and any other institutional investor authorized by law to loan money. The borrower is responsible for evaluating all proposals received from lenders other than FFB. The borrower furnishes RUS with a report on the evaluations and its choice of proposals. However, at the request of the borrower, the guaranteed loan shall be made by the FFB.

(g) *Interest rate.* Guaranteed loans shall bear interest at the rate agreed upon by the borrower and lender. Guaranteed FFB loans shall be at a rate of interest that is not more than the rate of interest applicable to other similar loans then being made or purchased by FFB.

(h) *Condition of guarantee.* RUS will not guarantee a loan if the income from the loan or the income from obligations issued by the holder of the loan, when the obligations are created by the loan, is excluded from gross income for the purpose of chapter I of the Internal Revenue Code of 1954.

(i) *Contract of guarantee.* If RUS is satisfied with the engineering and economic feasibility of the project and approves the borrower's choice of proposal, subject to the submission of satisfactory financing documents and to the satisfaction of other pertinent terms and conditions, RUS will prepare a contract of guarantee to be executed by the borrower, the lender, and RUS within a specified time. The lender, or its representative, shall have the right to examine the borrower's application and supporting data submitted to RUS in support of its request for financial assistance.

(j) *Loan servicing.* The contract of guarantee will require that arrangements satisfactory to RUS be made to service the loan. Required servicing by the lender will include:

(1) Determining that all prerequisites to each advance of loan funds by the lender under the terms of the contract of guarantee, all financing documents, and all related security instruments have been fulfilled. Such determinations may be met by obtaining RUS approval of each advance.

(2) Billing and collecting loan payments from the borrower.

(3) Notifying the Administrator promptly of any default in the payment of principal and interest on the loan and submitting a report, as soon as possible thereafter, setting forth its views as to the reasons for the default, how long it expects the borrower will be in default, and what corrective actions the borrower states it is taking to achieve a current debt service position.

(4) Notifying the Administrator of any known violations or defaults by the borrower under the lending agreement, contract of guarantee, or related security instruments, or conditions of which the lender is aware which might lead to nonpayment, violation, or other default.

(k) *Payments under the contract of guarantee.* Upon receipt of the notification required in § 1735.32(j)(3) of this section, RUS will pay the lender the amount in default with interest to the date of payment. When RUS has made a payment under a contract of guarantee, it will establish in its accounts the amount of the payment as due and payable from the borrower, with interest at the rate of interest specified in the lending agreement. RUS will work with the borrower and the lender in an effort to eliminate the borrower's default as soon as possible. RUS may also proceed with other remedies available under its security instruments.

(l) *Pledging of contract of guarantee.* Subject to applicable law, RUS will consider, on a case by case basis, permitting pledging of the contract of guarantee in order to facilitate the obtaining of funds by the lending agency to make the guaranteed loan.

[54 FR 13351, Apr. 3, 1989; 54 FR 16194, Apr. 21, 1989. Redesignated at 55 FR 39395, Sept. 27, 1990, as amended at 56 FR 26597, June 10, 1991; 58 FR 66255, Dec. 20, 1993; 62 FR 46870, Sept. 5, 1997]

§ 1735.33 Variable interest rate loans.

After June 10, 1991, and prior to November 1, 1993, RUS made certain variable rate loans at interest rates less than 5 percent but not less than 2 percent. For those borrowers that received variable rate loans, this section describes the method by which interest rates are adjusted. The interest rate used in determining feasibility is the rate charged to the borrower until the end of the Forecast Period for that

loan. At the end of the Forecast Period, the interest rate for the loan may be annually adjusted by the Administrator upward to a rate not greater than 5 percent, or downward to a rate not less than the rate determined in the feasibility study on which the loan was based, based on the borrower's ability to pay debt service and maintain a minimum TIER of 1.0. Downward and upward adjustments will be rounded down to the nearest one-half or whole percent. To make this adjustment, projections set forth in the loan feasibility study will be revised annually by RUS (beginning within four months after the end of the Forecast Period) to reflect updated revenue and expense factors based on the borrower's current operating condition. Any such adjustment will be effective on July 1 of the year in which the adjustment was determined. If the Administrator determines that the borrower is capable of meeting the minimum TIER requirements of § 1735.22(f) at a loan interest rate of 5 percent on a loan made as described in this section, then the loan interest rate shall be fixed, for the remainder of the loan repayment period, at the standard interest rate of 5 percent.

[62 FR 46870, Sept. 5, 1997]

§§ 1735.34–1735.39   [Reserved]

Subpart D—Terms of Loans

SOURCE: 54 FR 13351, Apr. 3, 1989, unless otherwise noted. Redesignated at 55 FR 39395, Sept. 27, 1990.

§ 1735.40   General.

Terms and conditions of loans are set forth in a mortgage, note, and loan contract. Provisions of the mortgage and loan contract are implemented by provisions in RUS Bulletins and Regulations. Forms of the mortgage, note, and loan contract can be obtained from RUS.

§ 1735.41   Notes.

Loans are represented by one or more notes. Interest accrues only on funds advanced. There are no loan commitment fees or charges. See RUS Bulletin 320–12 for additional information. This CFR part supersedes those portions of RUS Bulletin 320–12 ''Loan Payments and Statements'' with which it is in conflict.

§ 1735.42   [Reserved]

§ 1735.43   Payments on loans.

(a) Except as described in this paragraph (a), RUS loans approved after October 6, 1997 must be repaid with interest within a period that, rounded to the nearest whole year, equals the expected composite economic life of the facilities to be financed, as calculated by RUS; expected composite economic life means the depreciated life plus three years. The expected composite economic life shall be based on the depreciation rates for the facilities financed by the loan. In states where the borrower must obtain state regulatory commission approval of depreciation rates, the depreciation rates used shall be the rates currently approved by the state commission or rates for which the borrower has received state commission approval. In cases where a state regulatory commission does not approve depreciation rates, the expected composite economic life shall be based on the most recent median depreciation rates published by RUS for all borrowers (see 7 CFR 1737.70). Borrowers may request a repayment period that is longer or shorter than the expected composite economic life of the facilities financed. If the Administrator determines that a repayment period based on the expected composite economic life of the facilities financed is likely to cause the borrower to experience hardship, the Administrator may agree to approve a period longer than requested. A shorter period may be approved as long as the Administrator determines that the loan remains feasible.

(b) Borrowers with RTB loans approved after October 6, 1997 with a maturity that exceeds the expected composite economic life of the facilities to be financed by the loan by a period of more than three years, release of funds included in the loan shall be conditioned upon the borrower establishing and maintaining, pursuant to a plan approved by RUS, a funded reserve in such an amount that the balance of the reserve plus the value of the facilities