Almeria Province in Spain," must accompany the shipment.

(b) [*Reserved*]

Done in Washington, DC, this 19th day of August 1994.

Terry L. Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 94–20989 Filed 8–24–94; 8:45 am]

BILLING CODE 3410–34–P

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7 CFR Part 301

[Docket No. 94–030–2]

Mexican Fruit Fly; Treatments for Regulated Articles

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the Mexican fruit fly regulations by adding a high-temperature forced air treatment for grapefruit. This action will provide an alternative treatment for grapefruit that require treatment to be moved interstate from regulated areas in Texas and California. Adding this treatment will facilitate the interstate movement of grapefruit grown in regulated areas.

EFFECTIVE DATE: September 26, 1994.

FOR FURTHER INFORMATION CONTACT: Mr. Michael B. Stefan, Operations Officer, Domestic and Emergency Operations, Plant Protection and Quarantine, APHIS, USDA, room 640, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–8247.

SUPPLEMENTARY INFORMATION:

Background

The Mexican fruit fly, *Anastrepha ludens* (Loew), is a destructive pest of citrus and other types of fruit. The short life cycle of the Mexican fruit fly allows rapid development of serious outbreaks that can cause severe economic losses in commercial citrus-producing areas.

In order to prevent the artificial spread of the Mexican fruit fly to noninfested areas, the regulations in 7 CFR 301.64 through 301.64–10 (referred to below as the regulations) restrict the interstate movement of regulated articles from regulated areas in quarantined States. Quarantined States are listed in § 301.64(a), regulated articles are listed in § 301.64–2, and regulated areas are listed in § 301.64–3(c).

Regulated articles are most often certified for interstate movement after an inspector has determined that the regulated article is free from the Mexican fruit fly, or that the premises of origin is free from the Mexican fruit fly and the regulated article has not been exposed to the pest. There are cases, however, where a regulated article or its premises of origin cannot be determined to be free from the Mexican fruit fly. In such cases, a certificate will be issued if the regulated article is treated in accordance with § 301.64–10, or a limited permit may be obtained to move the regulated article interstate to receive one of the treatments specified in § 301.64–10.

On June 20, 1994, we published in the **Federal Register** (59 FR 31561–31562, Docket No. 94–030–1) a proposal to add a high-temperature forced air treatment to § 301.64–10 as an alternative treatment for grapefruit (*Citrus paradisi*), one of the regulated articles listed in § 301.64–2. The high-temperature forced air treatment was developed by the Agricultural Research Service of the U.S. Department of Agriculture as an effective alternative treatment against the Mexican fruit fly in grapefruit.

We solicited comments on our proposed rule for a 30-day period ending on July 20, 1994. We received one comment by that date, from a State department of agriculture. The commenter supported our proposed rule with the expectation that the Animal and Plant Health Inspection Service will ensure that the treatment will be conducted in accordance with the approved time and temperature schedule and that treated grapefruit will be identified as such and protected from Mexican fruit fly infestation until it has left the regulated area. We believe that the provisions of § 301.64–4 regarding conditions for the interstate movement of regulated articles from regulated areas and the provisions of § 301.64–5 regarding the issuance of certificates and limited permits for the movement of regulated articles sufficiently address the commenter's expectations. Section 301.64–5 also requires that treatments be monitored by inspectors to assure compliance with the regulations.

Therefore, based on the rationale set forth in the proposed rule, we are adopting the provisions of the proposal as a final rule without change.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

This final rule amends the regulations by adding a high-temperature forced air treatment to the list of approved treatments for Mexican fruit fly in grapefruit.

There are approximately 1,500 citrus grove owners and 50 shippers who stand to benefit by having an additional treatment option for grapefruit to be moved interstate from a regulated area. Adding another treatment will not increase the amount of grapefruit moved from regulated areas in Texas and California because most citrus and other regulated articles moved interstate by owners and shippers qualify for movement without requiring treatment. Treatment becomes necessary only when the regulated articles or their premises of origin cannot be certified as being free from Mexican fruit fly.

Cold treatment and methyl bromide fumigation have been the two treatments available for grapefruit; the availability of the high-temperature forced air treatment will simply provide another treatment option when treatment is required.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12778

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This document contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, 7 CFR part 301 is amended as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 150bb, 150dd, 150ee, 150ff, 161, 162, and 164–167; 7 CFR 2.17, 2.51, and 371.2(c).

2. In § 301.64–10, a new paragraph (e) is added to read as follows:

§ 301.64–10 Treatments.

* * * * *

(e) *Grapefruit.* (1) High-temperature forced air as follows:

(i) Minimum size: 3.5 in (9 cm) in diameter

(ii) Minimum weight: 9.25 oz (262 g)

(iii) Minimum initial pulp temperature: 77 °F (25 °C)

(iv) *Caution:* Grapefruit larger than 3.7 in (9.5 cm) in diameter and 14.2 oz (402 g) in weight may suffer cosmetic damage as a result of this treatment.

(2) These steps must occur in order:

(i) Place the grapefruit in a chamber and seal the chamber.

(ii) Heat air in chamber to 104 °F (40 °C) for 120 minutes.

