

Rules and Regulations

Federal Register

Vol. 71, No. 243

Tuesday, December 19, 2006

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Rural Business-Cooperative Service

Rural Utilities Service

Farm Service Agency

7 CFR Part 1951

Servicing and Collections— Unauthorized Recipients of Financial Assistance

AGENCY: Rural Housing Service, Rural Business-Cooperative Service, Rural Utilities Service, Farm Service Agency, USDA.

ACTION: Final rule.

SUMMARY: This action amends the servicing regulations that apply when it is determined that unauthorized recipients have received financial assistance under USDA Business, Cooperative, and Community Facility loan and grant programs. The changes make clear that the first demand letter notifying the recipient of the Agency's determination serves as the initial step in the Agency's collection efforts, and that it may serve as the basis for the recipient's appeal rights. The terms of the first demand letter remain in full force and effect, unless the demand letter is subsequently amended in writing by the Agency after discussions with the recipient or modified as a result of judicial proceedings.

DATES: *Effective Date:* This rule is effective on December 19, 2006.

FOR FURTHER INFORMATION CONTACT: Bill Hagy, Deputy Administrator, Rural Development Business Programs, USDA, Stop 3220, Room 5811, 1400 Independence Ave., SW., Washington, DC 20250, telephone (202) 720-7287, or internet e-mail "bill.hagy@wdc.usda.gov".

SUPPLEMENTARY INFORMATION:

Classification

This action is not subject to the provisions of Executive Order 12866 because it pertains to internal Agency management only. Accordingly, public notice and comment are not warranted, and this action is published as a final rule rather than as a proposed rulemaking.

Programs Affected

The Catalog of Federal Domestic Assistance Program numbers assigned to these programs are: 10.352 Value-Added Producer Grants, 10.353 National Rural Development Partnership, 10.767 Intermediary Relending Program, 10.768, Business and Industrial Loans, 10.769 Rural Business Enterprise Grants, 10.771 Rural Cooperative Development Grants, 10.772 Empowerment Zones Program, 10.773 Rural Business Opportunity Grants, 10.775 Renewable Energy Systems and Energy Efficiency Improvements Program, 10.776 Agriculture Innovation Centers, 10.854 Rural Economic Development Loans and Grants, and 10.766 Community Facilities Loans and Grants.

Paperwork Reduction Act

This rule is not subject to the Paperwork Reduction Act.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, Subpart G, Environmental Program. It is the determination of the Rural Business and Cooperative Services that this action does not constitute a major Federal action significantly affecting the environment. Therefore, in accordance with the National Environmental Policy Act of 1969, an Environmental Impact Statement is not required.

Executive Order 12988

This rule has been reviewed in accordance with E.O. 12988, Civil Justice Reform. In accordance with this rule: (1) All State and local laws and regulations that are in conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings in accordance with 7 CFR part 11 must be exhausted before bringing suit in court challenging action taken under this rule unless those regulations

specifically allow bringing suit at an earlier time.

The Unfunded Mandates Reform Act of 1995

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

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

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601-612), the undersigned has determined and certified by signature of this document that this rule will not have a significant economic impact on a substantial number of small entities. The Regulatory Flexibility Act is intended to encourage Federal agencies to utilize innovative administrative procedures in dealing with individuals, small businesses, small organizations, and small governmental bodies that would otherwise be unnecessarily adversely affected by Federal regulations. No regulatory flexibility analysis under the Regulatory Flexibility Act is necessary.

Executive Order 13132, Federalism

The policies contained in this rule do not have any substantial direct effect on States, the relationship between the national government and the States, or 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 the States is not required.

Discussion

This rule revises the servicing regulations that apply when it has been determined that an unauthorized recipient has received financial assistance under the USDA Rural Development Business and Industry Direct Loan program, all other applicable grant and loan programs, and the USDA Rural Development Community Facilities Loan and Grant programs. Those parts of the Code of Federal Regulations that relate solely to internal Agency processes are removed, and procedures that apply to Agency notification to the recipient and decisionmaking with respect to the Agency's determination(s) are clarified to state that an account receivable will be established to recover the amounts claimed by the Agency.

List of Subjects 7 CFR Part 1951

Accounting, Account servicing, Credit, Debt, Loan programs—agriculture, Low and moderate income housing loans—servicing, Rent subsidies.

■ Accordingly, chapter VXIII, title 7 of the Code of Federal Regulations, is amended as follows:

PART 1951—SERVICING AND COLLECTIONS

■ 1. The authority citation for part 1951 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1932 Note; 7 U.S.C. 1989; 31 U.S.C. 3716; 42 U.S.C. 1480.

