serviced, if approved by USDA, through the USDA Centralized Servicing Center to enhance standardized servicing and minimize related servicing fees. To reduce duplicative promulgation of specific rules regarding grants and loans hereunder, RUS has referenced existing USDA rules to the extent practicable, including references to specific regulations and standard forms.

A notice of inquiry was published in the **Federal Register** on February 10, 2004 (69 FR 6251) requesting comments on the Household Water System grant program. RUS received a total of 15 comments. All comments received were taken into consideration in developing the regulation. The following is a brief summary of the comments received.

*Grantees' experience with household water systems.* All the commenters felt that the grantee should have extensive experience with household water systems. Due to the complexity of household water systems, RUS feels that an organization must have extensive experience working with household water systems in order to assess solutions, determine cost factors, and how to best fulfill the needs of the rural residents utilizing these systems. In accordance with the requirements in the authorizing legislation of the CONACT, RUS will give priority to applicants with such experience.

*Matching funds.* Half of the commenters felt RUS should not require a matching fund component while the other half were in favor of a matching fund requirement. Due to the small amount of funding appropriated to this program, RUS feels it is necessary to require grant recipients to contribute funds from sources other than the proceeds of a HWWS grant to pay part of the cost of a loan recipient's project. As a result of such contributions, the widest number of rural residents practicable may benefit from this program.

*Percentage of financing.* Many commenters felt the program should offer 100 percent financing. They also felt the program should be for low-income communities and that RUS should not require the eligible individual to contribute to the cost. RUS will allow 100 percent financing on these projects; however, the project costs can not exceed the statutory limit. In situations where the costs exceed the statutory limit of \$8,000 per household water well system, the eligible individual will be required to cover the additional costs.

*Administrative fees.* Many commenters felt RUS should allow administrative fees, and the limit on those fees ranged from 8 percent to 20 percent. RUS will allow administrative fees to be an eligible grant purpose; however, the administrative costs cannot exceed 10 percent of the total grant funds loaned annually. These costs also must be clearly identified in the workplan.

*Use of Centralized Servicing Center.* The majority of commenters were in favor of using the Centralized Servicing Center (CSC). Some felt if the grantee has a similar program in place, the servicing should remain with the grantee. Due to the modest size of this program and the maximum dollar amount of loans to be made hereunder, RUS has determined that loans may be serviced, if approved by USDA, through the USDA Centralized Servicing Center to enhance standardized servicing and minimize related servicing fees.

*Credit elsewhere.* Some commenters felt a denial letter would be sufficient evidence to show an inability to acquire credit elsewhere. Others felt RUS should use the credit report and income verification to satisfy the credit elsewhere requirement. RUS will require the grantee to obtain sufficient evidence that the eligible individual is unable to obtain financial assistance at reasonable terms and conditions from other non-RD sources, and lacks the personal resources to meet their needs. In addition, the eligible individual must demonstrate adequate repayment ability as supported by a budget, and they must have a credit history that indicates reasonable ability and willingness to meet debt obligations.

*Eligible and ineligible purposes.* A couple of commenters felt newly built homes and wells for uses other than potable water should be eligible for the program. Most felt the repair or replacement of failing well systems should be eligible. RUS will follow the authorizing legislation and require that grant proceeds be used solely for the purpose of providing loans to eligible

individuals for the construction, refurbishing, and servicing of individual household water well systems in rural areas that are or will be owned by the eligible individuals.

#### List of Subjects in 7 CFR Part 1776

Agriculture, Community development, Community facilities, Credit, Grant programs—housing and community development, Nonprofit organizations, Reporting and recordkeeping requirements, Rural areas, Waste treatment and disposal, Water pollution control, Water resources, Water supply, Watersheds.

