

through their representatives, a reasonable opportunity, at all times during business hours and upon prior notice, to have access to and the right to inspect any or all books, records, accounts, invoices, contracts, leases, payrolls, timesheets, cancelled checks, statements, and other documents, electronic or paper of every kind belonging to or in possession of the RESP borrowers or in any way pertaining to its property or business, including its parents, affiliates, and subsidiaries, if any, and to make copies or extracts therefrom.

(4) The Administrator may modify the audit requirements for RESP borrowers if, in his or her judgement, it is necessary to satisfy the statutory purpose of the program or advance policy goals.

(5) Nothing in this policy shall be construed as a limitation or waiver of any other federal statute or requirement or the Administrator's authority and discretion to implement the RESP in such a way that the Government's interest is adequately preserved.

[85 FR 18418, Apr. 2, 2020, as amended at 88 FR 7561, Feb. 6, 2023]

PART 1720—GUARANTEES FOR BONDS AND NOTES ISSUED FOR UTILITY INFRASTRUCTURE PURPOSES

Sec.

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AUTHORITY: 7 U.S.C. 901 *et seq.*; 7 U.S.C. 940C.

SOURCE: 69 FR 63049, Oct. 29, 2004, unless otherwise noted.

§ 1720.1 Purpose.

This part prescribes policies and procedures implementing a guarantee program for bonds and notes issued for utility infrastructure purposes authorized by section 313A of the Rural Electrification Act of 1936 (7 U.S.C. 940c–1).

[87 FR 74499, Dec. 6, 2022]

§ 1720.2 [Reserved]

§ 1720.3 Definitions.

For the purpose of this part:

Administrator means the Administrator of RUS.

Applicant means a bank or other lending institution organized as a private, not-for-profit cooperative association, or otherwise on a non-profit basis, that is applying for RUS to guarantee a bond or note under this part.

Bond documents means the guarantee, guarantee agreement, Pledge Agreement, and all other instruments and documentation pertaining to the issuance of the guaranteed bonds.

Criticized loan means a loan that has borrower risk ratings that have been categorized as “special mention,” “substandard,” “doubtful,” or “loss”, or any comparable categorization as described in the guaranteed lender's most recent audited financial statements.

Eligible instrument means a note or bond of a borrower payable or registered to, or to the order of, the guaranteed lender and for which:

(1) No default has occurred in the payment of principal or interest in accordance with the terms of such note or bond that is continuing beyond the contractual grace period (if any) provided in such note or bond for such payment;

(2) No “event of default”, as defined in such note or bond (or in any instrument creating a security interest in favor of the guaranteed lender, in respect of such note or bond), shall exist that has resulted in the exercise of any right or remedy described in such note or bond (or in any such instrument);

(3) Such note or bond is not classified by the guaranteed lender as “non-performing, criticized or impaired” (or

any comparable classification, as determined by RUS) under generally accepted accounting principles in the United States or this part;

(4) Such note or bond is free and clear of all liens other than the lien created by the guaranteed lender's pledge of such security to RUS under the Pledge Agreement;

(5) Such note or bond is not a re-structured loan;

(6) Such note or bond is not unsecured debt; and

(7) The amount of generation or transmission loans does not exceed the maximum amount allowed by RUS based on RUS's sole determination of certain factors including, but not limited to, account risk, collateral quality, and collateral quantity.

Eligible loan means a loan that a guaranteed lender extends to a borrower for up to 100 percent of the cost of eligible utility infrastructure purposes consistent with the RE Act.

Federal Financing Bank (FFB) refers to the Government corporation and instrumentality of the United States of America under the general supervision of the Secretary of the Treasury established by the Federal Financing Bank Act of 1973 (12 U.S.C. 2281 *et seq.*).

Guarantee means the written agreement between the Secretary and a guaranteed lender, pursuant to which the Secretary guarantees full repayment of the principal, interest, and call premium, if any, on a guaranteed bond.

Guarantee agreement means the written agreement between the Secretary and the guaranteed lender which sets forth the terms and conditions of the guarantee.

Guaranteed bond means any bond, note, debenture, or other debt obligation issued by a guaranteed lender on a fixed or variable rate basis, and approved by the Secretary for a guarantee under this part.