■ 2. Subpart O of part 1951 is revised to read as follows:

Subpart O—Servicing Cases Where Unauthorized Loan(s) or Other Financial Assistance Was Received—Community and Insured Business Programs.

Sec.	
1951.701	Purpose.
1951.702	Definitions.
1951.703	Policy.
1951.704–1951.705	[Reserved].
1951.706	Initial determination that unauthorized assistance was received.
1951.707	Determination of the amount of unauthorized assistance.
1951.708	Notification to recipient.
1951.709	Decision on servicing actions.
1951.710	[Reserved].
1951.711	Servicing options in lieu of liquidation or legal action to collect.
1951.712–1951.716	[Reserved].
1951.717	Exception authority.
1951.718–1951.750	[Reserved].

§ 1951.701 Purpose.

This subpart prescribes the policies and procedures for servicing Community and Business Program loans and/or grants made by Rural Development when it is determined that the borrower or grantee was not eligible for all or part of the financial assistance received in the form of a loan, grant, or subsidy granted, or any other direct financial assistance. It does not apply to guaranteed loans. Loans sold without insurance by Rural Development to the private sector will be serviced in the private sector and will not be serviced under this subpart. The provisions of this subpart are not applicable to such loans. Future changes to this subpart will not be made applicable to such loans.

§ 1951.702 Definitions.

As used in this subpart, the following definitions apply:

Active borrower. A borrower who has an outstanding account in the records of the Office of the Deputy Chief Financial Officer (ODCFO), including collection-only or an unsatisfied account balance where a voluntary conveyance was accepted without release from liability of foreclosure did not satisfy the indebtedness.

Assistance. Finance assistance in the form of a loan, grant, or subsidy received.

Debt instrument. Used as a collective term to include promissory note, assumption agreement, grant agreement, or bond.

False information. Information, known to be incorrect, provided with the intent to obtain benefits which would not have been obtainable based on correct information.

Inaccurate information. Incorrect information provided inadvertently without intent to obtain benefits fraudulently.

Inactive borrower. A former borrower whose loan(s) has been paid in full or assumed by another party(ies) and who does not have an outstanding account in the records of the ODCFO.

Recipient. “Recipient” refers to an individual or entity that received a loan, or portion of a loan, an interest subsidy, a grant, or a portion of a grant which was unauthorized.

Rural Development. A mission area within the U.S. Department of Agriculture consisting of the Office of the Under Secretary for Rural Development, Office of Community Development, Rural Business-Cooperative Service, Rural Housing Service, and Rural Utilities Service and their successors.

Unauthorized assistance. Any loan, interest subsidy, grant, or portion thereof received by a recipient for which there was no regulatory authorization or for which the recipient was not eligible. Interest subsidy includes subsidy benefits received because a loan was closed at a lower interest rate than that to which the recipient was entitled, whether the incorrect interest rate was selected erroneously by the approval official or the documents were prepared in error.

§ 1951.703 Policy.

When unauthorized assistance has been received, an expeditious effort must be made to collect from the recipient the sum which is determined to be unauthorized, regardless of amount.

§§ 1951.704–1951.705 [Reserved].

§ 1951.706 Initial determination that unauthorized assistance was received.

Unauthorized assistance may be identified through audits conducted by the USDA Office of Inspector General (OIG), through reviews made by Rural Development personnel, or through other means such as information provided by a private citizen who documents that unauthorized assistance has been received by a recipient of Rural Development assistance.

§ 1951.707 Determination of the amount of unauthorized assistance.

(a) *Unauthorized loan amount.* The unauthorized loan amount will be the unauthorized principal plus any interest accruing on the unauthorized principal at the note interest rate until the date paid unless otherwise agreed in writing by Rural Development.

(b) *Unauthorized grant amount.* The unauthorized amount will be the unauthorized grant amount actually expended under the grant agreement plus interest accrued beginning on the date of the demand letter at the interest rate stipulated in the applicable grant agreement, or, if none is stated, the default rate established by the U.S. Department of the Treasury, until the date paid unless otherwise agreed in writing by Rural Development.

§ 1951.708 Notification to recipient.

(a) Upon determination that unauthorized assistance was received, Rural Development will send a demand letter to the recipient that:

- (1) Specifies the amount of unauthorized assistance, including any accrued interest to be repaid, and the standards for imposing accrued interest;
- (2) States the amount of penalties and administrative costs to be paid, the

standards for imposing them, and the date on which they will begin to accrue;

(3) Provides detailed reason(s) why the assistance was determined to be unauthorized;

(4) States the amount is immediately due and payable to Rural Development;

(5) Describes the rights the recipient has for seeking review of Rural Development's determination pursuant to 7 CFR part 11;

(6) Describes the Agency's available remedies regarding enforced collection, including referral of debt delinquent more than 180 days for Federal salary, benefit, and tax offset under the Department of Treasury Offset Program (TOP); and

(7) Provides an opportunity for the recipient to meet with Rural Development to provide facts, figures, written records, or other information which might refute Rural Development's determination.