(iii) Heat air in chamber to 122 °F (50 °C) for 90 minutes.

(iv) Heat air in chamber to 126 °F (52 °C) and maintain temperature until the grapefruit center reaches 118 °F (48 °C).

(3) The treatment must be administered in a sealed, insulated chamber. The air may be heated in the chamber or hot air may be introduced into the chamber.

Done in Washington, DC, this 18th day of August 1994.

Terry L. Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 94–20785 Filed 8–24–94; 8:45 am]

BILLING CODE 3410–34–P

Rural Electrification Administration

7 CFR Parts 1744 and 1753

RIN 0572–AB08

Post-Loan Policies and Procedures Common to Guaranteed and Insured Telephone Loans; Telecommunications System Construction Policies and Procedures

AGENCY: Rural Electrification Administration, USDA.

ACTION: Final rule.

SUMMARY: The Rural Electrification Administration (REA) hereby amends its post-loan regulations for telephone borrowers to ease borrower reporting requirements and further clarify existing REA policy. In addition, REA amends the telecommunications system construction regulations to relax requirements for minor facilities construction procedures, to make technical corrections and clarifications, and to reflect minor technical changes such as moving the definitions section from one subpart to another.

EFFECTIVE DATE: This regulation is effective on September 26, 1994.

FOR FURTHER INFORMATION CONTACT: Orren E. Cameron III, Director, Telecommunication Standards Division, Rural Electrification Administration, U.S. Department of Agriculture, 14th & Independence Avenue SW., room 2835–S, Washington, DC 20250–1500, telephone number (202) 720–8663.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This final rule has been determined to be not significant for purposes of Executive Order 12866 and therefore has not been reviewed by OMB.

Executive Order 12778

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This final rule will not:

(1) Preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule;

(2) Have any retroactive effect; and

(3) Require administrative proceedings before parties may file suit challenging the provisions of this rule.

Regulatory Flexibility Act Certification

REA has determined that this final rule will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The REA telephone program provides loans to REA borrowers at interest rates and terms that are more favorable than those generally available from the private sector. REA borrowers, as a result of obtaining federal financing, receive economic benefits which exceed any direct economic costs associated with complying with REA regulations and requirements. Moreover, this action liberalizes certain contract requirements by changing contract limits and allowing negotiation of fee schedules which further offsets economic costs.

Information Collection and Recordkeeping Requirements

In compliance with the Office of Management and Budget (OMB) regulations (5 CFR Part 1320) which implement the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and section 3504 of that Act, the information collection and recordkeeping requirements contained in this final rule have been submitted to OMB for approval. Comments concerning these requirements should be directed to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for USDA, room 3201, New Executive Office Building, Washington, DC 20503.

National Environmental Policy Act Certification

REA has determined that this final 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 final rule is listed in the Catalog of Federal Domestic Assistance Programs under 10.851, Rural Telephone Loans and Loan Guarantees, and 10.852, Rural Telephone Bank Loans. This catalog is available on a subscription basis from the Superintendent of Documents, the United States Government Printing Office, Washington, DC 20402–9325.

Executive Order 12372

This final rule is excluded from the scope of Executive Order 12372, Intergovernmental Consultation. A Notice of Final Rule entitled Department Programs and Activities Excluded from Executive Order 12372 (50 FR 47034) exempts REA and RTB loans and loan guarantees to governmental and nongovernmental entities from coverage under this Order.

Background

On March 4, 1994, REA published this action as a proposed rule at 59 FR 10327 to clarify existing policy and ease requirements.

REA received no comment on revisions to 7 CFR part 1744, so the final rule is unchanged from the proposed rule.

REA received comments on 7 CFR part 1753 from the United States Telephone Association, TDS Telecom on behalf of 25 TDS-affiliated telephone companies in the southeast, Design South Professionals, Inc., ALLTEL Service Corporation, Coastal Utilities, Inc., Farmers Telephone Cooperative, Inc. (of South Carolina), Citizens Utilities Rural Company, Inc., Carnes, Burkett, Wiltsee & Associates, TDS Telecom (Madison, WI), and Reed Veach Wurdeman & Associates. These comments were taken into consideration in preparing the final rule.

Comment Summary: One commenter suggested that the phrase in § 1753.15(b)(3), "inspection of construction" be changed to

"observation of construction" because the former is considered obsolete within the engineering profession.

Response: The proposed rule did not change this subsection, but REA is revising the Form 217 contract, Engineering and Architectural Services, in a separate effort, and REA is addressing this comment in that revision. The term "inspection of construction" is used in part 1753 in a generic sense, and it clearly describes the engineer's responsibility. The term "observation of construction", without the further definition which would always accompany it in a professional services contract, is too vague. The language in § 1753.15(b)(3) is unchanged in the final rule.

Comment Summary: One commenter observed that the proposed rule did not incorporate language in § 1753.17(c)(1)(B) clarifying REA's policy with regard to state engineering registration laws. This clarifying language was previously offered by the Administrator in a May 10, 1990 letter.

Response: The language requested would state that REA does not under part 1753 attempt to usurp any state engineering registration laws. It has not been REA's intent to usurp state registration laws at any time, so the final rule incorporates the suggested language.