Guaranteed bondholder means any investor in a guaranteed bond.

Guaranteed lender means an applicant that has been approved for a guarantee under this part.

Leveraging data means the cumulative change in the guaranteed lender's outstanding loans since the filing of the guaranteed lender's last Form

10-Q or Form 10-K or financial statements, as applicable.

Loan means any credit instrument that the guaranteed lender extends to a borrower for any utility infrastructure purpose eligible under the RE Act, including loans as set forth in section 4 of the RE Act for electricity transmission lines and distribution systems, loans as set forth in section 201 of the RE Act for telephone lines, facilities, and systems, and loans as set forth in Title VI of the RE Act for broadband systems.

Loan documents means the loan agreement and all other instruments and documentation between the guaranteed lender and the borrower evidencing the making, disbursing, securing, collecting, or otherwise administering of a loan.

Pledge Agreement means the written agreement among the Secretary, the guaranteed lender, and a collateral agent, which sets forth the terms and conditions of the guaranteed lender's pledge of eligible instruments as collateral.

Pledged collateral means the following items pledged to RUS by the guaranteed lender as security for the guaranteed lender's repayment of a guaranteed bond:

(1)(i) The pledged instruments and the certificates representing the pledged instruments;

(ii) All payments of principal or interest, cash, instruments, and other property from time to time received, receivable, or otherwise distributed in respect of, in exchange for, and all other proceeds received in respect of, the pledged instruments;

(iii) All rights and privileges of the guaranteed lender with respect to the pledged instruments; and

(iv) All other proceeds of any of the foregoing; and

(2) Any property, including cash and certain permitted investments, that are pledged by the guaranteed lender as security for the repayment of a guaranteed bond.

Pledged instruments means the eligible instruments pledged by the guaranteed lender to RUS as security for the repayment of a guaranteed bond.

Program or *313A Program* means the guarantee program for bonds and notes

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issued for utility infrastructure purposes authorized by section 313A of the RE Act as amended.

Rating agency means a bond rating agency identified by the Securities and Exchange Commission as a nationally recognized statistical rating organization.

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

RUS means the Rural Utilities Service, a Rural Development agency of the U.S. Department of Agriculture.

Secretary means the Secretary of Agriculture acting through the Administrator of RUS.

Subsidy amount means the amount of budget authority sufficient to cover the estimated long-term cost to the Federal Government of a guarantee, calculated on a net present value basis, excluding administrative costs and any incidental effects on Government receipts or outlays, in accordance with the provisions of the Federal Credit Reform Act of 1990 (2 U.S.C. 661 *et seq.*).

Utility infrastructure means equipment, systems, facilities, or other assets used to deliver electric, telephone, or broadband related services to consumers or to entities serving consumers.

[87 FR 74499, Dec. 6, 2022]

§ 1720.4 General standards.

(a) In accordance with section 313A of the RE Act, a guarantee will be issued by the Secretary only if the Secretary determines, in accordance with the requirements set forth in this part, that:

(1) The proceeds of the guaranteed bonds will be used by the guaranteed lender to make loans to borrowers for utility infrastructure purposes eligible for assistance under this chapter, or to refinance, subject to certain limitations, bonds or notes previously issued by the guaranteed lender for such purposes to a borrower that has at any time received, or is eligible to receive, a loan under the RE Act;

(2) At the time the guarantee is executed, the total principal amount of guaranteed bonds outstanding would not exceed the principal amount of outstanding eligible loans previously made by the guaranteed lender;

(3) The proceeds of the guaranteed bonds will not be used directly or indirectly to fund projects for the generation of electricity; and

(4) The guaranteed lender will not use any amounts obtained from the reduction in funding costs provided by a loan guarantee issued prior to June 18, 2008, to reduce the interest rates borrowers are paying on new or outstanding loans, other than new concurrent loans as provided in part 1710 of this chapter.

