

(b) *Referrals to National Office.* All proposed servicing actions which the State Director is not authorized by this subpart to approve will be referred to the National Office.

(c) *Defeasance of Rural Development indebtedness.* Defeasance is the use of invested proceeds from a new bond issue to repay outstanding bonds in accordance with the repayment schedule of the outstanding bonds. The new issue supersedes the contractual agreements the borrower agreed to in the prior issue. Defeasance, or amending outstanding loan instruments and agreements to permit defeasance, of Rural Development debt instruments is not authorized, since defeasance limits, or eliminates entirely, the borrower's ability to comply with statutory refinancing requirements implemented by subpart F of part 1951 of this chapter.

§ 1951.241 Special provision for interest rate change.

(a) *General.* Effective October 1, 1981, and thereafter, upon request of the borrower, the interest rate charged by Rural Development to water and waste disposal and community facility borrowers shall be the lower of the rates in effect at either the time of loan approval or loan closing. Pub. L. 99-88 provides that any Rural Development grant funds associated with such loans shall be set in the amount based on the interest rate in effect at the time of loan approval. Loans closed October 1, 1981, through October 25, 1985, were closed at the interest rate in effect at the time of loan approval and that interest rate is reflected in the borrower's debt instrument. For community facility and water and waste disposal loans closed on or after October 1, 1981, and for which the interest rate in effect at the time of loan closing is lower than the interest rate in effect at the time of loan approval, the borrower may request to be charged the lower interest rate. The loan closing interest rate will be determined by Rural Development based upon requirements in effect at the date of loan closing. Exhibit E of this subpart (available in any Rural Development office) contains a summary of interest rate requirements for specific time periods. Exhibit C of Subpart O of this part (available in any

Rural Development office) will be used to determine the interest rate and effective dates by category of poverty, intermediate, and market rates. Exhibit F of this subpart (available in any Rural Development office) contains the instructions on how to process a change of interest rate. Loans meeting the criteria of this section that have been paid in full are eligible for the borrower to request the lower interest rate. For loan(s) that involved multiple advances of Rural Development funds using temporary debt instruments, wherein the borrower requests the interest rate in effect at loan closing, the interest rate charged shall be the rate in effect on the date when the first temporary debt instrument was issued.

(b) *Notification to borrower and borrower selection of interest rate.* (1) Rural Development servicing officials will notify each borrower meeting the provisions of this section of the availability of a choice of interest rate. The notification will be made in writing at the earliest possible date, utilizing Exhibit G of this subpart (available in any Rural Development office), and sent by certified mail, return receipt requested. Borrowers will be advised at the time of notification that if a change of interest rate is requested, the change will be accomplished administratively by Rural Development. The effect of the change on the loan account will also be fully explained to the borrower.

(2) Borrowers must notify Rural Development within 90 calendar days of the date of Rural Development notification indicating their election to retain the rate in effect at loan approval or to change the rate to the rate in effect at the time of loan closing. If the borrower does not respond within the 90-day period, Rural Development will not consider a future request for a lower interest rate under the provisions of this subpart.

(3) The borrower is responsible for assuring that the official executing the letter requesting the change of interest rate is duly authorized and any action(s) necessary for this authorization have been taken as required. Any costs associated with a change of interest rate will be the responsibility of the borrower.

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(c) *Processing loan interest rate change.* The State Director is authorized to approve loan interest rate changes which meet the requirements of this section. Loan interest rate changes will be accomplished as follows:

(1) All loan payments already applied to the account(s) will be reversed and reapplied by Rural Development utilizing the changed interest rate. The balance remaining after the completion of the reversal and reapplication procedures will be applied first to any delinquency on the account and then to principal.

(2) For paid-in-full accounts which meet the criteria of §1951.241(a) of this subpart, the balance of loan payments after completion of the reversal and reapplication procedures will be returned to the borrower unless the borrower is delinquent on another Rural Development loan of the same type. In those cases the amount will be applied to the delinquent amount owed, with any balance refunded to the borrower.

(3) The Finance Office will administratively change the interest rate on a borrower's account in accordance with notification from the servicing official. The installment schedule set forth in each borrower's debt instrument will not change. The original principal schedule for principal-plus-interest accounts where principal *only* is stipulated will continue to be used for payment calculation by the Finance Office. Amortized accounts will adhere to the original payment schedule and amount. The last scheduled principal installment will be reduced by the amount of the balance previously generated by the reversal and reapplication of payments.

(4) When Rural Development has processed a change of interest rate for an amortized loan and a reduction in installment amounts is needed to provide for a sound operation, the borrower may request reamortization in accordance with §1951.223 of this subpart.

(5) The borrower will be notified in writing of the new interest rate as changed.

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§ 1951.242 Servicing delinquent Community Facility loans.

(a) For the purpose of this section, a loan is delinquent when a borrower fails to make all or part of a payment by the due date.

(b) The delinquent loan borrower and the Agency, at its discretion, may enter into a written workout agreement.

(c) For loans that are delinquent, the borrower must provide, monthly comparative financial statements in a format that is acceptable to the Agency by the 15th day of the following month. The Agency may waive this requirement if it would cause a hardship for the borrower or the borrower is actively marketing the security property.

[69 FR 70884, Dec. 8, 2004]

§§ 1951.243–1951.249 [Reserved]

§ 1951.250 OMB control number.

The reporting and recordkeeping requirements contained in this regulation have been approved by the Office of Management and Budget and have been assigned OMB Control Number 0575–0066. Public reporting burden for this collection of information is estimated to vary from fifteen minutes to three hours per response including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

[55 FR 4399, Feb. 8, 1990, as amended at 69 FR 70884, Dec. 8, 2004]

EXHIBITS TO SUBPART E OF PART 1951, NOTE

EDITORIAL NOTE: Exhibits A through H are not published in the Code of Federal Regulations.

EXHIBIT A—REPORT ON SERVICING ACTION

EXHIBIT B—AGREEMENT FOR NEW MEMBER
(WITH OR WITHOUT WITHDRAWING MEMBER)

EXHIBIT C—AGREEMENT FOR WITHDRAWAL OF
MEMBER (WITHOUT NEW MEMBER)

EXHIBIT D—ITEMS TO BE INCLUDED IN TRANSFER AND ASSUMPTION DOCKETS (IF APPLICABLE)

EXHIBIT E—INTEREST RATE REQUIREMENTS
AND EFFECTIVE DATES