

## § 1710.1

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

SOURCE: 57 FR 1053, Jan. 9, 1992, unless otherwise noted.

### Subpart A—General

#### § 1710.1 General statement.

(a) This part establishes general and pre-loan policies and requirements that apply to both insured and guaranteed loans to finance the construction and improvement of electric facilities in rural areas, including generation, transmission, and distribution facilities.

(b) Additional pre-loan policies, procedures, and requirements that apply specifically to guaranteed and/or insured loans are set forth elsewhere:

(1) For guaranteed loans in 7 CFR part 1712 and RUS Bulletins 20-22, 60-10, 86-3, 105-5, and 111-3, or the successors to these bulletins; and

(2) For insured loans in 7 CFR part 1714 and in RUS Bulletins 60-10, 86-3, 105-5, and 111-3, or the successors to these bulletins.

(c) This part supersedes those portions of the following RUS Bulletins and supplements that are in conflict.

20-5 Extensions of Payments of Principal and Interest  
20-20 Deferment of Principal Repayments for Investment in Supplemental Lending Institutions  
20-22 Guarantee of Loans for Bulk Power Supply Facilities  
20-23 Section 12 Extensions for Energy Resources Conservation Loans  
60-10 Construction Work Plans, Electric Distribution Systems  
86-3 Headquarters Facilities for Electric Borrowers  
105-5 Financial Forecast-Electric Distribution Systems  
111-3 Power Supply Surveys  
120-1 Development, Approval, and Use of Power Requirements Studies

(d) When parts 1710, 1712, and 1714 are published in final form, the bulletins cited in paragraph (b) of this section will be rescinded, in whole or in part, or revised.

[57 FR 1053, Jan. 9, 1992, as amended at 58 FR 66262, Dec. 20, 1993]

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### § 1710.2 Definitions and rules of construction.

(a) *Definitions.* For the purpose of this part, the following terms shall have the following meanings:

*Administrator* means the Administrator of RUS or his or her designee.

*Approved load forecast* means a load forecast that RUS has determined is current for RUS purposes and has been approved by RUS pursuant to 7 CFR part 1710, subpart E.

*Approved load forecast work plan* means a load forecast work plan that RUS has determined is current for RUS' purposes and has been approved pursuant to 7 CFR part 1710, subpart E.

*APRR* means Average Adjusted Plant Revenue Ratio calculated as a simple average of the adjusted plant revenue ratios for 1978, 1979 and 1980 as follows:

$$APRR = \frac{A + B}{C - D}$$

where:

A=Distribution (plant), which equals Part E, Line 14(e) of RUS Form 7;

B=General Plant, which equals Part E, Line 24(e) of RUS Form 7;

C=Operating Revenue and Patronage Capital, which equals Part A, Line 1 of RUS Form 7; and

D=Cost of Power, which equals the sum of Part A, Lines 2, 3, and 4 of RUS Form 7.

*Area Coverage* means the provision of adequate electric service to the widest practical number of rural users in the borrower's service area during the life of the loan.

*Borrower* means any organization that has an outstanding loan made or guaranteed by RUS for rural electrification, or that is seeking such financing.

*Bulk Transmission Facilities* means the transmission facilities connecting power supply facilities to the subtransmission facilities, including both the high and low voltage sides of the transformer used to connect to the subtransmission facilities, as well as related supervisory control and data acquisition systems.

*Call provision* has the same meaning as "prepayment option".

*Consolidation* means the combination of 2 or more borrower or nonborrower organizations, pursuant to state law, into a new successor organization that

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takes over the assets and assumes the liabilities of those organizations.

*Consumer* means a retail customer of electricity, as reported on RUS Form 7, Part R, Lines 1-7.

*Demand side management (DSM)* means the deliberate planning and/or implementation of activities to influence consumer use of electricity provided by a distribution borrower to produce beneficial modifications to the system load profile. Beneficial modifications to the system load profile ordinarily improve load factor or otherwise help in utilizing electric system resources to best advantage consistent with acceptable standards of service and lowest system cost. Load profile modifications are characterized as peak clipping, valley filling, load shifting, strategic conservation, strategic load growth, and flexible load profile. (See, for example, publications of the Electric Power Research Institute (EPRI), 3412 Hillview Avenue, Palo Alto, CA 94304, especially "Demand-Side Management Glossary" EPRI TR-101158, Project 1940-25, Final Report, October 1992.) DSM includes energy conservation programs. It does not include sources of electrical energy such as renewable energy systems, fuel cells, or traditionally fueled generation, such as fossil or nuclear fueled generators.