(b) If the recipient meets with Rural Development, Rural Development will outline to the recipient why the assistance was determined to be unauthorized. The recipient will be given an opportunity to provide information to refute Rural Development's findings. When requested by the recipient, Rural Development may grant additional time for the recipient to assemble documentation. Such extension of time for payment will be valid only if Rural Development documents the extension in writing and specifies the period in days during which period the payment obligation created by the demand letter (but not the ongoing accrual of interest) will be suspended. Interest and other charges will continue to accrue pursuant to the demand letter during any extension period unless the terms of the demand letter are modified in writing by Rural Development.

(c) Unless Rural Development modifies the original demand, it will remain in full force and effect.

§ 1951.709 Decision on servicing actions.

(a) *Payment in full.* If the recipient agrees with Rural Development's determination or will pay the amount in question, Rural Development may allow a reasonable period of time (usually not to exceed 90 days) for the recipient to arrange for repayment. The amount due will be determined according to § 1951.707.

(b) *Continuation with recipient.* If the recipient agrees with Rural Development's determination or is willing to pay the amount in question but cannot repay the unauthorized assistance within a reasonable period of time, continuation is authorized and

servicing actions outlined in § 1951.711 may be taken provided all of the following conditions are met:

(1) The recipient did not provide false information as defined in § 1951.702.

(2) It would be highly inequitable to require prompt repayment of the unauthorized assistance.

(3) Failure to collect the unauthorized assistance in full will not adversely affect Rural Development's financial interest.

(c) *Appeals.* Appeals resulting from the letter prescribed in § 1951.708 will be handled according to 7 CFR Part 11. All appeal provisions will be concluded before proceeding with further actions.

(d) *Liquidation of loan(s) or legal action to enforce collection.* When a case cannot be handled according to the provisions of paragraph (a) or (b) of this section, or if the recipient refuses to execute the documents necessary to establish an obligation to repay the unauthorized assistance as provided in § 1951.711, one or more of the following actions will be taken:

(1) *Active borrower with a secured loan.* (i) Rural Development will attempt to have the recipient liquidate voluntarily. If the recipient does not agree to voluntary liquidation, or agrees but it cannot be accomplished within a reasonable period of time (usually not more than 90 days), forced liquidation action will be initiated in accordance with applicable provisions of subpart A of part 1955 of this chapter unless:

(A) The amount of unauthorized assistance outstanding, including principal, accrued interest, and any recoverable costs charged to the account, is less than \$1,000; or

(B) It would not be in the best financial interest of the Government to force liquidation.

(ii) When all of the conditions of paragraph (a) or (b) of this section are met, but the recipient does not repay or refuses to execute documents to effect necessary account adjustments according to the provisions of § 1951.711, forced liquidation action will be initiated as provided in paragraph (d)(1)(i) of this section.

(iii) When forced liquidation would be initiated, except that the loan is being handled in accordance with paragraph (d)(1)(i)(A) or (d)(1)(i)(B) of this section, continuation with the loan on existing terms may be provided.

(iv) If the debt is not otherwise resolved, Rural Development will take appropriate debt collection actions in accordance with 7 CFR Part 3, subparts B and C, and the Federal Claims Collection Standards at 31 CFR Chapter IX, Parts 900–904.

(2) *Grantee, inactive borrower, or active borrower with unsecured loan (such as collection-only, or unsatisfied balance after liquidation).* Rural Development may pursue all reasonable legal remedies.

§ 1951.710 [Reserved].

§ 1951.711 Servicing options in lieu of liquidation or legal action to collect.

When the conditions outlined in § 1951.709(b) are met, the servicing options outlined in this section will be considered.

(a) *Continuation on modified terms.* When the recipient has the legal and financial capabilities, the case will be serviced according to one of the following, as appropriate.

(1) *Unauthorized loan.* A loan for the unauthorized amount determined according to § 1951.707(a) will remain accelerated per the demand letter sent in accordance with § 1951.708 unless modified terms are timely reached with the recipient and accrued at the interest rate specified in the outstanding debt instrument or at the present market interest rate, whichever is greater, for the respective Community and Business program area. The loan will be amortized per a repayment schedule satisfactory to Rural Development, but in no event may the revised repayment schedule exceed a period of fifteen (15) years, the remaining term of the original loan, or the remaining useful life of the facility, whichever is shorter.