■ For reasons set forth in the preamble, RUS amends 7 CFR chapter XVII of Title 7 of the Code of Federal Regulations by adding a new part 1776 to read as follows:

### PART 1776—HOUSEHOLD WATER WELL SYSTEM GRANT PROGRAM

#### Subpart A—General

- Sec.  
1776.1 Purpose.  
1776.2 Uniform Federal Assistance Provisions.  
1776.3 Definitions.  
1776.4 [Reserved]

#### Subpart B—HWWS Grants

- 1776.5 Eligibility to receive a grant.  
1776.6 Notice of availability of funds.  
1776.7 Grant application process.  
1776.8 Methods for submitting applications.  
1776.9 Scoring applications.  
1776.10 Grant agreement.  
1776.11 Revolving loan fund.  
1776.12 Use of grant proceeds.  
1776.13 Administrative expenses.

#### Subpart C—HWWS Loans

- 1776.14 Eligibility to receive a HWWS loan.  
1776.15 Terms of loans.  
1776.16 Loan servicing.  
1776.17 Revolving loan fund maintenance.  
1776.18 OMB control number.

Authority: 7 U.S.C. 1926e.

#### Subpart A—General

##### § 1776.1 Purpose.

This part sets forth the policies and procedures for making grants to private, nonprofit organizations to finance the construction, refurbishing and servicing of individually-owned household water well systems in rural areas for individuals with low or moderate income.

##### § 1776.2 Uniform Federal Assistance Provisions.

(a) This program is subject to the general provisions that apply to all grants made by USDA and that are set forth in 7 CFR Part 3015—Uniform Federal Assistance Regulations.

(b) This program is subject to the uniform administrative requirements that apply to all grants made by USDA to non-profit organizations and that are set forth in 7 CFR Part 3019—Uniform Administrative Requirements for Grants And Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations.

(c) This program is subject to OMB Circular No. A–122 (Revised): Cost Principles for Non-Profit Organizations.

##### § 1776.3 Definitions.

*Administrative expenses* means expenses incurred by a grant recipient that are of the type more particularly described in § 1776.13.

*Applicant* means a private, nonprofit organization that applies for a HWWS grant under this part.

*Centralized Servicing Center (CSC)* means the centralized loan servicing center within the United States Department of Agriculture, Rural Development. CSC provides nationwide services for borrowers that have received financing from Rural Development programs.

*Construction* means building or assembling a water well system or portion thereof, that is not a water well system or portion thereof being constructed in connection with a new building.

*Eligible individual* means an individual who is a member of a household the members of which have a combined income (for the most recent 12-month period for which the information is available) that is not more than 100 percent of the median nonmetropolitan household income for the State of territory in which the individual resides, according to the most recent decennial census of the United States.

*Grant agreement* means the contract between RUS and the grant recipient which sets forth the terms and conditions governing a particular grant awarded under this part.

*Grant recipient* means an applicant that has been awarded a HWWS grant under this part.

*HWWS* means household water well system.

*HWWS grant* means a grant awarded by RUS to a grant recipient under this part.

*HWWS loan* means a loan made by a grant recipient to a loan recipient using the direct or indirect proceeds of a HWWS grant awarded under this part.

*Loan recipient* means an eligible individual who has received a HWWS loan.

*Refurbishing* means to renovate or to restore a water well system or portion thereof to near new condition.

*Revolved funds* means the cash portion of the revolving loan fund that is not composed of HWWS grant funds, including repayments of revolving HWWS loans, fees and interest collected on HWWS loans.

*Revolving loan fund* means the loan fund established by the grant recipient to carry out the purposes of this part, such fund comprising the proceeds of a HWWS grant and other related assets.

*Rural area* means any area other than a city or town that has a population of greater than 50,000 inhabitants; and the urbanized area contiguous and adjacent to such city or town.

*RUS* means the Rural Utilities Service, a Federal agency delivering the United States Department of Agriculture's Rural Development Utilities Program.

*Servicing* means making repairs or performing maintenance on a water well system or portion thereof.

*USDA* means the United States Department of Agriculture.

##### § 1776.4 [Reserved]

#### Subpart B—HWWS Grants

##### § 1776.5 Eligibility to receive a grant.

(a) The applicant must be a private organization.

(b) The applicant must be organized as a non-profit organization.

(c) The applicant must have legal capacity and lawful authority to perform the obligations of a grant recipient under this part.

*Example 1 to paragraph (c):* If the organization is incorporated as a non-profit corporation, it must have corporate authority under state law and its corporate charter to engage in the practice of making loans to individuals.

