

the Administrator not to be a financially distressed borrower will be classified and processed as a standard electric program application;

(2) *Telephone Program Applications.* Telephone program applications are applications to make a prepayment pursuant to this subpart from RUS-financed telephone utilities that qualify in accordance with §1786.28(a) hereof and which are received by RUS during the application period;

(d) *Financially distressed borrowers' reserve.* The \$350 million of prepayment authority allocated for RUS-financed electric utilities, is initially set aside into a financially distressed borrowers' reserve. This reserve of prepayment authority will be available for prepayments pursuant to this subpart by financially distressed borrowers who apply to make such a prepayment during the application period. In the event that a portion of financially distressed borrowers' reserve remains unsubscribed at the end of the initial application period, the unallocated portion of the financially distressed borrowers' reserve will be allocated to other electric borrowers having submitted applications during an application period to be announced by RUS. Such prepayment applications shall be classified as standard electric program applications.

[55 FR 1145, Jan. 11, 1990, as amended at 55 FR 35427, Aug. 30, 1990. Redesignated at 55 FR 49250, Nov. 27, 1990]

#### § 1786.30 Processing procedure.

(a) *Priority of Processing.* The determination of the order or method in which applications or portions of applications will be processed by RUS pursuant to this subpart rests solely within the discretion of the Administrator. RUS expects that a number of prepayment applications will be processed simultaneously. In the event that it becomes necessary to establish priorities of processing, prepayment applications will be processed without regard to the date received, generally in the following order of priority:

- (1) Applications from telephone borrowers;
- (2) Applications from financially distressed borrowers;

(3) Applications from all other borrowers. When assigning priority to such applications, RUS will consider a number of factors, including without limitation, (i) the number of prepayment applications being processed by the area office; (ii) the novelty or complexity of the proposed transaction; (iii) the method of prepayment; and (iv) the availability of resources. In the event that RUS receives during the initial application period, prepayment applications from such borrowers in an amount less than remaining prepayment authority for each respective program, RUS will establish a new application period and publish a notice to that effect in the FEDERAL REGISTER.

(b) *Pro-rated Applications.* Standard electric program applications, and telephone program applications will be prorated within their respective application categories to permit partial prepayments in the event that the aggregate amount of prepayment applications received during the application period exceeds the amount of prepayment authority allocated to that application category. In such circumstances, the amount of each borrower's permitted prepayment shall be determined within each respective application category, as follows:

(1) The principal amount of FFB advances under each individual application, which, if prepaid pursuant to this subpart, would result in an economic savings to the borrower, shall be divided by the aggregate principal amount of FFB advances, under all of the applications, which, if prepaid pursuant to this subpart, would result in an economic savings to the borrowers, in order to determine a percentage (hereinafter called a pro-rated percentage) for each borrower;

(2) Each borrower's share of the prepayment authority for its application category shall be equal to the product of (i) the prepayment authority times (ii) the respective pro-rated percentage, and may be used to prepay a portion of any of the borrower's FFB loans listed pursuant to §1786.31(a)(2);

(3) If any approved prepayment transaction fails to be settled within 180 days of the date the borrower is notified by RUS of its prepayment allocation, RUS may rescind its approval.

## § 1786.31

The unused prepayment authority represented by such a failed transaction is subject to being included in any subsequent notice of a new application period under this subpart; and

(4) In the event that applications from financially distressed borrowers exceed the amount prepayment authority remaining in the financially distressed borrowers' reserve, the Administrator at his discretion shall select one or more of such applications and allocate the reserve. In making such a selection and allocation, the Administrator may consider various factors, including without limitation, (i) the dollar amount of savings to be realized by the proposed prepayment; (ii) the interest rates on the FFB loans proposed to be prepaid; (iii) the magnitude of the default or potential default; and (iv) whether the borrower has previously completed a prepayment under section 306(A).

(c) *Notification of Borrowers' Allocations.* Promptly after allocating the prepayment authority to borrowers and completing any proration calculations that may be necessary, RUS will return to each borrower submitting a prepayment application pursuant to this subpart, a copy of their Notice of Intent to Prepay the Federal Financing Bank specifying the amount of the borrower's prepayment allocation.

[55 FR 1145, Jan. 11, 1990, as amended at 55 FR 49250, Nov. 27, 1990]

### § 1786.31 Application procedure.

Applications to make a prepayment pursuant to this subpart shall be submitted to RUS on such forms as RUS may prescribe in the following manner:

(a) *Application.* Each borrower desiring to make a prepayment pursuant to this subpart shall submit an application to RUS. No application from a borrower will be accepted by RUS prior to the commencement of the application period. An application shall not be deemed submitted to RUS until it is received by RUS, and the "Date Received" has been inscribed on the Notice of Intent to Prepay the Federal Financing Bank by an authorized official of RUS. Incomplete applications may be returned to the borrower at the discretion of RUS and thereafter must be resubmitted in order to be processed.

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To be considered complete, the application should include the following:

(1) "Notice of Intent to Prepay the Federal Financing Bank" in the form specified in §1786.33 hereof;

(2) A listing of each FFB loan advance to be prepaid by loan designation, RUS note number, RUS account number, advance date, maturity date, original amount, outstanding balance, and interest rate;

(3) Evidence that the borrower meets the qualification provisions of §1786.28(a) of these regulations;

(4) The certification set forth in part A of the Notice of Intent to Prepay the Federal Financing Bank executed by the chief executive officer of the borrower;

(5) In the event that a borrower submits a prepayment application which proposes to utilize a portion of the financially distressed borrowers' reserve, a certification signed by the chief executive officer of the system to the effect that the borrower is either (i) in default or near default on interest or principal payments due on loans made or guaranteed under the RE Act, and is making a good faith effort to increase rates and reduce costs to avoid or mitigate default; or (ii) participating in a work out or debt restructuring plan with RUS, either as the borrower being restructured or as a borrower providing assistance as part of the work out or restructuring and stating why the borrower is in default or near default.

(b) *Election of Method of Prepayment.* Prior to requesting RUS to schedule a settlement date, the borrower shall (1) elect whether it will use a private loan, internally generated funds, or a combination of a private loan and internally generated funds to make the prepayment, by completing part C of its Notice of Intent to Prepay the Federal Financing Bank; (2) specify in part C of the Notice of Intent to prepay the Federal Financing Bank a date after which a prepayment closing may be scheduled; (3) if appropriate, execute the certification set forth in part C of the Notice of Intent to Prepay the Federal Financing Bank; and (4) return a completed copy of the Notice of Intent to Prepay the Federal Financing Bank to the RUS area office.