*Distribution Borrower* means a borrower that sells or intends to sell electric power and energy at retail in rural areas.

*Distribution Facilities* means all electrical lines and related facilities beginning at the consumer's meter base, and continuing back to and including the distribution substation.

*DSC* means Debt Service Coverage of the borrower calculated as:

$$DSC = \frac{A + B + C}{D}$$

Where:

All amounts are for the same calendar year and are based on the RUS system of accounts and RUS Forms 7 and 12. References to line numbers in the RUS Forms 7 and 12 refer to the June 1994 version of RUS Form 7 and the December 1993 version of RUS Form 12, and will apply to corresponding information in future versions of the forms;

A=Depreciation and Amortization Expense of the borrower, which equals Part A, Line 12 of RUS Form 7 (distribution borrowers) or Section A, Line 20 of RUS Form 12a (power supply borrowers);

B=Interest expense on total long-term debt of the borrower, which equals Part A, Line 15 of RUS Form 7 or Section A, Line 22 of RUS Form 12a, except that interest expense shall be increased by 1/3 of the amount, if any, by which restricted rentals of the borrower (Part M, Line 3 of RUS Form 7 or Section K, Line 4 of RUS Form 12h) exceed 2 percent of the borrower's equity (RUS Form 7, Part C, Line 36 [Total Margins & Equities] less Line 26 [Regulatory Assets] or RUS Form 12a, Section B, Line 38 [Total Margins & Equities] less Line 28 [Regulatory Assets]);

C=Patronage Capital or Margins of the borrower, which equals Part A, Line 28 of RUS Form 7 or Section A, Line 35 of RUS Form 12a; and

D=Debt Service Billed (RUS + other), which equals the sum of all payments of principal and interest required to be made on account of total long-term debt of the borrower during the calendar year, plus 1/3 of the amount, if any, by which restricted rentals of the borrower (Part M, Line 3 of RUS Form 7 or Section K, Line 4 of RUS Form 12h) exceed 2 percent of the borrower's equity (RUS Form 7, Part C, Line 36 [Total Margins & Equities] less Line 26 [Regulatory Assets] or RUS Form 12a, Section B, Line 38 [Total Margins & Equities] less Line 28 [Regulatory Assets]);

*DSM activities* means activities of the type referred to in §1710.354(f).

*DSM plan* means a plan that describes the implementation at the distribution level of the DSM activities identified in the integrated resource plan as having positive net benefits. See §1710.357.

*Electric system* means all of the borrower's interests in all electric production, transmission, distribution, conservation, load management, general plant and other related facilities, equipment or property and in any mine, well, pipeline, plant, structure or other facility for the development, production, manufacture, storage, fabrication or processing of fossil, nuclear, or other fuel or in any facility or rights with respect to the supply of water, in each case for use, in whole or in major part, in any of the borrower's generating plants, including any interest or participation of the borrower in any such facilities or any rights to the output or capacity thereof, together with

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all lands, easements, rights-of-way, other works, property, structures, contract rights and other tangible and intangible assets of the borrower in each case used or useful in such electric system.

*Equity* means total margins and equities, which equals Part C, Line 33 of RUS Form 7 (distribution borrowers) or Section B, Line 34 of RUS Form 12a (power supply borrowers).

*Final maturity* means the final date on which all outstanding principal and accrued interest on an electric loan is due and payable.

*Five percent hardship rate* means an interest rate of 5 percent applicable to a hardship rate loan.

*Fund advance period* means the period of time during which the Government may advance loan funds to the borrower. See 7 CFR 1714.56.

*Generation Facilities* means the generating plant and related facilities, including the building containing the plant, all fuel handling facilities, and the stepup substation used to convert the generator voltage to transmission voltage, as well as related energy management (dispatching) systems.

*Hardship rate loan* means a loan made at the 5 percent hardship rate pursuant to 7 CFR 1714.8.

*Insured Loan* means a loan made pursuant to Section 305 of the RE Act, and may include a direct loan made under Section 4 of the RE Act.