Comment Summary: Most commenters opposed the $400,000 annual financing limit placed on Form 773 contracts in § 1753.46(c)(3) and § 1753.80(a). Two commenters observed that REA had given no rationale for the proposed limit. Several commenters pointed out that the proposed limit would make it difficult for large REA borrowers to respond quickly to service demands. One commenter argued that since the Form 773 contract is used for central office equipment, buildings, and special equipment, as well as outside plant, using the Form 773 to its $400,000 limit on outside plant construction would deprive a borrower of this valuable minor construction resource in those other categories. And finally, one commenter argued that restricting use of the Form 773 contract would force borrowers to resort to the Form 515 contract, which the commenter asserted is more complicated and expensive. This commenter argued that REA had presented no studies to support any contention that construction performed under minor construction procedures was more expensive than construction performed under the Form 515 contract.

Response: To understand REA's imposition of the $400,000 limit, it is useful to view the entire package of changes in construction procedures in the proposed rule.

REA proposed relaxing the existing $100,000 limit on individual Form 773 contracts to help that contract close a gap between minor construction procedures and REA's major construction contracts. The Form 773 contract is a very brief agreement, covering only the most basic responsibilities of the parties. The Form 773 contract, unlike REA's major contracts, does not require prior REA approvals of plans and specifications, pricing, or the contract itself. To make the contract as flexible as possible, REA simply provides a space where the borrower fills in the statement of work to be covered by the contract. The contractor may charge for work under the contract in any manner agreed upon: lump sum, on a unit basis, hourly, or other. No provision is made in the contract to require or define a performance bond. The contract was designed as a convenient vehicle for formalizing oral contracts which are common in the industry, but which had historically failed to withstand REA audit scrutiny. The Form 773 was designed by REA in this manner because a primary characteristic of its conception was that it would never exceed a specified limit: $100,000. Any dispute that might occur involving such a small amount could not pose a significant risk to a borrower or REA's security interest in a borrower. The more sophisticated major contracts, Forms 515, 525, 397 and 157, provide borrowers and REA with necessary protections, and provide borrowers with agreement provisions that have evolved over the years to handle construction administration. These major contracts also facilitate a very important tenet of the successful public sector-private sector partnership that has been the key to the success of the REA Telephone Program: Competition. Without these contracts, and their accompanying forms of specification, competitive bidding would be chaotic, or impossible.

In conjunction with a relaxation of the maximum limit for individual Form 773 contracts, REA imposed the $400,000 limit. This was intended to limit a borrower's and REA's exposure to risk in the event of a dispute involving one or more of the newly-allowed $200,000 outside plant Form 773 contracts. REA believes the increase in the limit for individual outside plant Form 773 contracts is appropriate, and believes that some maximum annual limit is needed to protect borrowers and REA from the potential risks of using this simple contract for complicated projects.

In response to the comment regarding large borrowers, REA has changed the maximum annual limit to allow the limit to exceed $400,000 under certain circumstances, to permit large borrowers to perform up to 10% of the prior year's total cost for outside plant construction, under the Form 773 contract. It is not REA's intent for the Form 773 contract to be used in lieu of the Form 515 contract for most major projects.

In response to the concern that the maximum annual limit would be consumed by outside plant construction, thereby requiring borrowers to forego other valid uses of the Form 773, REA has established separate, mutually exclusive annual limits for four categories of construction: Outside plant, central office equipment, special equipment, and buildings.

As to the concern that REA's maximum annual limit would cause construction to be performed under the Form 515 contract, and that the Form 515 is more complicated and expensive, REA responds by agreeing that the Form 515 contract is much more complicated that the Form 773 contract, but disagreeing with the suggestion that construction costs are higher under the Form 515. REA intended for the Form 773 contract to be used only in situations of limited risk. REA took the idea initially for the Form 773 contract from telephone operating companies who had developed similar, simple contracts, for use only for small projects. The Form 515 is necessarily more complicated, but it has enabled the rural telephone industry to build plant of exceptionally high quality at costs that over the years have compared favorably with plant costs of far larger companies with much more purchasing leverage. This is largely because the Form 515 facilitates competitive bidding of outside plant construction, which is a fundamentally difficult task.

In response to the suggestion that construction under the Form 773 is less expensive than construction under the Form 515, REA's experience over the years indicates that the reverse is true. However, no specific studies had been performed to compare these costs, so REA has performed a comparison. REA randomly selected 30 Form 773 contracts that had been performed between 1992 and 1994. This sample included only contracts that had been closed and found to meet all REA requirements. Very small projects were excluded from the list. REA then contacted borrowers to obtain additional