*Example 2 to paragraph (c):* If the organization is an unincorporated association, state law may prevent the organization from entering into binding contracts, such as a grant agreement.

(d) The applicant must have sufficient expertise and experience in lending and in promoting the safe and productive use of individually-owned household water well systems and ground water to assure the likelihood that the objectives of this part can be achieved.

##### § 1776.6 Notice of availability of funds.

(a) In Fiscal Year 2004, applications will be accepted for this program from October 6, 2004, until December 6, 2004, at which time the initial application period shall close. An applicant may withdraw, substitute, amend or supplement its application at any time prior to the closing of the initial application period. Once the

initial application period has closed, all applications shall be considered final.

(b) For subsequent fiscal years, if any funds for this program are available, the Secretary will publish a notice to that effect. The notice will establish the period during which applications for such funds may be submitted for consideration.

#### § 1776.7 Grant application process.

(a) The applicant must complete and submit the following standard forms to RUS to apply for a HWWS grant under this part:

(1) Application for Federal Assistance: *Standard Form 424*,  
(2) Budget Information—Non-Construction Programs: *Standard Form 424A*, and

(3) Assurances—Non-Construction Programs: *Standard Form 424B*.

(b) The applicant must submit a written work plan that demonstrates the feasibility of the applicant's lending program to meet the objectives of this part.

(c) The applicant should submit a narrative establishing the basis for any claims that it has substantial expertise in promoting the safe and productive use of individually-owned household water well systems. The Secretary will give priority to an applicant that demonstrates it has substantial experience of this type.

(d) The applicant must submit:

(1) A pro forma balance sheet at start-up and projected balance sheets for at least 3 additional years,

(2) Financial statements for the last 3 years, or from inception of the operations of the grant recipient if less than 3 years, and

(3) Projected cash flow and earnings statements for at least 3 years, supported by a list of assumptions showing the basis for the projections. The projected earnings statement and balance sheets must include one set of projections specific to the revolving loan fund, and a separate set of projections that detail the proposed applicant organization's total operations.

(e) The applicant may submit such additional information as it elects to support and describe its plan for achieving the objectives of this part.

#### § 1776.8 Methods for submitting applications.

(a) Applications for HWWS grants may be submitted by U.S. Mail. Applications submitted by mail must be addressed as follows: Rural Utilities Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., STOP 1548, Washington, DC 20250-1548. The outside of the application should be

marked: "Attention: Assistant Administrator, Water and Environmental Programs." Applications submitted by mail must be postmarked not later than the filing deadline to be considered during the period for which the application was submitted.

(b) In lieu of submitting an application by U.S. Mail, an applicant may file its application electronically by using the Federal Government's eGrants Web site (Grants.gov) at <http://www.grants.gov>. Applicants should refer to instructions found on the Grants.gov Web site for procedures for registering and using this facility. Applicants who have not previously registered on Grants.gov should allow a sufficient number of business days to complete the process necessary to be qualified to apply for Federal Government grants using electronic submissions. Electronic submissions must be filed not later than the filing deadline to be considered during the period for which the application was submitted.

(c) The methods of submitting applications may be changed from time to time to reflect changes in addresses and electronic submission procedures. Applicants should refer to the most recent notice of funding availability for notice of any such changes. In the event of any discrepancy, the notice must be followed.

#### § 1776.9 Scoring applications.

(a) Applications that are incomplete or ineligible will be returned to the applicant, accompanied by a statement explaining why the application is being returned.

(b) Promptly after an application period closes, all applications that are complete and eligible will be ranked competitively based on the following scoring criteria:

(1) Degree of expertise and experience in promoting the safe and productive use of individually-owned household water well systems and ground water. Up to 30 points

(2) Degree of expertise and successful experience in making and servicing loans to individuals. Up to 20 points

(3) Percentage of applicant contributions. Points allowed under this paragraph will be based on written evidence of the availability of funds from sources other than the proceeds of a HWWS grant to pay part of the cost of a loan recipient's project. In-kind contributions will not be considered. Funds from other sources as a percentage of the HWWS grant and points corresponding to such percentages are as follows:

(i) Less than 25 percent—ineligible;

(ii) Greater than 25 percent but not more than 30 percent of the total project costs—5 points;

(iii) Greater than 30 percent but not more than 50 percent of the total project costs—10 points; and

(iv) Over 50 percent of the total project costs—20 points.

