

§ 1786.38

7 CFR Ch. XVII (1-1-10 Edition)

February 27, 1988, may, in their discretion request RUS approval and if required by prior regulations the concurrence of the Secretary of the Treasury, of any amendments necessary to make the terms and conditions of such loans consistent with, or to consolidate such loans with, loans guaranteed under these regulations.

§ 1786.38 Judicial review.

This subpart is intended to set forth RUS policies and procedures for the orderly administration of the provisions of section 306(A) of the RE Act, section 633 of the continuing resolution, and section 637 of the 1989 Appropriations Act and is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers or any person.

§§ 1786.39-1786.49 [Reserved]

Subpart C—Special Discounted Prepayments on RUS Direct/Insured Loans

AUTHORITY: 7 U.S.C. 901-950b; Title I, Subtitle B, Pub. L. 99-509; Pub. L. 103-354, 108 Stat. 3178 (7 U.S.C. 6941 et seq.).

SOURCE: 51 FR 46999, Dec. 29, 1986, unless otherwise noted. Redesignated at 55 FR 49250, Nov. 27, 1990.

§ 1786.50 Purpose.

This subpart sets forth the policies and procedures of RUS whereby electric and telephone borrowers may prepay outstanding RUS Notes at the Discounted Present Value of the RUS Notes with private financing.

§ 1786.51 Definitions.

As used in this subpart:

Act means the Rural Electrification Act of 1936, as amended (7 U.S.C. 901 et seq.).

Administrator means the Administrator of RUS.

Discounted Present Value shall have the meaning specified in §1786.53

Fund means the Rural Electrification and Telephone Revolving Fund established pursuant to the Act.

REA means the Rural Electrification Administration formerly an agency of the United States Department of Agriculture and predecessor agency to RUS with respect to administering certain electric and telephone loan programs.

RUS means the Rural Utilities Service, an agency of the United States Department of Agriculture, established pursuant to Section 232 of the Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994 (Pub. L. 103-354, 108 Stat. 3178), successor to REA with respect to administering certain electric and telephone programs. See 7 CFR 1700.1.

RUS Loan Agreement means the agreement between the borrower and RUS providing for loans pursuant to the Act.

RUS Notes means those notes, bonds or other obligations evidencing indebtedness created by loans made pursuant to Titles I, II or III of the Act (7 U.S.C. 901-940).

[51 FR 46999, Dec. 29, 1986. Redesignated at 55 FR 49250, Nov. 27, 1990, as amended at 59 FR 66441, Dec. 27, 1994]

§ 1786.52 Prepayment.

Through September 30, 1987, the Administrator may, pursuant to this subpart, permit eligible electric and telephone borrowers to prepay all outstanding RUS Notes issued or assumed by such borrowers and held in the Fund, upon paying the lesser of the outstanding balance or the Discounted Present Value.

§ 1786.53 Discounted present value.

The Discounted Present Value shall be calculated five business days before prepayment is made by summing the present values of all remaining payments by using the following formula:

Present Value = \sum\_{k=1}^n \frac{P\_k}{\prod\_{i=1}^k [1.0 + (\frac{D1\_i}{365} + \frac{D2\_i}{366}) \times I]}

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Where:

$P_k$ =Total payment including interest, due on the  $k^{\text{th}}$  payment date following the prepayment date.

$n$ =Total number of remaining payments dates.

$I$ =The discount rate, in decimals, which shall be the average rate on utility bonds bearing a rating of "Aa" as set forth in that issue of Moody's Public Utility News Reports most recently published prior to the date on which Discounted Present Value is calculated.

$D1_i$ =Number of days in the  $i^{\text{th}}$  payment period that are in a non-leap year (365 day year).

$D2_i$ =Number of days in the  $i^{\text{th}}$  payment period that are in a leap year (366 day year).

### § 1786.54 Eligibility criteria.

To be eligible to prepay RUS Notes at the Discounted Present Value a borrower must comply with the following criteria:

(a) The borrower must be current on all payments due on its outstanding RUS Notes and all other payment obligations owed to RUS and the Rural Telephone Bank.

(b) The borrower must agree to prepay all of its outstanding RUS Notes.

(c) The borrower must identify the source of private financing that will be used to refinance its outstanding RUS Notes, which financing may not include obligations the income of which is exempt from taxation under the Internal Revenue Code of 1986.

(d) The borrower must have expended all funds advanced on account of the RUS Notes for the purposes for which such funds were advanced.

(e) The borrower must agree to a rescission of the unadvanced balance of the RUS Notes.

(f) The borrower must agree that the borrower, its successors or assigns, shall pay to the Government, as a condition of receiving additional loans or loan guarantees pursuant to Titles I, II and III of the Act, an amount equal to the aggregate of the difference with respect to each of the RUS Notes between the amount outstanding on the RUS Note and the Discounted Present Value of the RUS Note upon prepayment with interest accruing quarterly; the interest rates shall be the rates provided in the respective RUS Notes.

(g) If the borrower is a party to a wholesale power contract with a power

supplier financed pursuant to the Act, the borrower must provide the Administrator with such assurances as the Administrator may request that it will meet its obligations to the power supplier.

### § 1786.55 Application procedure.

Any borrower seeking to prepay its RUS Notes under this subpart should apply to the appropriate RUS Area Director by submitting:

(a) A board resolution that:

(1) Requests approval of the prepayment of the borrower's outstanding RUS Notes, and

(2) States the intent of the borrower to comply with all eligibility criteria set forth in § 1786.54 of this subpart.

(b) A list of all RUS Notes together with the outstanding amount on such notes.

(c) Such additional information as the Administrator shall request.

### § 1786.56 Approval of applications.

The applications will ordinarily be reviewed and, if satisfactory, approved, and closing schedule based on the order in which executed prepayment agreements are received. The Administrator may limit the number of applications approved and closings scheduled from time to time taking into account, among other matters, the financial interests and administrative considerations of the Government.

### § 1786.57 Prepayment agreement.

Upon approving an application for prepayment under this subpart, the Administrator shall notify the borrower and deliver to the borrower for its execution a prepayment agreement which shall set forth and provide:

(a) The RUS Notes to be prepaid and when the Discounted Present Value will be calculated.

(b) The place and conditions for closing.

(c) Agreement that the unadvanced balance of RUS Notes shall be rescinded.

(d) Agreement that the borrower, or its successors or assigns, shall pay to the Government, as a condition of receiving additional loans or loan guarantees pursuant to Titles I, II and III of