information on the work included under the contracts, since that information is not routinely provided to REA. To make a valid comparison, REA discarded from the sample all contracts which did not represent reasonable cross sections of construction units, for example, contracts for road boring, or splicing. Interestingly, only six of the original 30 Form 773 contracts covered general outside plant construction projects which, if proportionally enlarged, would be comparable to typical Form 515 contracts. Costs of these projects were compared to standard mile costs for their states, which are based on average competitively-bid contract costs. The costs for three of the six projects were near the standard mile costs, the cost for one project was approximately 30% over the standard mile cost, and the costs for the remaining two projects were over twice the standard mile costs. These results illustrate one of REA's main concerns with the Form 773 contract. Some projects are performed at reasonable cost. Other projects are performed at costs which may be reasonable under certain circumstances. But some projects, in this small sample one-third of the projects compared, are far above the standard mile costs normally experienced. Under the current limits for individual Form 773 contracts, REA would not be concerned about these higher-than-average costs because such small jobs would not have a significant financial impact on a borrower or REA's security interests in a borrower. However, under the higher individual contract limits proposed by REA, the impact of several higher-than-average cost jobs could be significant. REA therefore has set limits in the final rule, but those limits have been designed to resolve the concerns of most commenters.

List of Subjects

7 CFR Part 1744

Accounting, Loan programs-communications, Reporting and recordkeeping requirements, Rural areas, Telephone.

7 CFR Part 1753

Loan programs-communications, Telecommunications, Telephone.

For reasons set forth in the preamble, 7 CFR chapter XVII is amended as follows:

PART 1744—POST-LOAN POLICIES AND PROCEDURES COMMON TO GUARANTEED AND INSURED TELEPHONE LOANS

1. The authority citation for part 1744 continues to read as follows:

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

2. In § 1744.40, paragraph (a)(3) is revised to read as follows:

§ 1744.40 Non-act purposes.

(a) * * *

(3) Approval of the request is in the interests of the Government. Generally, it would not be in the Government's interest if the accommodation or subordination is being requested to enable the borrower to avoid complying with such REA policies or procedures, as competitive bid procedures or purchasing equipment acceptable to REA, under 7 CFR part 1753.

* * * * *

§ 1744.21 [Amended]

§ 1744.61 [Removed and reserved]

3. The paragraph designations in §§ 17744.21 and 1744.61 are removed, the definitions in § 1744.21 are put in alphabetical order, the definitions in § 1744.61 are transferred to § 1744.21 in alphabetical order, and § 1744.61 is removed and reserved.

PART 1753—TELECOMMUNICATIONS SYSTEM CONSTRUCTION POLICIES AND PROCEDURES

1. The authority citation for part 1753 continues to read as follows:

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

2. In § 1753.5, paragraph (b)(1) is revised to read as follows:

§ 1753.5 Methods of major construction.

* * * * *

(b) *Contract construction.* (1) Whether the contractor is selected through sealed competitive bidding or negotiation, as approved by REA, award of the contract is subject to REA approval.

* * * * *

3. In § 1753.6, paragraph (b) is revised to read as follows:

§ 1753.6 Standards, specifications, and general requirements.

* * * * *

(b) The borrower may use REA loan funds to finance nonstandard construction materials or equipment only if approved by REA in writing prior to purchase or commencement of construction.

* * * * *

4. In § 1753.8, paragraphs (a)(11)(ii), (a)(12)(i), (b)(2), (b)(3), and (b)(4) are revised, paragraph (b)(5) is removed to read as follows:

§ 1753.8 Contract construction procedures.

(a) * * *

(11) * * *

(ii) If an award is made, the borrower shall award the contract to the lowest responsive bidder, subject to REA approval. The borrower may award the contract immediately upon determination of the lowest responsive bidder if the following conditions are met:

(A) The project is included in an approved loan and adequate funds were budgeted in the loan and are available.

(B) All applicable REA procedures were followed, including those in the Notice and Instructions to Bid in the standard forms of contract.

* * * * *

(12) *Execution of contract:* (i) Upon approval by REA of the award of contract by the borrower, the borrower shall submit to REA three original counterparts of the contract executed by the contractor and borrower.

* * * * *

(b) * * *

(2) For negotiated purchases, borrowers shall use REA contract forms, standards, and specifications.

(3) For all contract forms except REA Form 773:

(i) After a satisfactory negotiated proposal has been obtained, the borrower shall submit it to REA for approval, along with the engineer's recommendation, and evidence of acceptance by the borrower.

(ii) If REA approves the negotiated proposal, the borrower shall submit three copies of the contract, executed by the contractor and borrower, to REA for approval.

(iii) If REA approves the contract, REA shall return one copy of the contract to the borrower and one copy to the contractor.

(4) For REA Form 773, the borrower is responsible for negotiating a satisfactory proposal, executing contracts, and closing the contract. See subparts F and I of this part for requirements for major and minor construction, respectively, on Form 773.

5. In § 1753.9, paragraphs (a) and (c) are revised to read as follows:

§ 1753.9 Subcontracts.

(a) REA construction contract Forms 257, 397, 515, and 525 contain provisions for subcontracting. Reference should be made to the individual contracts for the amounts and conditions under which a contractor

may subcontract work under the contract.

* * * * *

(c) As stated in contract Forms 257, 397, 515, and 525, the contractor shall bear full responsibility for the acts and omissions of the subcontractor and is not relieved of any obligations to the borrower and to the Government under the contract.