(4) Extent to which the work plan demonstrates a well thought out, comprehensive approach to accomplishing the objectives of this part, clearly defines who will be served by the project, and appears likely to be sustainable. Up to 20 points

(5) Extent to which the goals and objectives are clearly defined, tied to the work plan, and are measurable. Up to 10 points

(6) Lowest ratio of projected administrative expenses to loans advanced. 10 points

(7) Administrator's discretion, considering such factors as creative outreach ideas for marketing HWWS loans to rural residents, the amount of funds requested in relation to the amount of needs demonstrate in the work plan, previous experiences demonstrating excellent utilization of a revolving loan fund grant, and optimizing the use of agency resources. Up to 10 points

(c) All qualifying applications under this part will be scored based on the criteria contained in this section. Awards will be made based on the highest ranking applications and the amount of financial assistance available for HWWS grants. Each applicant will be notified in writing of the score its application receives.

#### § 1776.10 Grant agreement.

RUS and the grant recipient will enter into a contract setting forth the terms and conditions governing a particular HWWS grant award. RUS will furnish the form of grant agreement. No funds awarded under this part shall be disbursed to the grant recipient before the grant agreement is binding and RUS has received a fully executed counterpart of the grant agreement.

#### § 1776.11 Revolving loan fund.

The grant recipient shall establish and maintain a revolving loan fund for the purposes set forth in § 1776.12. All loans made to loan recipients shall be drawn from the revolving loan fund. Such loans shall be serviced, and the revolving loan fund shall be maintained, as set forth in § 1776.17.

#### § 1776.12 Use of grant proceeds.

(a) Except as otherwise provided in paragraph (b) of this section, HWWS grant proceeds shall be used solely for

the purpose of providing loans to eligible individuals for the construction, refurbishing, and servicing of individual household water well systems in rural areas that are or will be owned by the eligible individuals.

(b) A grant recipient may use HWWS grant funds to pay administrative expenses associated with providing the assistance described in paragraph (a) of this section.

(c) A grant recipient may not use grant funds in any manner inconsistent with the terms of the grant agreement.

#### **§ 1776.13 Administrative expenses.**

(a) Subject to the limitations provided in the paragraphs (b), (c) and (d) of this section, the grant recipient may use grant funds to pay administrative expenses associated with providing HWWS loans.

(b) Administrative expenses incurred in any calendar year which exceed ten percent of the HWWS loans made by the grant recipient during that same period do not qualify for reimbursement.

(c) Administrative expenses incurred prior to the execution of the grant agreement by RUS do not qualify for reimbursement.

(d) Allowability of administrative expense costs shall be determined in accordance with 7 CFR 3019.27.

### **Subpart C—HWWS Loans**

#### **§ 1776.14 Eligibility to receive a HWWS loan.**

(a) The loan recipient must be an eligible individual.

(b) The loan recipient must either own and occupy the home being improved with the proceeds of the HWWS loan, or be occupying the home as the purchaser under a legally enforceable land purchase contract which is not in default by either the seller or the purchaser.

(c) The home using the water well system being funded from proceeds of the HWWS loan must be located in a rural area.

(d) The water well system being funded from the proceeds of the HWWS loan may not be associated with the construction of a new dwelling.

(e) The water well system being funded from the proceeds of the HWWS loan may not be used to substitute for water service available from collective water systems. Example: Loan recipient wishes to restore an old well which had been abandoned when the dwelling was connected to a water line belonging to a water district.

(f) A loan recipient must not be suspended or debarred from participation in Federal programs.

#### **§ 1776.15 Terms of loans.**

(a) HWWS loans under this part—

(1) Shall have an interest rate of 1 percent;

(2) Shall have a term not to exceed 20 years; and

(3) Shall not exceed \$8,000 for each household water well system.

(b) The grant recipient must set forth the HWWS loan terms in written documentation signed by the loan recipient.