*Integrated Resources Plan (IRP)* means a plan resulting from the planning and selection process for new energy resources that evaluates the benefits and costs of the full range of alternatives, including new generating capacity, power purchases, DSM programs, system operating efficiency, and renewable energy systems.

*Interest rate cap* means a maximum interest rate of 7 percent applicable to certain municipal rate loans as set forth in § 1710.7.

*Interest rate term* means a period of time selected by the borrower for the purpose of determining the interest rate on an advance of funds. See 7 CFR 1714.6.

*Load forecast* means the thorough study of a borrower's electric loads and the factors that affect those loads in order to determine, as accurately as

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practicable, the borrower's future requirements for energy and capacity.

*Load forecast work plan* means the plan that contains the resources, methods, schedules, and milestones to be used in the preparation and maintenance of a load forecast.

*Loan* means any loan made or guaranteed by RUS.

*Loan Contract* means the agreement, as amended, supplemented, or restated from time to time, between a borrower and RUS providing for loans made or guaranteed pursuant to the RE Act.

*Loan Feasibility* means that the borrower has the capability of repaying the loan in full as scheduled, in accordance with the terms of the mortgage, note, and loan contract.

*Loan Guarantee* means a loan guarantee made by RUS pursuant to the RE Act.

*Loan period* means the period of time during which the facilities included in a loan application will be constructed. It commences with the date shown on page 1, in the block headed "Cost Estimates as of," of RUS Form 740c, Cost Estimates and Loan Budget for Electric Borrowers, which is the same as the date on the Financial and Statistical Report submitted with the loan application. The loan period may be up to 4 years for distribution borrowers and, except in the case of a loan for new generating and associated transmission facilities, up to 4 years for the transmission facilities and improvements or replacements of generation facilities for power supply borrowers. The loan period for new generating facilities is determined on a case by case basis.

*Merger* means the combining, pursuant to state law, of borrower or nonborrower organizations into an existing survivor organization that takes over the assets and assumes the liabilities of the merged organizations.

*Mortgage* means any and all instruments creating a lien on or security interest in the borrower's assets in connection with loans or guarantees under the RE Act.

*Municipal rate loan* means a loan made at a municipal interest rate pursuant to 7 CFR 1714.5.

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*ODSC* means Operating Debt Service Coverage of the electric system calculated as:

$$ODSC = \frac{A + B + C}{D}$$

Where:

All amounts are for the same calendar year and are based on the RUS system of accounts and RUS Form 7. References to line numbers in the RUS Form 7 refer to the June 1994 version of the form, and will apply to corresponding information in future versions of the form;

A=Depreciation and Amortization Expense of the electric system, which usually equals Part A, Line 12 of RUS Form 7;

B=Interest expense on total long-term debt of the electric system, which usually equals Part A, Line 15 of RUS Form 7, except that such interest expense shall be increased by 1/3 of the amount, if any, by which restricted rentals of the electric system (usually Part M, Line 3 of RUS Form 7) exceed 2 percent of the borrower's equity (RUS Form 7, Part C, Line 36 [Total Margins & Equities] less Line 26 [Regulatory Assets]);

C=Patronage Capital & Operating Margins of the electric system, which usually equals Part A, Line 20 of RUS Form 7, plus cash received from the retirement of patronage capital by suppliers of electric power and by lenders for credit extended for the Electric System; and

D=Debt Service Billed (RUS + other), which equals the sum of all payments of principal and interest required to be made on account of total long-term debt of the electric system during the calendar year, plus 1/3 of the amount, if any, by which restricted rentals of the Electric System (usually Part M, Line 3 of RUS Form 7) exceed 2 percent of the borrower's equity (RUS Form 7, Part C, Line 36 [Total Margins & Equities] less Line 26 [Regulatory Assets]).

*Off-grid renewable energy system* means an energy source which is not electrically attached to the grid. Off-grid systems are operated as an island and will have no direct impact on a utility system's physical operations. An off-grid system need not meet electric utility power quality standards.

*On-grid renewable energy system* means an energy source electrically attached to an existing grid. It can be attached on either side of a consumer's meter. On-grid systems are operated as part of the overall utility system and have a direct impact on a utility sys-

tem's operations. An on-grid system must meet electric utility power quality and safety standards.