* * * * *

6. In § 1753.16, paragraphs (b)(3), (b)(4) and (b)(5) are redesignated as paragraphs (b)(4), (b)(5) and (b)(6), respectively, and a new paragraph (b)(3) is added to read as follows:

§ 1753.16 Architectural services.

* * * * *

(b) * * *

(3) If the fee schedule has to be modified in order for the borrower to obtain adequate architectural services, the borrower shall obtain written REA approval of the revised fee schedule prior to executing contracts.

* * * * *

7. In § 1753.17, paragraphs (c)(1)(i)(B) and (e) are revised to read as follows:

§ 1753.17 Engineering services.

* * * * *

(c)(1) * * *

(i) * * *

(B) The name and qualifications of the employee to be in charge. REA requires this employee to meet the State experience requirements for registered engineers. In the absence of specific State experience requirements, the employee must have at least eight years experience in the design and construction of telecommunication facilities, with at least two years of the work experience at a supervisory level. REA does not require professional registration of this employee, but this does not relieve the borrower from compliance with applicable State registration requirements which may require a licensed individual to perform such services.

* * * * *

(e) The borrower shall obtain status of contract and force account proposal reports from the engineer once each month. The report shall show for each contract or FAP the approved contract or FAP amount, the date of approval, the scheduled date construction was to begin and the actual date construction began, the scheduled completion date, the estimated or actual completion date, the estimated or actual date of submission of closeout documents, and an explanation of delays or other pertinent data relative to progress of the project. One copy of this report shall be submitted to the GFR.

* * * * *

8. In § 1753.25, a new paragraph (f)(4) is added to read as follows:

§ 1753.25 General.

* * * * *

(f) * * *

(4) 7 CFR part 1792, subpart C, which requires that the building design comply with applicable seismic design criteria. Prior to the design of buildings, borrowers shall submit to REA a written acknowledgement from the architect or engineer that the design will comply.

* * * * *

9. In § 1753.26, paragraph (b) introductory test is revised, paragraph (c) is redesignated as paragraph (d), and new paragraph (c) is added to read as follows:

§ 1753.26 Plans and specifications (P&S).

* * * * *

(b) REA Contract Form 257 shall be completed as follows:

* * * * *

(c) The plans and specifications shall show the identification and date of the model code used for seismic safety design considerations, and the seismic factor used. See 7 CFR part 1792, subpart C.

* * * * *

§ 1753.29 [Amended]

10. In § 1753.29, paragraph (a) is removed, and paragraphs (b), (c), (d), and (e) are redesignated as paragraphs (a), (b), (c), and (d).

11. In § 1753.30, paragraphs (b)(2)(i) and (c)(2) are revised to read as follows:

§ 1753.30 Closeout procedures.

* * * * *

(b) * * *

(2) * * *

(i) Arrange with its architect or engineer, contractor, and the GFR for final inspection of the project.

* * * * *

(c) * * *

(2) Complete, with the assistance of its architect or engineer, the documents listed in Appendix A of this part that are required for the closeout of force account construction.

* * * * *

12. In § 1753.39, paragraph (g) is revised to read as follows:

§ 1753.39 Closeout documents.

* * * * *

(g) Final payment shall be made according to the payment terms of the contract.

13. In § 1753.46, paragraph (c) is added to read as follows:

§ 1753.46 General.

* * * * *

(c) The two contract forms which may be used for major outside plant construction are Form 515 and Form 773. Limitations on the applicability of these forms shall be as follows:

(1) Form 515 shall be used for major outside plant construction projects which will be competitively bid. The contract contains plans and specifications and has no dollar limitation. See §§ 1753.47, 1753.48 and 1753.49.

(2) A Form 515 contract which is for less than $200,000, may, at the borrower's option, be negotiated. See § 1753.48(b).

(3) Form 773 shall be used for major outside plant projects which may not be competitively bid, and which cannot be designed and staked at the time of contract execution. Projects of this nature include routine line extensions and placement of subscriber drops. The Form 773 contract is limited to a maximum of $200,000. In any twelve month period, REA will not finance more than $400,000, or ten per cent (10%) of the borrower's previous year's outside plant total construction, whichever is greater, in Form 773 contracts for a borrower. This limitation includes all major and minor outside plant construction performed under Form 773 contracts, and is determined by the date the Form 773 contract is executed. See 7 CFR § 1753.50.

14. In § 1753.49, paragraph (c)(3) is revised to read as follows:

§ 1753.49 Closeout documents.

* * * * *

(c) * * *

(3) Final payment shall be made according to the payment provisions of Article III of Form 515.

15. § 1753.50 is added to read as follows:

§ 1753.50 Construction by Form 773 contract.

(a) The borrower shall prepare the contract form and provide such details of construction as may be available. Compensation may be based upon unit prices, hourly rates, or another mutually agreeable basis.

(b) Neither the selection of the contractor nor the contract requires REA approval.

(c) Borrowers are urged to obtain quotations from several contractors before entering into a contract to be assured of obtaining the lowest cost.

(d) The borrower must ensure that the contractor selected meets all Federal and State requirements, and that the contractor maintains the insurance

coverage required by the contract for the duration of the work. See 7 CFR part 1788.