(2) *Unauthorized grant.* The unauthorized grant amount determined according to § 1951.707(b) will be converted to an account receivable, with interest payable at the market interest rate for the respective Community Facilities or Business and Industry Program area in effect on the date the financial assistance was provided. In all cases, the receivable will be amortized per a repayment schedule satisfactory to Rural Development, but in no event may the amortization period exceed fifteen (15) years. The recipient will be required to execute a debt instrument to evidence this receivable, and the best security position available to adequately protect Rural Development's interest during the repayment period will be taken as security.

(3) *Unauthorized subsidy benefits received.* When the recipient was eligible for the loan but should have been charged a higher interest rate than that in the debt instrument, which resulted in the receipt of unauthorized subsidy benefits, the case will be handled as follows:

(i) The recipient will be given the option to submit a written request that

the interest rate be corrected to the lower of the rate for which they were eligible that was in effect at the date of loan approval or loan closing.

(ii) Any accrued unauthorized subsidy will be handled in accordance with § 1951.709.

(b) *Continuation on existing terms.* When the recipient does not have the legal and/or financial capabilities for the options outlined in paragraph (a)(1), (a)(2), or (a)(3) of this section, the recipient may be allowed to continue to meet the loan obligations outlined in the existing loan instruments. Rural Development will not continue with unauthorized grants on existing terms.

§§ 1951.712–1951.716 [Reserved].

§ 1951.717 Exception authority.

The Administrator may, in individual cases, make an exception to any requirement or provision of this subpart, provided that any such exception is not inconsistent with any applicable law or opinion of the Comptroller General, and provided further, the Administrator determines that the application of the requirement or provision would adversely affect the Government's interest.

§§ 1951.718–1951.750 [Reserved].

Dated: December 11, 2006.

Jackie J. Gleason,

Administrator, Rural Business-Cooperative Service.

Dated: December 13, 2006.

Russell T. Davis,

Administrator, Rural Housing Service.

[FR Doc. 06–9763 Filed 12–18–06; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–26502; Directorate Identifier 2006–NE–37–AD; Amendment 39–14859; AD 2006–26–01]

RIN 2120–AA64

Airworthiness Directives; CFM International, S.A. CFM56 Series Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain CFM International CFM56 Series

turbofan engines. This AD requires replacing certain fuel filters manufactured under parts manufacturer approvals (PMA). This AD results from 12 reports of failed fuel filters. We are issuing this AD to prevent the loss of engine thrust that could result in loss of control during takeoff or landing.

DATES: This AD becomes effective January 3, 2007.

We must receive any comments on this AD by February 20, 2007.

ADDRESSES: Use one of the following addresses to comment on this AD:

- *DOT Docket Web site:* Go to <http://dms.dot.gov> and follow the instructions for sending your comments electronically.

- *Government-wide rulemaking Web site:* Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.

- *Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.

- *Fax:* (202) 493–2251.

- *Hand Delivery:* Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Samuel Lee, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate, 3960 Paramount Blvd., Lakewood, CA 90712–4137; telephone (562) 627–5262; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: We have received reports of 12 PMA fuel filters, fuel filters part numbers WF337661 and WF337017, manufactured by Western Filter, and part numbers 7595983–101 and 7588133, manufactured by PTI Technologies, that have failed in service on CFM56–7B engines since March 2006. These filters use a deeper pleat and are more susceptible to collapse or deterioration of the filter media than the original equipment manufacturer filters. A collapsed or deteriorated fuel filter can allow unfiltered fuel contamination in fuel components, including fuel nozzles, with no indication of fuel filter bypass to the flight crew. This condition, if not corrected, could result in the loss of engine thrust that could result in loss of control during takeoff or landing.

FAA's Determination and Requirements of This AD

The unsafe condition described previously is likely to exist or develop on other CFM International CFM56 series engines of the same type design.

For that reason, we are issuing this AD to prevent the potential loss of thrust that could result in loss of control during takeoff or landing.

FAA's Determination of the Effective Date

Since an unsafe condition exists that requires the immediate adoption of this AD, we have found that notice and opportunity for public comment before issuing this AD are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety and was not preceded by notice and an opportunity for public comment; however, we invite you to send us any written relevant data, views, or arguments regarding this AD. Send your comments to an address listed under

ADDRESSES. Include "AD Docket No. FAA–2006–26502; Directorate Identifier 2006–NE–37–AD" in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify it.

We will post all comments we receive, without change, to <http://dms.dot.gov>, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this AD. Using the search function of the DMS Web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit <http://dms.dot.gov>.

Examining the AD Docket

You may examine the docket that contains the AD, any comments received, and any final disposition in person at the Docket Management Facility Docket Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone (800) 647–5227) is located on the plaza level of the Department of Transportation Nassif Building at the street address stated in **ADDRESSES**. Comments will be available in the AD docket shortly after the DMS receives them.