*Ordinary Replacement* means replacing one or more units of plant, called "retirement units", with similar units when made necessary by normal wear and tear, damage beyond repair, or obsolescence of the facilities.

*OTIER* means Operating Times Interest Earned Ratio of the electric system calculated as:

$$OTIER = \frac{A + B}{A}$$

Where:

All amounts are for the same calendar year and are based on the RUS system of accounts and RUS Form 7. References to line numbers in the RUS Form 7 refer to the June 1994 version of the form, and will apply to corresponding information in future versions of the form;

A=Interest expense on total long-term debt of the electric system, which usually equals Part A, Line 15 of RUS Form 7, except that such interest expense shall be increased by 1/3 of the amount, if any, by which restricted rentals of the electric system (usually Part M, Line 3 of RUS Form 7) exceed 2 percent of the borrower's equity (RUS Form 7, Part C, Line 36 [Total Margins & Equities] less Line 26 [Regulatory Assets]); and

B=Patronage Capital & Operating Margins of the electric system, which usually equals Part A, Line 20 of RUS Form 7, plus cash received from the retirement of patronage capital by suppliers of electric power and by lenders for credit extended for the Electric System.

*Power requirements study* (PRS) has the same meaning as load forecast.

*Power Supply Borrower* means a borrower that sells or intends to sell electric power at wholesale to distribution or power supply borrowers pursuant to RUS wholesale power contracts.

*Prepayment option* means a provision included in the loan documents to allow the borrower to prepay all or a portion of an advance on a municipal rate loan on a date other than a roll-over maturity date. See 7 CFR 1714.9.

*PRR* means Plant Revenue Ratio calculated as:

$$PRR = \frac{A}{B - C}$$

where:

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A = Total Utility Plant, which equals Part C, Line 3 of RUS Form 7;

B = Operating Revenue and Patronage Capital, which equals Part A, Line 1 of RUS Form 7; and

C = Cost of Power, which equals the sum of Part A, Lines 2, 3, and 4 of RUS Form 7.

*PRS work plan* has the same meaning as load forecast work plan.

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

*RE Act beneficiary* means a person, business, or other entity that is located in a rural area.

*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.

*Renewable energy system* means a source of energy (kWh) used to meet borrower electric load that is fueled by any of the following technologies: Hydropower, geothermal, biomass, municipal waste, solar thermal, photovoltaic, wind, fuel cells not fueled by fossil fuels. See, for example, "Renewable Resources in U.S. Electricity Supply," February 1993, Publication number DOE/EIA 0561, published by the Department of Energy, Energy Information Administration, Forrestal Building, EI-231, Washington, DC 20585.

*Retirement Unit* means a substantial unit of property, which when retired, with or without being replaced, is accounted for by removing its book cost from the plant account.

*Rollover maturity date* means the last day of an interest rate term.

*Rural area* means any area of the United States, its territories and insular possessions (including any area within the Federated States of Micronesia, the Marshall Islands, and the Republic of Palau) not included within the boundaries of any urban area, as defined by the Bureau of the Census. For purposes of the "rural area" definition, the character of an area is determined at the time of the initial loan to furnish or improve service in the area.

(i) For initial RUS loans made prior to November 1, 1993, the RE Act defined "rural area" to mean any area of the United States not included within the boundaries of any city, village, or borough having a population exceeding

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1500. An area determined to be a "rural area" for the purposes of an initial loan made prior to November 1, 1993, shall continue to be considered a "rural area."

(ii) For initial RUS loans made on or after November 1, 1993, this definition shall apply. In determining the character of the area, RUS will rely on the Bureau of the Census designation.

*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.

*Subtransmission Facilities* means the transmission facilities that connect the high voltage side of the distribution substation to the low voltage side of the bulk transmission or generating facilities, as well as related supervisory control and data acquisition facilities.

*System Improvement* means the change or addition to electric plant facilities to improve the quality of electric service or to increase the quantity of electric power available to RE Act beneficiaries.