(b) During the term of the guarantee, the guaranteed lender shall:

(1) Limit cash patronage refunds for guaranteed lenders having a credit rating below the level proscribed by the agency in its funding notice or below investment grade or comparable level on its senior secured debt without regard to the guarantee. For such guaranteed lenders, cash patronage refunds are limited to five percent of the total patronage refund eligible. The limit on patronage refunds must be maintained until the credit rating is restored to the level proscribed by RUS in its funding notice or to investment grade or above. For those guaranteed lenders subject to patronage limitations, equity securities issued as part of the patronage refund shall not be redeemable in cash during the term of any part of the guarantee, and the guaranteed lender shall not issue any dividends on any class of equity securities during the term of the guarantee.

(2) Maintain sufficient collateral secured by a perfected lien equal to the principal amount outstanding. Collateral shall be in the form of specific and identifiable unpledged securities equal to the value of the guaranteed amount plus sufficient margin to cover potential costs, fees, and expenses which may arise in the event of a default. In the case of a guaranteed lender's default, the U.S. Government's claim shall not be subordinated to the claims of other creditors, and the indenture must provide that in the event of default, the Government has the sole right to the pledged instruments. The Secretary has discretion to require additional collateral at any time should circumstances warrant.

(c) The final maturity of the guaranteed bonds shall not exceed 30 years.

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(d) The guaranteed bonds shall be issued to the Federal Financing Bank on terms and conditions consistent with comparable government-guaranteed bonds and satisfactory to the Secretary.

(e) The Secretary shall guarantee payments on guaranteed bonds in such forms and on such terms and conditions and subject to such covenants, representations, warranties, and requirements (including requirements for audits) as determined appropriate for satisfying the requirements of this part. The Secretary shall require the guaranteed lender to enter into a guarantee agreement to evidence its acceptance of the foregoing. Any guarantee issued under this part shall be made in a separate and distinct offering.

[69 FR 63049, Oct. 29, 2004, as amended at 75 FR 42574, July 22, 2010; 87 FR 74500, Dec. 6, 2022]

§ 1720.5 Eligibility criteria.

(a) To be eligible to participate in the program, a guaranteed lender must be:

(1) A bank or other lending institution organized as a private, not-for-profit cooperative association, or otherwise organized on a non-profit basis; and

(2) Able to demonstrate to the Secretary that it possesses the appropriate expertise, experience, and qualifications to make loans for utility infrastructure purposes.

(b) To be eligible to receive a guarantee, a guaranteed lender's bond must meet the following criteria:

(1) The guaranteed lender must furnish the Secretary with a certified list of the principal balances of eligible loans then outstanding and certify that such aggregate balance is at least equal to the sum of the proposed principal amount of guaranteed bonds to be issued, and any previously issued guaranteed bonds outstanding; and

(2) The guaranteed bonds to be issued by the guaranteed lender must receive an underlying investment grade rating from a rating agency, without regard to the guarantee. If an applicant has no outstanding RUS guarantees or has outstanding aggregate guarantees of less than \$25 million, the Adminis-

trator may prescribe in advance by notice an alternate method for the guaranteed lender to demonstrate creditworthiness.

(c) A lending institution's status as an eligible applicant does not assure that the Secretary will issue the guarantee sought in the amount or under the terms requested, or otherwise preclude the Secretary from declining to issue a guarantee.

[69 FR 63049, Oct. 29, 2004, as amended at 75 FR 42574, July 22, 2010; 87 FR 74500, Dec. 6, 2022]

§ 1720.6 Application process.

(a) Applications shall contain the following:

(1) Background and contact information on the applicant;

(2) A term sheet summarizing the proposed terms and conditions of, and the security pledged to assure the applicant's performance under, the guarantee agreement;

(3) A statement by the applicant as to how it proposes to use the proceeds of the guaranteed bonds, and the financial benefit it anticipates deriving from participating in the program;

(4) A pro-forma financial statement and cash flow projection or business plan including detailed assumptions for the next five years, demonstrating that there is reasonable assurance that the applicant will be able to repay the guaranteed bonds in accordance with their terms;

(5) Consolidated financial statements of the guaranteed lender for the previous three years that have been audited by an independent certified public accountant, including any associated notes, as well as any interim financial statements and associated notes for the current fiscal year;

(6) Evidence of having been assigned an investment grade rating on the debt obligations for which it is seeking the guarantee, without regard to the guarantee or such other evidence of creditworthiness as required by the Administrator under § 1720.5(b)(2);

(7) Evidence of a credit rating, from a rating agency, on its senior secured debt, its corporate credit rating, or such other evidence of creditworthiness as required by the Administrator under § 1720.5(b)(2); and

(8) Such other application documents and submissions deemed necessary by the Secretary for the evaluation of applicants.

