

proceeding before a court or agency of the United States in which the United States is a party or has a direct and substantial interest, except on behalf of the United States or a party represented by the Department of Justice, without written approval of agency counsel.

(2) Upon a showing by the requestor of exceptional need or unique circumstances, the General Counsel may, in writing, grant authorization for an employee, or former employee, to appear and testify.

(3) Any expert or opinion testimony by a former employee of SIGAR shall be excepted from the restriction under 5 CFR 2635.805 where the testimony involves only general expertise gained while employed at SIGAR.

(g) *Procedures when agency counsel directs an employee not to testify or provide documents.* (1) If agency counsel determines that an employee or former employee should not comply with a subpoena or other request for testimony or the production of documents, agency counsel will so inform the employee and the requesting party who submitted the demand.

(2) If, despite the determination of the agency counsel that testimony should not be given or documents not be produced, a court of competent jurisdiction or other tribunal orders the employee or former employee to testify and/or produce documents, the employee shall promptly notify the General Counsel of such Order.

(i) If agency counsel determines that no further legal review of, appeal from, or challenge to, the Order will be sought, agency counsel shall promptly inform the employee or former employee of said determination.

(ii) If SIGAR determines to challenge an Order directing testimony or the production of documents in litigation in which the United States is not a party, the employee should not comply with the Order. The employee should appear at the time and place as commanded in the order or subpoena. If legal counsel cannot appear on behalf of the employee, the employee should produce a copy of this section and respectfully inform the Court or other legal tribunal that he/she has been advised by the General Counsel not to provide the requested testimony or documents pursuant to the decision of the United States Supreme Court in *United States ex rel. Touhy v. Ragen*, 340 U.S. 462 (1951), and this section. Agency counsel will coordinate with the DOJ to file such motions or other pleadings that may be deemed appropriate in the circumstances, such as, for example, a notice to remove the case from state court to Federal court, or a motion to

quash or modify the subpoena, or a motion for a protective order.

(h) *Fees.* In the event that a Touhy Request is granted, SIGAR may charge reasonable fees to parties seeking official information or records. Such fees are calculated to reimburse the Government for the expense of providing such information or records, and may include the costs of time expended by SIGAR employees to process and respond to the request; attorney time for reviewing the request and any responsive records and for related legal work in connection with the request; and reasonable expenses generated by materials and equipment used to search for, produce, and copy the responsive information or records.

Dated: March 12, 2012.

Steven J Trent,

Acting Inspector General, Special Inspector General for Afghanistan Reconstruction.

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DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Part 1735

RIN 0572-AC24

Expansion of 911 Access Loans and Loan Guarantees

AGENCY: Rural Utilities Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: The Rural Utilities Service (RUS) is adopting as a final rule, without change, an interim rule to implement the Expansion of 911 as authorized by Section 315 of the Rural Electrification Act of 1936 (RE Act) as provided for in Section 6107 of the Food, Conservation, and Energy Act of 2008 (2008 Farm Bill). The interim rule codified the Secretary's authority to make loans in five areas of eligibility to expand or improve 911 access and integrated emergency communications systems in rural areas for the Telecommunications Loan Program.

DATES: Effective on March 16, 2012, we are adopting as a final rule the interim rule published at 76 FR 56091-56094 on September 12, 2011.

FOR FURTHER INFORMATION CONTACT:

David Villano, Assistant Administrator, Telecommunications Program, USDA—Rural Utilities Service, 1400 Independence Avenue SW., STOP 1590, Room 5151-S, Washington, DC 20250-1590. Telephone number: (202) 720-9554, Facsimile: (202) 720-0810.

SUPPLEMENTARY INFORMATION:

Background

A. Introduction

The Agency improves the quality of life in rural America by providing investment capital for deployment of rural telecommunications infrastructure. Financial assistance is provided to rural utilities; municipalities; commercial corporations; limited liability companies; public utility districts; Indian tribes; and cooperative, nonprofit, limited-dividend, or mutual associations. In order to achieve the goal of increasing economic opportunity in rural America, the Agency finances infrastructure that enables access to a seamless, nationwide telecommunications network. With access to the same advanced telecommunications networks as its urban counterparts, especially broadband networks designed to accommodate distance learning, telework, and telemedicine, rural America will eventually see improving educational opportunities, health care, economies, safety and security, and ultimately higher employment. The Agency shares the assessment of Congress, State and local officials, industry representatives, and rural residents that broadband service is a critical component to the future of rural America and modern emergency communications capabilities are critical to the safety and security of all Americans. The Agency is committed to ensuring that rural America will have access to affordable, reliable, telecommunications and broadband services and to provide a healthy, safe, and prosperous place to live and work.

B. Regulatory History

Following the September 11, 2001, attacks on the United States, significant Congressional attention was placed on weaknesses in the nation's emergency communications capabilities. The ability of rural communities, carriers and emergency responders to keep up with changing communications technologies was and continues to be a concern of emergency response professionals. Interoperability; or the ability of emergency responders from various agencies and jurisdictions to communicate with each other is also a pressing national need.

In 2002, the Congress gave the RUS statutory authority to "to expand or improve 911 access and integrated emergency communications systems in rural areas" in section 315 of the RE Act (6102 of the 2002 Farm Security and Rural Investment Act of 2002). No

regulations were ever proposed to implement that section.