(e) The borrower shall finance major construction under the Form 773 contract with general funds and obtain reimbursement with loan funds when construction is completed and an executed Form 771 has been submitted to REA.

(f) If the contract exceeds $100,000, a contractor's bond shall be required. See 7 CFR part 1788.

(g) When the construction is completed to the borrower's satisfaction, the borrower shall obtain from the contractor a final invoice and an executed copy of REA Form 743, Certificate of Contractor and Indemnity Agreement.

(h) The closeout document for the Form 773 contract is REA Form 771. See § 1753.81 for the requirements for completing Form 771.

(i) An original and two copies of Form 771 shall be sent to the GFR. The GFR may inspect the construction, and will initial and return the original and one copy to the borrower.

(j) The original Form 771 shall be submitted with an FRS to REA only in conjunction with a request for an advance of loan funds for the work.

16. In § 1753.68, paragraph (d)(3)(iii) is revised to read as follows:

§ 1753.68 Purchasing special equipment.

* * * * *

(d) * * *

(3) * * *

(iii) Final payment shall be made according to the payment terms of the contract.

17. In § 1753.78, paragraph (a) is revised to read as follows:

§ 1753.78 Construction by contract.

(a) REA Form 773 shall be used for minor construction by contract. Compensation may be based upon unit prices, hourly rates, or another basis agreed to in advance by the borrower and the contractor. A single work project may require more than one contractor.

* * * * *

18. In § 1753.80, paragraphs (b), (c), (d), (e), (f), and (g) are redesignated as paragraphs (c), (d), (e), (f), (g), and (h), paragraph (b) is added, and paragraph (a) is revised, to read as follows:

§ 1753.80 Minor construction procedure.

(a) If the borrower performs minor construction financed with loan funds, the borrower's regular work order procedure shall be used to administer construction activities that may be performed entirely by a contractor under Form 773 contract, by work order, or jointly by work order and one or more contractors under Form 773 contracts.

(b) REA financing under Form 773 contracts is limited in any twelve month period to the following amounts for the following discrete categories of minor construction. A borrower could, for example, receive financing of Form 773 contracts in a twelve month period in amounts up to $400,000 of central office equipment and $200,000 of special equipment and $200,000 of buildings. The date of the Form 773 contract is the date the Form 773 contract is executed.

(1) For outside plant construction, the limit is $400,000 or ten per cent (10%) of the borrower's previous calendar year's outside plant total construction, whichever is greater.

(2) For central office eqiupment, the limit is $400,000.

(3) For special equipment, the limit is $200,000.

(4) For buildings, the limit is $200,000.

* * * * *

19. Appendices A through F of part 1753 are revised to read as follows:

APPENDIX A.—DOCUMENTS REQUIRED TO CLOSEOUT CONSTRUCTION OF BUILDINGS

Form furnished by REA	Description	Use with		Prepared by			Number of copies	Distribution			
		Contract	Force account	Contractor	Architect/ engineer	Borrower		Borrower	REA	Architect	Contractor
238	Construction or Equipment Contract Amendment (Submit to REA for approval, as required).	x			x		3		3		
181	Certificate of Completion (Contract Construction) (1)	x			x		3	1	1		1
181a	Certificate of Completion (Force Account Construction).		x		x		2	1	1		
231	Certificate or Contractor	x		x			2	1	1		
224	Waiver and Release of Lien (2 copies from each supplier).	x		x			2	1	1		
213	Certifcate (Buy American)	x		x			1	1			
284	Statement of Architect's Fee	x	x		x		3	1	1	1	
	Inventory-List Materials and Services Furnished by Borrower Upon Which Architectural Services Were Furnished. Show Cost (See Form 284).	x	x				3	1	1	1	
	Inventory-List Materials and Services Furnished by Borrower Upon Which Architectural Services Were Not Performed Show Cost.	x	x			x	3	1	1	1	
(2)	"As Built" Plans and Specifications	x	x		x		1	1			
	Guarantees, Warranties, Bonds, Operating or Maintenance Instructions, et cetera.	x		x			1	1			
	Architect/Engineer Seismic Safety Certification	x	x		x		3	1	1		1

(1) Cost of Materials and Services Furnished by Borrower not to be Included in Total Cost on Form 181.
(2) When only Minor Changes Were Made During Construction, Two Copies of a Statement to that Effect from the Architect Will be Accepted in Lieu of the "As-Built" Plans and Specifications.