(b) The application process occurs as follows:

(1) The applicant submits an application to the Secretary;

(2) The application is screened by RUS pursuant to 7 CFR 1720.7(a) of this part, to ascertain its threshold eligibility for the program;

(3) RUS evaluates the application pursuant to the selection criteria set forth in 7 CFR 1720.7(b) of this part;

(4) If RUS provisionally approves the application, the applicant and RUS negotiate terms and conditions of the bond documents, and

(5) The applicant offers its guaranteed bonds, and the Secretary upon approval of the pricing, redemption provisions and other terms of the offering, executes the guarantee.

(c) If requested by the applicant at the time it files its application, the General Counsel of the Department of Agriculture shall provide the Secretary with an opinion regarding the validity and authority of a guarantee issued to the lender under section 313A of the RE Act.

[69 FR 63049, Oct. 29, 2004, as amended at 75 FR 42574, July 22, 2010; 87 FR 74500, Dec. 6, 2022]

§ 1720.7 Application evaluation.

(a) *Eligibility screening.* Each application will be reviewed by the Secretary to determine whether it is eligible under 7 CFR 1720.5, the information required under 7 CFR 1720.6 is complete and the proposed guaranteed bond complies with applicable statutes and regulations. The Secretary can at any time reject an application that fails to meet these requirements.

(b) *Evaluation.* Pursuant to paragraph (a) of this section, applications will be subject to a substantive review, on a competitive basis, by the Secretary based upon the following evaluation factors, listed in order of importance:

(1) The extent to which the proposed provisions indicate the applicant will be able to repay the guaranteed bonds;

(2) The adequacy of the proposed provisions to protect the Federal government, based upon items including, but

not limited to the nature of the pledged security, the priority of the lien position, if any, pledged by the applicant, and the provision for an orderly retirement of principal such as an amortizing bond structure or an internal sinking fund;

(3) The applicant's demonstrated performance of financially sound business practices as evidenced by reports of regulators, auditors and credit rating agencies;

(4) The extent to which the applicant is subject to supervision, examination, and safety and soundness regulation by an independent Federal or state agency;

(5) The extent of concentration of financial risk that RUS may have resulting from previous guarantees made under section 313A of the RE Act;

(6) The extent to which providing the guarantee to the applicant will help reduce the cost and/or increase the supply of credit to rural America, or generate other economic benefits, including the amount of fee income available to be deposited into the Rural Economic Development Subaccount, maintained under section 313(b)(2)(A) of the RE Act (7 U.S.C. 940c(b)(2)(A)), after payment of the subsidy amount; and

(7) The geographic or economic distribution of funds made available through this program or use of such funds to advance rural development infrastructure goals.

(c) *Independent assessment.* Before a guarantee decision is made by the Secretary, the Secretary shall request that the Federal Financing Bank review the adequacy of the determination by the rating agency required under §1720.5(b)(2) as to whether the bond or note to be issued would be below investment grade without the guarantee, or such other evidence of creditworthiness as may be required by the Administrator under §1720.5(b)(2).

(d) *Decisions by the Secretary.* The Secretary shall approve or deny applications in a timely manner as such applications are received; provided, however, that in order to facilitate competitive evaluation of applications, the Secretary may from time to time defer a decision until more than one application is pending. The Secretary may limit the number of guarantees made

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to a maximum of five per year, to ensure a sufficient examination is conducted of applicant requests. RUS shall notify the applicant in writing of the Secretary's approval or denial of an application. Approvals for guarantees shall be conditioned upon compliance with 7 CFR 1720.4 and 1720.6 of this part. The Secretary reserves the discretion to approve an application for an amount less than that requested.

[69 FR 63049, Oct. 29, 2004, as amended at 75 FR 42574, July 22, 2010; 87 FR 74501, Dec. 6, 2022]

§ 1720.8 Issuance of the guarantee.

(a) The following requirements must be met by the applicant prior to the endorsement of a guarantee by the Secretary.