*TIER* means Times Interest Earned Ratio of the borrower calculated as:

$$\text{TIER} = \frac{A + B}{A}$$

Where:

All amounts are for the same calendar year and are based on the RUS system of accounts and RUS Forms 7 and 12. References to line numbers in the RUS Forms 7 and 12 refer to the June 1994 version of RUS Form 7 and the December 1993 version of RUS Form 12, and will apply to corresponding information in future versions of the forms;

A=Interest expense on total long-term debt of the borrower, which equals Part A, Line 15 of RUS Form 7 or Section A, Line 22 of RUS Form 12a, except that interest expense shall be increased by 1/3 of the amount, if any, by which restricted rentals of the borrower (Part M, Line 3 of RUS Form 7 or Section K, Line 4 of RUS Form 12h) exceed 2 percent of the borrower's equity (RUS Form 7, Part C, Line 36 [Total Margins & Equities] less Line 26 [Regulatory Assets] or RUS Form 12a, Section B,

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Line 38 [Total Margins & Equities] less Line 28 [Regulatory Assets]; and B=Patronage Capital or Margins of the borrower, which equals Part A, Line 28 of RUS Form 7 or Section A, Line 35 of RUS Form 12a.

*Total Assets* means Part C, Line 26 of RUS Form 7 (distribution borrowers) or Section B, Line 27 of RUS Form 12a (power supply borrowers).

*Total Utility Plant* means Part C, Line 3 of RUS Form 7 (distribution borrowers) or Section B, Line 27 of RUS Form 12a (power supply borrowers).

*Transmission Facilities* means all electrical lines and related facilities, including certain substations, used to connect the distribution facilities to generation facilities. They include bulk transmission and subtransmission facilities.

*Urban area* is defined by the Bureau of the Census as an area comprising all territory, population, and housing units in urbanized areas and in places of 2500 or more persons outside urbanized areas. More specifically, "urban" consists of territory, persons, and housing units in:

(i) Places of 2500 or more persons incorporated as cities, villages, boroughs (except in Alaska and New York), and towns (except in the six New England States, New York, and Wisconsin), but excluding the rural portions of "extended cities."

(ii) Census designated places of 2500 or more persons.

(iii) Other territory, incorporated or unincorporated, included in urbanized areas.

*Urbanized area* means an urbanized area as defined by the Bureau of the Census in notices published periodically in the FEDERAL REGISTER. Generally an urbanized area is characterized as an area that comprises a place and the adjacent densely settled territory that together have a minimum population of 50,000 people.

(b) *Rules of Construction*. Unless the context otherwise indicates, "includes" and "including" are not limiting, and "or" is not exclusive. The terms defined in paragraph (a) of this part in-

clude the plural as well as the singular, and the singular as well as the plural.

[57 FR 1053, Jan. 9, 1992; 57 FR 4513, Feb. 5, 1992, as amended at 58 FR 66263, Dec. 20, 1993; 59 FR 495, Jan. 4, 1994; 59 FR 66440, Dec. 27, 1994; 60 FR 3730, Jan. 19, 1995; 60 FR 67400, Dec. 29, 1995; 65 FR 14786, Mar. 20, 2000]

### § 1710.3 Form and bulletin revisions.

References in this part to RUS or REA forms or line numbers in RUS or REA forms are based on RUS or REA Form 7 and Form 12 dated December 1992, unless otherwise indicated. These references will apply to corresponding information in future versions of the forms. The terms "RUS form", "RUS standard form", "RUS specification", and "RUS bulletin" have the same meanings as the terms "REA form", "REA standard form", "REA specification", and "REA bulletin", respectively, unless otherwise indicated.

[59 FR 66440, Dec. 27, 1994]

### § 1710.4 Exception authority.

Consistent with the RE Act and other applicable laws, the Administrator may waive or reduce any requirement imposed by this part or other RUS regulations on an electric borrower, or a lender whose loan is guaranteed by RUS, if the Administrator determines that imposition of the requirement would adversely affect the Government's financial interest.

### § 1710.5 Availability of forms.

Information about the availability of RUS forms and publications cited in this part is available from Administrative Services Division, Rural Utilities Service, United States Department of Agriculture, Washington, DC 20250-1500. These RUS forms and publications may be reproduced.

### § 1710.6 Applicability of certain provisions to completed loan applications.

(a) Certain new or revised policies and requirements set forth in this part, which are listed in this paragraph, shall not apply to a pending loan application that has been determined by RUS to be complete as of January 9, 1992, the date of publication of such