

§ 1786.166 Approvals.

The borrower shall be responsible for obtaining all approvals necessary to consummate the transaction as required by the prepayment agreement, including such approvals as may be required by regulatory bodies and other lenders.

§ 1786.167 Restrictions to additional RUS financing.

(a) No borrower that prepays an electric loan at a discount as provided under this subpart may apply for or receive direct or insured loans during the 120 months from the most recent closing date, except at the discretion of the Administrator. During the 120 month period the Administrator may consider providing an insured loan if, among other matters, it is necessary to assure repayment of, or protect the Government's security for any outstanding loans or loan guarantees, or the borrower's system has suffered severe physical plant related damage due to conditions beyond its control and the borrower is unable to obtain financing at reasonable terms to restore the system from non-RUS sources, including the Federal Emergency Management Agency, and from private sources. Upon expiration of the 120 months, such borrowers may apply for direct or insured loans in the same manner as other borrowers provided that such borrowers may not apply for direct or insured loans for facilities, construction of which commenced prior to the expiration of the 120 months. Special provisions for mergers involving a borrower that has prepaid pursuant to this subpart are in 7 CFR 1717.158.

(b) Borrowers that prepay their direct or insured RUS loans under this subpart remain eligible for certain types of financial assistance under the RE Act, including loan guarantees and rural development loans.

[59 FR 13620, Mar. 22, 1994, as amended at 61 FR 66874, Dec. 19, 1996]

§ 1786.168 Borrowers who prepaid under this part prior to October 21, 1992.

(a) A borrower that had prepaid, prior to the date of enactment of Public Law 102-428 (106 Stat. 2183) on Octo-

ber 21, 1992, at a discount rate as provided at 7 CFR part 1786, subpart C:

(1) Shall not be eligible except at the discretion of the Administrator as stated in paragraph §1786.167(a), to apply for or receive direct or insured loans during the 180-month period beginning on the date of the prepayment; and

(2) Shall not be eligible to apply for or receive direct or insured loans from RUS until the borrower has repaid to the RUS the sum of:

(i) The amount (if any) by which the discount the borrower received by reason of the prepayment exceeds the discount the borrower would have received had the discount been based on the cost of funds to the Department of the Treasury as calculated at §1786.153 at the time of the prepayment; and

(ii) Interest on the amount described in paragraph (a)(2)(i) of this section for the period beginning on the date of the prepayment and ending on the date of the repayment, at a rate equal to the average annual cost of borrowing by the Department of the Treasury. This rate will be calculated first on the date of prepayment and at one year intervals from that date based on the same U.S. Treasury issues published in the Federal Reserve Statistical Release closest to that date. The Treasury rate of interest to be applied for each year will be the rate for the Treasury issue of comparable maturity to the number of years from the prepayment date to the repayment date and at one year intervals thereafter.

(b) If a borrower and the Administrator have entered into an agreement with respect to a prepayment occurring before October 21, 1992, this section shall supersede any provision in the agreement relating to the restoration of eligibility for loans under the RE Act.

(c) Borrowers who prepaid prior to October 1, 1987, are eligible for assistance under the RE Act in the same manner as other borrowers with respect to loan guarantees and the rural development loans.

(d) During the 180 month period described in paragraph (a)(1) of this section the Administrator may consider providing an insured loan, if the conditions described in §1786.167(a) exist.

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(e) Borrowers may not apply for direct or insured loans for facilities, construction of which commenced prior to the expiration of the 180 month period described in paragraph (a)(1) of this section.

§ 1786.169 Liability.

It is the intent of this subpart that any failure on the part of RUS to comply with any provisions of this subpart, including without limitation, those provisions setting forth specified timeframes for action by RUS on applications for prepayments or closing requests, shall not give rise to liability of any kind on the part of the Government or any employees of the Government including, without limitation, liability for damages, fees, expenses or costs incurred by or on behalf of a borrower, private lender or any other party.

§ 1786.170 Prepayment of loans approved after December 20, 1993. [Reserved]

§§ 1786.171-1786.199 [Reserved]

Subpart G—Refinancing and Prepayment of RUS Guaranteed FFB Loans Pursuant to Section 306(C) of the RE Act

AUTHORITY: 7 U.S.C. 901 *et seq.*; Pub. L. 103-354, 108 Stat. 3178 (7 U.S.C. 6941 *et seq.*); sec. 1201(b) of subtitle B of title 1 of Pub. L. 103-66, 107 Stat. 312.

SOURCE: 58 FR 51008, Sept. 30, 1993, unless otherwise noted.

§ 1786.200 Purpose.

This subpart sets forth the policies and procedures of RUS through the existing FFB program, whereby borrowers may prepay and refinance, outstanding FFB Notes evidencing electric or telephone loans with FFB, pursuant to the provisions of section 306(C) of the RE Act as added by Public Law 103-66, 107 Stat. 312, enacted August 10, 1993.

§ 1786.201 Definitions and rules of construction.

(a) *Definitions.* As used in this subpart:

Administrator means the Administrator of the Rural Utilities Service (RUS).

Borrower means any organization which has an outstanding note(s) evidencing electric or telephone loans guaranteed by RUS, from FFB.

Business day means any such day on which both the Federal Financing Bank and Federal Reserve Bank—New York are open for business.

Electric loan means a loan made by FFB and guaranteed by RUS under section 306 of the RE Act for electric service.

FFB means the Federal Financing Bank, an instrumentality and wholly owned corporation of the United States.

Government means the United States of America, acting through the Administrator of the Rural Utilities Service.

Loan guarantee means RUS's guarantee under section 306 of the RE Act of a loan from FFB.

Payment date means the date that payment is due and is the last day in a calendar quarter.

Prepayment penalty means the same as prepayment premium.

Prepayment premium shall have the meaning set forth at § 1786.207.

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

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.

Refinancing note shall have the meaning set forth at § 1786.206.

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.

RUS loan contract means the agreement, as amended, supplemented, or restated from time to time, between a borrower and RUS providing for loans or loan guarantees pursuant to the RE Act.