In 2008, the Congress re-authorized section 315 of the RE Act and added language to further define eligible loan purposes. It also clarified that projects could be funded from appropriations made to the RUS telecommunications program.

In 2011, the President launched a major initiative to use wireless 4G technology to create a nation-wide interoperable emergency communications network. The plan contemplates using dual-use 4G wireless technologies in rural areas to address public safety and private sector communications needs.

Rural areas face significant challenges in deploying emergency communications systems. The 911 Program Office housed within the National Transportation Safety Administration specifically noted that “(r)ural and tribal 911 centers face special challenges. They typically serve areas that are large geographically but less-densely populated than urban areas. Because it may take first responders longer to reach the scene of an emergency, call-takers in public safety answering points (PSAPs) serving rural areas may be required to stay on the phone longer with callers or provide more extensive emergency instruction to callers until help arrives. And in medical emergencies, hospitals are often farther away which results in extended transport times, making the ambulance unavailable for other calls in its response area—in areas that may have very limited coverage to begin with. The limited responder resources typical of rural areas can be more quickly overwhelmed in disasters or large-scale incidents.” The program office went on to observe that “supporting rural PSAPs is vitally important, particularly because it may take longer for help to arrive in rural areas, and the call-taker may make an even bigger difference in the outcome of an emergency situation.” (see <http://www.911.gov/911-issues/challenges.html>).

The sixty-minute period immediately following a traumatic injury, like an injury resulting from a car crash is known as the “golden hour.” The risks of death or permanent injury increase dramatically if medical attention is not given within that first hour. In rural America, distance and sparse population work against the quick discovery and treatment of injuries resulting from an individual or mass emergency. In rural areas the ability to reach a person in distress can be the difference between life and death or recovery and disability.

Congress twice enacted section 315 to give the RUS flexible financial tools to help rural communities, service providers and governmental entities address their emergency communications needs. By giving clear loan authority to the agency, RUS would have the tools to leverage public and private resources to speed the rural deployment of a dual-use public safety/commercial wireless network, address homeland security communications needs along America’s rural international borders; finance enhanced 911 capabilities for carriers and communities to precisely locate a rural wireless call to 911 or to finance next-gen 911 upgrades which would allow citizens to contact 911 via text message or send to emergency responders cell phone photos or short videos of a crime scene or accident location. E911 location accuracy requirements pose unique challenges for rural wireless carriers. The new authority would give the agency clear authority to finance wireless upgrades which relate to public safety and security, even if it does not finance the entire wireless communications systems.

Without this authority, RUS would be very limited in its ability to make financing available to address specific rural emergency communications needs. Without this authority, the RUS telecommunications statute would generally prohibit the agency from financing municipal investments.

As a loan program which must meet the rigorous financial and engineering feasibility requirements, the agency expects no impact on its subsidy rate. RUS has conducted extensive tribal consultations in 2010 and 2011 related to implementation of new authorities for substantially underserved trust areas. Through those consultations, the agency had discussions with tribal leaders on the entire portfolio of RUS programs. This authority could be useful in addressing some of the emergency communications needs raised by tribal leaders in some of those discussions. Tribal areas are among the regions of the United States with the least connectivity to 911 and other emergency communications systems.

The regulation would simply codify the authority contained in section 315 of the RE Act.

C. Rule Changes

The amendment to 7 CFR part 1735 implements Section 315 of the Rural Electrification Act of 1936 (RE Act) as provided in Section 6107 of the Food, Conservation, and Energy Act of 2008 by clarifying that the expansion of 911 access & integrated interoperable

emergency communications systems are eligible purposes of the RE Act.

Section 6107 of the Food, Conservation, and Energy Act of 2008 added Section 315 of RE Act to clearly authorize the RUS to make loans for the following purposes:

- (1) 911 access;
- (2) Integrated interoperable emergency communications, including multiuse networks that provide commercial or transportation information services in addition to emergency communications services;
- (3) Homeland security communications;
- (4) Transportation safety communications; or
- (5) Location technologies used outside an urbanized area.

The provision also clarified that the Agency could consider State or local 911 fees to be security for a loan under this section and that loans may be made in certain circumstances to an emergency communication equipment provider to accomplish the purposes of this section where a State or municipality may be prohibited from incurring debt.

Comments on the interim rule were required to be received on or before November 14, 2011. We received one comment supporting the amendments to 7 CFR part 1735 by that date. Therefore, for the reasons given in the interim rule, we are adopting the interim rule as a final rule without change.

This action also affirms information contained in the interim rule concerning Executive Order 12866 and the Regulatory Flexibility Act, Executive Order 12988, and the Paperwork Reduction Act. Further, for this action, the Office of Management and Budget has waived its review under Executive Order 12866.

List of Subjects in 7 CFR Part 1735

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

PART 1735—GENERAL POLICIES, TYPES OF LOANS, LOAN REQUIREMENTS—TELECOMMUNICATIONS PROGRAM

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 7 CFR part 1735 and that was published at 76 FR 56091 on September 12, 2011.

Dated: February 24, 2012.

James R. Newby,
Acting Administrator, Rural Utilities Service.
[FR Doc. 2012-6420 Filed 3-15-12; 8:45 am]

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