(c) Grant recipients must develop and use HWWS loan documentation that conforms to the terms of this part, the grant agreement, and the laws of the state or states having jurisdiction.

#### **§ 1776.16 Loan servicing.**

(a) If RUS determines that HWWS loans may be serviced by CSC, then the grant recipient will enter into an agreement with the Centralized Servicing Center for servicing all HWWS loans made from the revolving loan fund. All HWWS loan payments will be received by and processed at the Centralized Servicing Center. The grant recipient will be charged a fee for this service, and such fee should be included in the projected financial statements and work plan submitted as part of the grant application. This fee may be reimbursed as an administrative expense as provided in § 1776.13.

(b) If RUS determines that CSC is not able to service HWWS loans, then the grant recipient shall be responsible for servicing, or causing to be serviced, all HWWS loans. Servicing will include preparing loan agreements, processing loan payments, reviewing financial statements and debt reserves balances, and other responsibilities such as enforcement of loan terms. Loan servicing will be in accordance with the work plan approved by RUS when the grant is awarded for as long as any loan made in whole or in part with RUS grant funds is outstanding.

#### **§ 1776.17 Revolving loan fund maintenance.**

For as long as any part of the HWWS grant remains available for lending, and loans made from the revolving loan fund have an outstanding balance due, the grant recipient must maintain the revolving loan fund for the purposes set forth in § 1776.13.

(a) All HWWS grant funds received by a grant recipient must be deposited into the revolving loan fund.

(b) The grant recipient may transfer additional assets into the revolving loan fund.

(c) All cash and other assets of the revolving loan fund shall be deposited in a separate bank account or accounts.

(d) No cash or other assets of any other fund maintained by the grant recipient shall be commingled with the cash and other assets of the revolving loan fund.

(e) All moneys deposited in such bank account or accounts shall be money of the revolving loan fund.

(f) Loans to loan recipients are advanced from the revolving loan fund.

(g) The receivables created by making loans, the grant recipient's security interest in collateral pledged by loan recipients, collections on the receivables, interest, fees, and any other income or assets derived from the operation of the revolving loan fund are a part of the revolving loan fund.

(h) The portion of the revolving loan fund that consists of HWWS grant funds, on a last-in-first-out basis, may only be used for those purposes set forth in this part.

(i) The grant recipient must submit an annual budget of proposed administrative costs for RUS approval. The amount removed from the revolving loan fund for administrative costs in any year must be reasonable, must not exceed the actual cost of operating the revolving loan fund, including loan servicing and providing technical assistance, and must not exceed the amount approved by RUS in the grant recipient's annual budget.

(j) A reasonable amount of revolved funds must be used to create a reserve for bad debts. Reserves should be accumulated over a period of years. The total amount should not exceed maximum expected losses, considering the quality of the grant recipient's portfolio of loans. Unless the grant recipient provides loss and delinquency records that, in the opinion of RUS, justifies different amounts, a reserve for bad debts of 6 percent of outstanding loans must be accumulated over 3 years and then maintained as set forth in the grant agreement.

(k) Any cash in the revolving loan fund from any source that is not needed for debt service, approved administrative costs, or reasonable reserves must be available for additional loans to loan recipients.

(l) All reserves and other cash in the revolving loan fund not immediately needed for loans to loan recipients or other authorized uses must be deposited in accounts in banks or other financial institutions. Such accounts must be fully covered by Federal deposit insurance or fully collateralized with U.S. Government obligations, and must be interest bearing. Any interest earned thereon remains a part of the revolving loan fund.

**§ 1776.18 OMB control number.**

The information collection requirements in this part are approved by the Office of Management and Budget (OMB) and assigned OMB control number 0572-0139.

Dated: September 2, 2004.