APPENDIX B.—DOCUMENTS REQUIRED TO CLOSE OUT CENTRAL OFFICE EQUIPMENT CONTRACT

Form furnished by REA	Description	Use with		Prepared by		Total No. of copies	Distribution		
		REA form 525	REA form 545	Contractor	Engineer		Borrower	Contractor	REA
238	Construction or Equipment Contract Amendment (Submit to REA for approval, if required, before following documents).	X	X		X	3			3
754	Certficate of Completion and Certificate of Contractor and Indemnity Agreement (If submitted, Form 744 is not required).	X		X	X	4	2	1	1
517	Results of Acceptance Tests (Prepare and distribute copies immediately upon completion of the acceptance tests of each central office).	X			X	2	1	1	
752a	Certificate of Completion-Not Including Installation.		X		X	3	1	1	1
224	Waiver and Release of Lien (Two copies from each supplier).	X		X		2	1		1
231	Certificate of Contractor	X		X		2	1		1
213	Certificate (Buy American)	X	X	X		2	1		1
	Switching Diagram, as installed	X	X	X		2	2		
	Set of Drawings (Each set to include all the drawings required under the Specification REA Form 522).	X	X	X		2	2		

APPENDIX C.—DOCUMENTS REQUIRED TO CLOSEOUT TELEPHONE CONSTRUCTION CONTRACT REA FORM 515

REA Form No.	Description	Number of copies	Form available from REA	Prepared by		Distribution		
				Engineer	Contractor	Borrower	Contractor	REA
724	Final Inventory	3	x	x		1	1	1
724a	Final Inventory	3	x	x		1	1	1
	Contractor's Board Extension (When required).	3			x	1	1	1
281	Tabulation of Materials Furnished by Borrower.	3			x	1	1	1
213	Certificate ("Buy American")	1	x		x	1		
	Listing of Construction Change Orders	1						1
224	Waiver and Release of Lien (Two copies from each supplier).	2	x		x	1		1
231	Certificate of Contractor	2	x		x	1		1
527	Final Statement of Construction	3	x	x		1	1	1
	Reports on Results of Acceptance Tests	2		x		1	1	
	Set of Final Staking Sheets	1		x		1		
	Tabulation of Staking Sheets	1		x		1		
	Correction Summary (legible copy)	1		x		1		
	Treated Forest Products Inspection Reports or Certificates of Compliance (Prepared by inspection company or supplier).	1				1		
	Final Key Map (when applicable)	1		x		1		1
	Final Central Office Area and Town Detail Maps.	1		x		1		1

APPENDIX D.—STEP-BY-STEP PROCEDURE FOR CLOSING OUT TELEPHONE CONSTRUCTION CONTRACT-LABOR AND MATERIALS, REA FORM 515

Sequence		By	Procedure
Step No.	When		
1	Prior to completion of construction.	Borrower's Engineer	Receives instructions from the GFR concerning the closeout procedure.

APPENDIX D.—STEP-BY-STEP PROCEDURE FOR CLOSING OUT TELEPHONE CONSTRUCTION CONTRACT-LABOR AND MATERIALS, REA FORM 515—Continued

Sequence		By	Procedure
Step No.	When		
2	Upon completion of construction.	Borrower's Engineer	Prepares the following: 1 set of Key Maps, when applicable, which show work done under the construction contract marked with red pencil. 1 set of Detail Maps, which show work done under the construction contract marked with red pencil. 1 copy of Tabulation of Staking Sheets. 1 copy of tentative Final Inventory, REA Forms 724, 724a.
3	After construction has been completed and acceptance tests made.	Borrower's Engineer	Forwards letter to the borrower with copies to the GFR stating that the project is ready for final inspection.
4	Upon receipt of letter from borrower's engineer.	GFR	Promptly arranges with borrower, borrower's engineer, and contractor for final inspection of construction. It is contemplated that final inspections will be made on sections of line as construction is completed, leaving a minimum amount to be inspected at this time.
5	When requested by the GFR.	REA Field Accountant.	Audits REA Form 281, if borrower supplied part of the materials.
6	Inspection date scheduled.	Borrower's Engineer	Shall have the following documents available for the GFR: 1 set of "as constructed" Key Maps (when applicable). 1 set of "as constructed" Detail Maps. 1 copy of the List of Construction Change Orders. 1 set of Final Staking Sheets. 1 copy of Tabulation Staking Sheets. 1 copy of Treated Forest Products Inspection Reports or Certificates of Compliance. 1 copy of tentative Final Inventory REA Form 724, 724a. 1 copy of tentative Tabulation, REA Form 231, if borrower furnished part of material. 1 copy of Report on Results of Acceptance Tests.
7	During inspection	Borrower's Engineer	Issues instructions to contractor covering corrections in construction found during inspection by GFR in the company of the borrower's engineer and the contractor or his/her representative.
8	During inspection	Contractor	Corrects defects in construction on basis of instructions from the borrower's engineer. The corrections should proceed closely behind the inspection in order that the borrower's engineer can check the corrections before leaving the system.
9	During inspection	Borrower's Engineer	With GFR inspects and approves corrected construction.
10	During inspection	Borrower's Engineer	Marks inspected areas on the Key Map, if available, otherwise on the Detail Maps.
11	Upon completion of inspection.	Borrower's Engineer	Prepares or obtains all the closeout documents listed in Appendix C. Makes distribution of the copies of the documents as indicated in Appendix C. Forwards the documents for REA to the GFR.
12	After reviewing final documents.	REA GFR	Reviews documents and distributes copies as indicated in Appendix C.
13	After signing final inventory.	Borrower	Prepares and submits Financial Requirement Statement, REA Form 481, requesting amount necessary to make final payment due under contract.
14	On receipt of final advance.	Borrower	Promptly forwards check for final payment to contractor.
15	During next loan fund audit review after final payment to contractor.	REA Field accountant.	Makes an examination of borrowers construction records for (1) compliance with the construction contract and Subpart F and (2) REA Form 281, Tabulation of Materials Furnished by Borrowers, if any, for appropriate costs.

