

to develop and implement a plan satisfactory to RUS shall be an event of default upon notice provided in accordance with the terms of the borrower's mortgage or loan contract.

(3) *Fixed and variable expenses*, as used in this section, include but are not limited to: all taxes, depreciation, maintenance expenses, and the cost of electric power and energy and other operating expenses of the electric system, including all obligations under the wholesale power contract, all lease payments when due, and all principal and interest payments on outstanding indebtedness when due.

(e) *Requirements for advance of funds.*

(1) If a borrower applying for a loan has failed to achieve the coverage ratios required by paragraph (b) of this section during the latest 12 month period immediately preceding approval of the loan, or if any of the borrower's average coverage ratios for the 2 best years out of the most recent 3 calendar years were below the levels required in paragraph (b) of this section, RUS may withhold the advance of loan funds until the borrower has adopted an annual financial plan and operating budget satisfactory to RUS and taken such other action as RUS may require to demonstrate that the required coverage ratios will be maintained in the future and that the loan will be repaid with interest within the time agreed. Such other action may include, for example, increasing system operating efficiency and reducing costs or adopting a rate design that will achieve the required coverage ratios, and either placing such rates into effect or taking action to obtain regulatory authority approval of such rates. If failure to achieve the coverage ratios is due to unusual events beyond the control of the borrower, such as unusual weather, system outage due to a storm or regulatory delay in approving rate increases, then the Administrator may waive the requirement that the borrower take the remedial actions set forth in this paragraph, provided that such waiver will not threaten loan feasibility.

(2) With respect to any outstanding loan approved by RUS on or after February 10, 1992, if, based on actual or projected financial performance of the

borrower, RUS determines that the borrower may not achieve its required coverage ratios in the current or future years, RUS may withhold the advance of loan funds until the borrower has taken remedial action satisfactory to RUS.

[60 FR 67404, Dec. 29, 1995, as amended at 61 FR 66871, Dec. 19, 1996; 65 FR 51748, Aug. 25, 2000]

§ 1710.115 Final maturity.

(a) RUS is authorized to make loans and loan guarantees with a final maturity of up to 35 years. The borrower may elect a repayment period for a loan not longer than the expected useful life of the facilities, not to exceed 35 years. Most of the electric facilities financed by RUS have a long useful life, often approximating 35 years. Some facilities, such as load management equipment and Supervisory Control and Data Acquisition equipment, have a much shorter useful life due, in part, to obsolescence. Operating loans to finance working capital required for the initial operation of a new system are a separate class of loans and usually have a final maturity of less than 10 years.

(b) Loans made or guaranteed by RUS for facilities owned by the borrower generally must be repaid with interest within a period, up to 35 years, that approximates the expected useful life of the facilities financed. The expected useful life shall be based on the weighted average of the useful lives that the borrower proposes for the facilities financed by the loan, provided that the proposed useful lives are deemed appropriate by RUS. RUS Form 740c, Cost Estimates and Loan Budget for Electric Borrowers, submitted as part of the loan application must include, as a note, either a statement certifying that at least 90 percent of the loan funds are for facilities that have a useful life of 33 years or longer, or a schedule showing the costs and useful life of those facilities with a useful life of less than 33 years. The useful lives proposed by the borrower for the facilities financed must be consistent with the borrower's proposed depreciation rates for these facilities. In states where the borrower must obtain state

§ 1710.116

regulatory authority approval of depreciation rates for rate making purposes, the depreciation rates used for the purposes of this paragraph shall be the rates currently approved by the state authority or rates for which the borrower plans to seek state authority approval, provided that these rates are deemed appropriate by RUS. In other states, if the rates proposed by the borrower are not deemed appropriate by RUS, RUS will base expected useful life on the depreciation rates listed in Bulletin 183-1, or its successor, revising such rates as necessary to reflect current industry practice (for availability of bulletins, see §1710.5.). Final maturities for loans for the implementation of programs for demand side management and energy resource conservation and on and off grid renewable energy sources not owned by the borrower will be determined by RUS. Due to the uncertainty of predictions over an extended period of time, RUS may add up to 2 years to the composite average useful life of the facilities in order to determine final maturity.

(c) [Reserved]

(d) The Administrator may approve a repayment period longer than the expected useful life of the facilities financed, up to 35 years, if a longer final maturity is required to ensure repayment of the loan and loan security is adequate.

(e) The final maturity of a loan established pursuant to the provisions of this section shall not be extended as a result of extending loan payments under section 12(a) of the RE Act.

[58 FR 66265, Dec. 20, 1993, as amended at 60 FR 3731, Jan. 19, 1995]

§ 1710.116 [Reserved]

§ 1710.117 Environmental considerations.

Borrowers are required to comply with 7 CFR part 1794, which sets forth applicable requirements of the National Environmental Policy Act (NEPA), as amended (42 U.S.C. 4321 *et seq.*); the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA (40 CFR parts 1500-1508); and certain other statutes, regulations and orders. Borrowers must also comply with any

7 CFR Ch. XVII (1-1-03 Edition)

other applicable Federal or state environmental laws and regulations.

§ 1710.118 [Reserved]

§ 1710.119 Loan processing priorities.

(a) Generally loans are processed in chronological order based on the date the complete application is received in the Regional office.

(b) The Administrator may give priority to processing loans that are required to meet the following needs:

(1) To restore electric service following a major storm or other catastrophe;

(2) To bring existing electric facilities into compliance with any environmental requirements imposed by Federal or state law that were not in effect at the time the facilities were originally constructed;

(3) To finance the capital needs of borrowers that are the result of a merger, consolidation, or a transfer of a system substantially in its entirety, provided that the merger, consolidation, or transfer has either been approved by RUS or does not need RUS approval pursuant to the borrower's loan documents (See 7 CFR 1717.154); or

(4) To correct serious safety problems, other than those resulting from borrower mismanagement or negligence.

(c) The Administrator may also change the normal order of processing loan applications when it is necessary to ensure that all loan authority for the fiscal year is utilized.

[57 FR 1053, Jan. 9, 1992, as amended at 61 FR 66871, Dec. 19, 1996]

§ 1710.120 Construction standards and contracting.

Borrowers shall follow all RUS requirements regarding construction work plans, construction standards, approved materials, construction and related contracts, inspection procedures, and bidding procedures.

§ 1710.121 Insurance requirements.

Borrowers are required to comply with certain requirements with respect to insurance and fidelity coverage as set forth in 7 CFR part 1788.