**Curtis M. Anderson,**

*Acting Administrator, Rural Utilities Service.*

[FR Doc. 04-22448 Filed 10-5-04; 8:45 am]

BILLING CODE 3410-15-P

**DEPARTMENT OF AGRICULTURE****Rural Utilities Service****7 CFR Part 1783**

RIN 0572-AB95

**Grant Program To Establish a Fund for Financing Water and Wastewater Projects (Revolving Fund Program (RFP))**

**AGENCY:** Rural Utilities Service, USDA.

**ACTION:** Direct final rule.

**SUMMARY:** The Rural Utilities Service (RUS or the Agency) is issuing a regulation to establish the Grant Program to Establish a Fund for Financing Water and Wastewater Projects (Revolving Fund Program (RFP)) as authorized by the Consolidated Farm and Rural Development Act (CONACT), as amended by section 6002 of the Farm Security and Rural Investment Act of 2002 (Farm Bill). The Secretary may make grants to qualified, private, non-profit entities. Grant Recipients will make loans to eligible entities to finance pre-development costs associated with proposed water and wastewater projects or with existing water and wastewater systems, and short-term costs incurred for replacement equipment, small-scale extension of services, or other small capital projects that are not part of the regular operations and maintenance activities of existing water and wastewater systems.

**DATES:** This rule will become effective November 22, 2004, unless RUS receives written adverse comments or a written notice of intent to submit adverse comments on or before November 5, 2004. If RUS receives such comments or notice, the Agency will publish a timely notice in the **Federal Register** withdrawing the rule. Comments received will be considered under the proposed rule published in this edition of the **Federal Register** in the proposed rule section. A second public comment period will not be held. Comments must be received by RUS or

carry a postmark or equivalent no later than November 5, 2004. Comments regarding the information collection requirements under the Paperwork Reduction Act must be received on or before December 6, 2004, to be assured of consideration.

**ADDRESSES:** Submit adverse comments or notice of intent to submit adverse comments by any of the following methods:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the online instruction for submitting comments.

- Agency Web Site: <http://www.usda.gov/rus/index2.Comments.htm>. Follow the instructions for submitting comments.

- E-mail: [RUSComments@usda.gov](mailto:RUSComments@usda.gov). Include in the subject line of the message "7 CFR 1783."

- Mail: Addressed to Richard Annan, Acting Director, Program Development and Regulatory Analysis, Rural Utilities Service, United States Department of Agriculture, 1400 Independence Avenue, STOP 1522, Washington, DC 20250-1522.

- Hand Delivery/Courier: Addressed to Richard Annan, Acting Director, Program Development and Regulatory Analysis, Rural Utilities Service, United States Department of Agriculture, 1400 Independence Avenue, SW., Room 5168-S, Washington, DC 20250-1522.

**Instructions:** All submissions received must include "Rural Utilities Service" and the subject heading "7 CFR 1783." All comments received must identify the name of the individual (and the name of the entity, if applicable) who is submitting the comment. All comments received will be posted without change to <http://www.usda.gov/rus/index2.Comments.htm>, including any personal information provided.

**FOR FURTHER INFORMATION CONTACT:** Stephen Saulnier, Loan Specialist, Water Programs Division, Rural Utilities Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 2235-S, Stop 1570, Washington, DC 20250-1570. Telephone (202) 690-2526. E-Mail: [stephen.saulnier@usda.gov](mailto:stephen.saulnier@usda.gov).

**SUPPLEMENTARY INFORMATION:****Executive Order 12866**

This direct final rule has been determined to be not significant for the 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 not subject to the requirements of Executive Order 12372,

"Intergovernmental Review of Federal Programs", as implemented under USDA's regulations at 7 CFR Part 3015.

**Executive Order 12988**

This direct final 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 the rule; and, in accordance with Section 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 any action against the Department or its agencies.

**Regulatory Flexibility Act Certification**

Pursuant to 5 U.S.C. 553(a)(2), this proposed rule related to grants is exempt from the rulemaking requirements of the Administrative Procedure Act, 5 U.S.C. 551 *et seq.*, including the requirement to provide prior notice and an opportunity for public comment. Because this proposed rule is not subject to a requirement to provide prior notice and an opportunity for public comment pursuant to 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* are inapplicable.

**Executive Order 13132, Federalism**

The policies contained in this 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 rule impose substantial direct compliance costs on states and local governments. Therefore, consultation with states is not required.

**Information Collection and Recordkeeping Requirements**

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) RUS is requesting comments on the information collection incorporated in this proposed rule. Comments on this information collection must be received by December 6, 2004.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the