APPENDIX E.—DOCUMENTS REQUIRED TO CLOSE OUT FORCE ACCOUNT OUTSIDE PLANT CONSTRUCTION

Item No.	REA form No.	Description on title of document	No. of copies required and distribution of documents		
			Total No.	Owner	REA
a	817, 817a, 817b.	Final inventory force account construciton and certificate of engineer	2	1	1
b	213	Certificate, "Buy American" (as applicable-one from each supplier)	1	1	0
c		Detail maps	1	1	0
d		Key map if applicable	1	1	0
e		Staking sheets	1	1	0
f		Tabulation of staking sheets	1	1	0
g		Treated forest products inspection reports, if applicable	1	1	0

APPENDIX F.—DOCUMENTS REQUIRED TO CLOSEOUT EQUIPMENT CONTRACTS

Form furnished by REA	Description	No. of copies		Prepared by				Distribution		
		Form 397	Form 398	Form 397		Form 398		Borrower	Contractor	REA
				Contractor	Engineer	Contractor	Engineer			
238	Construction or Equipment Contract Amendment (If required, submit to REA for approval before other closeout documents).	3	3	.....	x	.....	x	.....	.....	3
396	Certificate of Completion-Special Equipment Contract (Including Installation).	3	.....	.....	x	.....	x	1	1	1
396a	Certificate of Completion-Special Equipment Contract (Not Including Installation).	.....	3	.....	x	.....	x	1	1	1
744	Certificate of Contractor and Indemnity Agreement.	2	.....	x	.....	.....	.....	1	.....	1
213	Certificate (Buy American)	2	2	x	.....	x	.....	1	.....	1
	Report in writing, including all measurements and other information required under Part II of the applicable specifications.	2	2	x	.....	.....	x	1	.....	1
	Set of maintenance recommendations for all equipment furnished under the contract.	1	1	x	.....	x	.....	1	.....	.....

Dated: August 17, 1994.

Bob J. Nash,

Under Secretary, Small Community and Rural Development.

[FR Doc. 94–20783 Filed 8–24–94; 8:45 am]

BILLING CODE 3410–15–P

Farmers Home Administration

7 CFR Part 1924

RIN 0575—AB27

Planning and Performing Construction and Other Development

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations to comply with the Energy Policy Act of 1992, Public Law 102–486. This Act requires that thermal standards for new construction of Single Family Housing (SFH) (other than manufactured homes) subject to mortgages insured, guaranteed, or made by the Secretary of Agriculture under Title V of the Housing Act of 1949 meet or exceed the requirements of the Council of American Building Officials (CABO) Model Energy Code, 1992 (MEC–92). Therefore, for new construction of SFH (other than manufactured homes) FmHA adopts the thermal requirements contained in the 1992 edition of the MEC. The CABO/MEC–92 requirements are comparable to the FmHA thermal requirements for new SFH construction. FmHA is not changing its requirements for Multi-family Housing (MFH) programs. FmHA field offices were notified of the changes required by this Act prior to October 22, 1993. Temporary changes were issued to all FmHA field offices on December 7, 1993 and April 28, 1994 implementing this change.

EFFECTIVE DATE: This regulation is effective October 22, 1993.

FOR FURTHER INFORMATION CONTACT: David J. Adams, Senior Loan Specialist, Single Family Housing Processing Division, FmHA, USDA, Room 5330, South Agriculture Building, Washington, D.C. 20250, Telephone: (202) 720–1532.

SUPPLEMENTARY INFORMATION:

Classification

We are issuing this final rule in compliance with Executive Order 12866, and the Office of Management and Budget (OMB) has determined that it is a "significant regulatory action."

Intergovernmental Consultation

This activity is listed in the Catalog of Federal Domestic Assistance under Nos. 10.410 Low-Income Housing Loans (Section 502 Rural Housing Loans), 10.405 Farm Labor Housing Loans and Grants; 10.406 Farm Operating Loans; 10.415 Rural Rental Housing Loans; and 10.416 Soil and Water Loans (SW Loans). For the reasons set forth in the Final Rule and related Notice(s) to 7 CFR Part 3015, Subpart V, this activity affects the following programs that are included in the scope of EO 12372 which requires intergovernmental consultation with State and local officials: 10.405, 10.415, and 10.416.

Environmental Impact Statement

This document has been reviewed in accordance with FmHA Instruction 1940–G, "Environmental Program." It is the determination of FmHA 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, Public Law 91–190, an Environmental Impact Statement is not needed.

Civil Justice Reform

This document has been reviewed in accordance with EO 12778. It is the determination of FmHA that this action does not unduly burden the Federal Court Systems in that it meets all applicable standards provided in Section 2 of the EO.

Paperwork Reduction Act

The information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB control number 0575–0042 in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Please send written comments to the Office of Information Regulatory Affairs, OMB, Attention: Desk Officer for USDA, Washington, D.C. 20503. Please send a