(1) A guarantee agreement suitable in form and substance to the Secretary must be delivered.

(2) Bond documents must be executed by the applicant setting forth the legal provisions relating to the guaranteed bonds, including but not limited to payment dates, interest rates, redemption features, pledged security, additional borrowing terms including an explicit agreement to make payments even if loans made using the proceeds of such bond or note is not repaid to the lender, other financial covenants, and events of default and remedies;

(3) Prior to the issuance of the guarantee, the applicant must certify to the Secretary that the proceeds from the guaranteed bonds will be applied to fund new eligible loans under the RE Act, to refinance concurrent loans, or to refinance existing debt instruments of the guaranteed lender used to fund eligible loans;

(4) The applicant provides a certified list of eligible loans and their outstanding balances as of the date the guarantee is to be issued;

(5) Counsel to the applicant must furnish an opinion satisfactory to the Secretary as to the applicant being legally authorized to issue the guaranteed bonds and enter into the bond documents;

(6) Outside legal counsel to the applicant, satisfactory to the Secretary, must furnish an opinion satisfactory to the Secretary that the Pledge Agreement creates in RUS's favor a valid

perfected and enforceable security interest in the eligible securities pledged to RUS under the Pledge Agreement;

(7) No material adverse change occurs between the date of the application and date of execution of the guarantee;

(8) The applicant shall provide evidence of an investment grade rating from a Rating Agency for the proposed guaranteed bond without regard to the guarantee;

(9) The applicant will provide evidence of a credit rating on its senior secured debt or its corporate credit rating, as applicable, without regard to the guarantee and satisfactory to the Secretary; and

(10) Certification by the Chairman of the Board and the Chief Executive Officer of the applicant (or other senior management acceptable to the Secretary), acknowledging the applicant's commitment to submit to the Secretary, an annual credit assessment of the applicant by a rating agency, an annual review and certification of the security of the Government guarantee that is audited by an independent certified public accounting firm or Federal banking regulator, annual consolidated financial statements audited by an independent certified public accountant each year during which the guaranteed bonds are outstanding, and other such information requested by the Secretary.

(b) The Secretary shall not issue a guarantee if the applicant is unwilling or unable to satisfy all requirements.

(c) The Secretary may condition the release of funds related to a guarantee bond on the guaranteed lender's provision of additional or supplemental information related to agency underwriting, regulatory compliance, program policy objectives, or collateral valuation.

[69 FR 63049, Oct. 29, 2004, as amended at 75 FR 42574, July 22, 2010; 87 FR 74501, Dec. 6, 2022]

§ 1720.9 Guarantee Agreement.

(a) The guaranteed lender will be required to sign a guarantee agreement with the Secretary setting forth the terms and conditions upon which the Secretary guarantees the payment of the guaranteed bonds.

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(b) The guaranteed bonds shall refer to the guarantee agreement as controlling the terms of the guarantee.

(c) The guarantee agreement shall address the following matters:

- (1) Definitions and principles of construction;
- (2) The form of guarantee;
- (3) Coverage of the guarantee;
- (4) Timely demand for payment on the guarantee;
- (5) Any prohibited amendments of bond documents or limitations on transfer of the guarantee;
- (6) Limitation on acceleration of guaranteed bonds;
- (7) Calculation and manner of paying the guarantee fee;
- (8) Consequences of revocation of payment on the guaranteed bonds;
- (9) Representations and warranties of the guaranteed lender;
- (10) Representations and warranties for the benefit of the holder of the guaranteed bonds;
- (11) Claim procedures;
- (12) What constitutes a failure by the guaranteed lender to pay;
- (13) Demand on RUS;
- (14) Assignment to RUS;
- (15) Conditions of guarantee which may include requiring the guaranteed lender to adopt measures to ensure adequate capital levels are retained to absorb losses relative to risk in the guaranteed lender's portfolio and requirements on the guaranteed lender to hold additional capital against the risk of default;
- (16) Payment by RUS;
- (17) RUS payment does not discharge guaranteed lender;
- (18) Undertakings for the benefit of the holders of guaranteed bonds, including: notices, registration, prohibited amendments, prohibited transfers, indemnification, multiple bond issues;
- (19) Governing law;
- (20) Notices;
- (21) Benefit of agreement;
- (22) Entirety of agreement;
- (23) Amendments and waivers;
- (24) Counterparts;
- (25) Severability, and
- (26) Such other matters as the Secretary believes to be necessary or appropriate.

