

§ 1786.156

advanced pursuant to the RUS Loan Contract in its Construction Fund Account; and

(4) The borrower shall be current on all obligations under any wholesale power contract with an RUS financed power supply borrower.

(b) The eligibility of borrowers that have had any indebtedness representing loans made or guaranteed by RUS restructured shall be determined on a case by case basis considering the terms and conditions of the restructuring agreement.

§ 1786.156 Application procedure.

Any borrower seeking to prepay Qualified Notes under this subpart should apply to the appropriate RUS Regional Director or the Director of the Power Supply Division. The application shall provide the following:

- (a) Borrower's RUS designation;
- (b) Borrower's name and address;
- (c) A certified copy of a resolution of the board of directors of the borrower that the borrower wishes to enter into a prepayment agreement providing for the prepayment of all or a portion of its Qualified Notes;
- (d) Listing of each Qualified Note to be prepaid by loan designation, RUS account number, advance date, maturity date, original amount, and outstanding principal balance;
- (e) Evidence that the borrower has the ability to obtain the financing necessary to prepay its Qualified Notes listed in paragraph (d) of this section and identification of the source of financing and the need if any of obtaining a lien accommodation from RUS; and
- (f) Such additional information as the Administrator may request.

§ 1786.157 Approval of applications.

(a) Ordinarily, within 30 days of receipt, an application will be reviewed and the borrower will be notified as to whether the application has been approved. If the application has not been approved, the borrower will be informed as to the reasons. If the application is approved the borrower shall thereafter be provided with a prepayment agreement for execution.

(b) The Administrator may limit the number of applications approved and

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closings scheduled from time to time, taking into account, among other matters, administrative considerations of the RUS.

§ 1786.158 Terms and conditions of prepayment agreement.

Upon receipt of a satisfactory application, RUS shall provide to the borrower for its execution a prepayment agreement, in form and substance satisfactory to RUS, which may include the following:

- (a) Provide for the prepayment of one or more Qualified Notes from time to time, but no more than two closings may be scheduled in any calendar year unless a third closing is for the prepayment of all outstanding electric loans of the borrower;
- (b) Set forth procedures and forms through which the borrower will notify the Government of each election it makes to prepay certain Qualified Notes upon a requested closing date and the Government will notify the borrower of the established closing date and prepayment amount for the Qualified Notes for each closing;
- (c) Reserve to the Administrator the right to reschedule closing dates to meet administrative considerations;
- (d) Set forth closing requirements identifying the location and manner of payment, and all documentation and information to be delivered prior to or at closing, including opinions of counsel and certificates from the borrower;
- (e) Provide for notice by either telephone or facsimile to be given by RUS to the borrower not more than 8 nor less than 3 business days before a scheduled closing date of the amount to be paid at closing which shall include all accrued interest and the discounted present value of the Qualified Notes to be prepaid;
- (f) Provide for notice of the 120 month period during which the borrower's eligibility for direct or insured loans will be restricted;
- (g) Set forth representations and warranties;
- (h) Require the borrower to prepay each Qualified Note specified in full;
- (i) Require the borrower to identify the source of the financing that will be used directly or indirectly to refinance the Qualified Notes. If the source is