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§ 1720.10 Fees.

(a) *Guarantee fee.* An annual fee equal to 30 basis points (0.3 percent) of the amount of the unpaid principal of the guarantee bond will be deposited into the Rural Economic Development Sub-account maintained under section 313(b)(2)(A) of the RE Act.

(b) Subject to paragraph (c) of this section, up to one-third of the 30 basis point guarantee fee may be used to fund the subsidy amount of providing guarantees, to the extent not otherwise funded through appropriation actions by Congress.

(c) Notwithstanding subsections (c) and (e)(2) of section 313A of the RE Act, the Secretary shall, with the consent of the lender and if otherwise authorized by law, adjust the schedule for payment of the annual fee, not to exceed an average of 30 basis points per year for the term of the loan, to ensure that sufficient funds are available to pay the subsidy costs for note guarantees.

§ 1720.11 Servicing.

The Secretary, or other agent of the Secretary on his or her behalf, shall have the right to service the guaranteed bond, and periodically inspect the facilities, assets, books, and accounts of the guaranteed lender or the collateral agent to ascertain compliance with the provisions of the RE Act and the bond documents.

[87 FR 74501, Dec. 6, 2022]

§ 1720.12 Reporting requirements.

(a) As long as any guaranteed bonds remain outstanding, the guaranteed lender shall provide the Secretary with the following items each year within 90 days of the guaranteed lender's fiscal year end:

- (1) Consolidated financial statements and accompanying footnotes, audited by independent certified public accountants;
- (2) A review and certification of the security of the government guarantee, audited by reputable, independent certified public accountants or a federal banking regulator, who in the judgment of the Secretary, has the requisite skills, knowledge, reputation,

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and experience to properly conduct such a review;

(3) Pro forma projection of the guaranteed lender's balance sheet, income statement, and statement of cash flows with detailed assumptions over the ensuing five years;

(4) Credit assessment issued by a rating agency, or such other evidence of creditworthiness as may be required by the Administrator under § 1720.5(b)(2);

(5) Credit rating, by a rating agency on its senior secured debt or its corporate credit rating, as applicable, without regard to the guarantee and satisfactory to the Secretary, or such other evidence of creditworthiness as may be required by the Administrator under § 1720.5(b)(2); and

(6) Other such information requested by the Secretary.

(b) As long as any guaranteed bonds remain outstanding, the guaranteed lender will provide the Secretary with the following items each quarter within seven (7) business days of the guaranteed lender's quarter end:

(1) A list of pledged collateral which includes borrowers' billing information, and other information reasonably requested by RUS.

(2) A list of the guaranteed lender's criticized loans within 30 days of the end of each calendar quarter.

(c) The bond documents shall specify such bond monitoring, and financial and internal audit reporting requirements relating to the pledged collateral as deemed appropriate by the Secretary.

(d) Leveraging data must be submitted to RUS within five (5) business days after the guaranteed lender publishes its 10-K or 10-Q form or financial statements, as applicable.

(e) The use of the proceeds of the guaranteed bonds for the construction of new projects is subject to the environmental review requirements in accordance with 7 CFR part 1970. Prior to the guaranteed lender using the proceeds of the guaranteed bonds to make loans to borrowers for the construction of new projects, the guaranteed lender must provide sufficient details about the proposed construction to RUS so it can comply with the environmental requirements of 7 CFR part 1970. The guaranteed lender is prohibited from

using the proceeds of guaranteed bonds to fund loans to borrowers for new construction projects without RUS's written acknowledgment that the environmental requirements of 7 CFR part 1970 have been met with respect to each such project.

[69 FR 63049, Oct. 29, 2004, as amended at 75 FR 42575, July 22, 2010; 87 FR 74501, Dec. 6, 2022]

§ 1720.13 Limitations on guarantees.

In a given year the maximum amount of guaranteed bonds that the Secretary may approve will be subject to budget authority, together with receipts authority from projected fee collections from guaranteed lenders, the principal amount of outstanding eligible loans made by the guaranteed lender, and Congressionally-mandated ceilings on the total amount of credit. The Secretary may also impose other limitations as appropriate to administer this guarantee program.

[75 FR 42575, July 22, 2010]

§ 1720.14 Nature of guarantee; acceleration of guaranteed bonds.

(a) Any guarantee executed by the Secretary under this part shall be an obligation supported by the full faith and credit of the United States and incontestable except for fraud or misrepresentation of which the guaranteed bondholder had actual knowledge at the time it purchased the guaranteed bonds.

(b) Amounts due under the guarantee shall be paid within 30 days of demand by a bondholder, certifying the amount of payment then due and payable.

(c) The guarantee shall be assignable and transferable to any purchaser of guaranteed bonds as provided in the bond documents.

(d) The following actions shall constitute events of default under the terms of the guarantee agreements:

(1) The guaranteed lender failed to make a payment of principal or interest when due on the guaranteed bonds;

(2) The guaranteed bonds were issued in violation of the terms and conditions of the bond documents;

(3) The guarantee fee required by 7 CFR 1720.10 of this part, has not been paid;

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(4) The guaranteed lender made a misrepresentation to the Secretary in any material respect in connection with the application, the guaranteed bonds, or the reporting requirements listed in 7 CFR 1720.12; or

(5) The guaranteed lender failed to comply with any material covenant or provision contained in the bond documents.

(e) In the event the guaranteed lender fails to cure such defaults within the notice terms and the timeframe set forth in the bond documents, the Secretary may demand that the guaranteed lender redeem the guaranteed bonds. Such redemption amount will be in an amount equal to the outstanding principal balance, accrued interest to the date of redemption, and prepayment premium, if any. To the extent the Secretary makes any payments under the guarantee, the Secretary shall be deemed the guaranteed bondholder.

(f) To the extent the Secretary makes any payments under the guarantee, the interest rate the government will charge to the guaranteed lender for the period of default shall accrue at an annual rate of the greater of 1.5 times the 91-day Treasury-Bill rate or 200 basis points (2.00%) above the rate on the guaranteed bonds.

(g) Upon guaranteed lender's event of default, under the bond documents, the Secretary shall be entitled to take such other action as is provided for by law or under the bond documents.

§ 1720.15 Equal opportunity requirements.

Executive Order 12898, "Environmental Justice." To comply with Executive Order 12898, RUS will conduct a Civil Rights Analysis for each guarantee prior to approval. Rural Development Form 2006-28, "Civil Rights Impact Analysis", will be used to document compliance in regards to environmental justice. The Civil Rights Impact Analysis will be conducted prior to application approval or a conditional commitment of guarantee.

§ 1720.16 Environmental review requirements.

Guarantees made under this subpart are subject to the environmental re-

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view requirements in accordance with 7 CFR part 1970.

[81 FR 11026, Mar. 2, 2016]

PART 1721—POST-LOAN POLICIES AND PROCEDURES FOR INSURED ELECTRIC LOANS

Subpart A—Advance of Funds

Sec.

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AUTHORITY: 7 U.S.C. 901 *et seq.*; 1921 *et seq.*; and 6941 *et seq.*

SOURCE: 50 FR 5368, Feb. 8, 1985, unless otherwise noted. Redesignated at 64 FR 72489, Dec. 28, 1999.

Subpart A—Advance of Funds

§ 1721.1 Advances.

(a) *Purpose and amount.* With the exception of minor projects which are addressed in paragraph (b) of this section and generation projects which need to be included on a RUS Form 740c or an amendment to a RUS Form 740c, loan funds will be advanced for projects which are included in a RUS approved construction work plan (CWP), Energy Efficiency and Conservation Program work plan (EEWP), or approved amendment to either, have received written documentation of RUS concluding its environmental reviews and have complied with all Contracting and Bidding Procedures included in 7 CFR part 1726. Loan fund advances can be requested in an amount representing actual costs incurred.

(b) *Minor project.* Minor project means a project costing \$250,000 or less. Such a project qualifies for advance of loan funds even though it may not have been included in an RUS-approved borrower's CWP, amendment to such