

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Parts 1710, 1717 and 1718

RIN 0572-AB06

Loan Policies and Security Documents for Electric Borrowers

AGENCY: Rural Utilities Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Utilities Service (RUS) hereby proposes to establish new policies and requirements for loan contracts ordinarily required for loans made to electric distribution borrowers. The rule would update and clarify the framework for loan contract provisions, conform loan contract provisions with the new form of mortgage recently approved, and provide greater flexibility in addressing the financial needs of individual borrowers and the credit risks involved with individual lending situations. Conforming amendments to RUS lien accommodation requirements and changes to RUS operational controls are also proposed.

DATES: Written comments must be received by RUS or carry a postmark or equivalent by September 18, 1995.

ADDRESSES: Written comments should be addressed to Mr. F. Lamont Heppe, Jr., Deputy Director, Program Support Staff, U.S. Department of Agriculture, Rural Utilities Service, room 2234-S, Ag Box 1522, 14th Street and Independence Avenue, SW., Washington, DC 20250-1500. RUS requires a signed original and 3 copies of all comments (7 CFR 1700.30 (e)). Comments will be available for public inspection during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Mr. Alex M. Cockey, Jr., Deputy Assistant Administrator—Electric, U.S. Department of Agriculture, Rural Utilities Service, room 4037-S, Ag Box 1560, 14th Street & Independence Avenue, SW., Washington, DC 20250-1500. Telephone: 202-720-9547.

SUPPLEMENTARY INFORMATION: This rule has been determined to be not significant for the purposes of Executive Order 12866, and therefore has not been reviewed by the Office of Management and Budget (OMB). The Administrator of RUS has determined that the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) does not apply to this rule. The Administrator of RUS has determined that this rule will not significantly affect the quality of the human environment as defined by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). Therefore, this

action does not require an environmental impact statement or assessment. This rule is excluded from the scope of Executive Order 12372, Intergovernmental Consultation, which may require consultation with State and local officials. A Notice of Final Rule titled Department Programs and Activities Excluded from Executive Order 12372 (50 FR 47034) exempts RUS electric loans and loan guarantees from coverage under this Order. This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule: (1) Will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule; (2) Will not have any retroactive effect; and (3) Will not require administrative proceedings before any parties may file suit challenging the provisions of this rule.

The program described by this rule is listed in the Catalog of Federal Domestic Assistance Programs under number 10.850 Rural Electrification Loans and Loan Guarantees. This catalog is available on a subscription basis from the Superintendent of Documents, the United States Government Printing Office, Washington, DC 20402-9325.

Information Collection and Recordkeeping Requirements

The existing recordkeeping and reporting burdens contained in this rule were approved by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.), under control numbers 0572-0032 and 0572-0103.

Send questions or comments regarding these burdens or any other aspect of these collections of information, including suggestions for reducing the burden, to the Office of Information and Regulatory Affairs, Office of Management and Budget, NEOB, Washington, DC 20503. Attention: Desk Officer for USDA.

Background

On September 29, 1994, at 59 FR 49594, the Rural Utilities Service (RUS) published a proposed rule, 7 CFR 1718 Loan Security Documents for Electric Borrowers, Subpart B Mortgage for Distribution Borrowers, which proposed the agency's policies and requirements for mortgages used to secure direct and guaranteed loans made to electric distribution borrowers. The final rule for such mortgages is published elsewhere in this issue of the **Federal Register**.

This proposed rule sets forth proposed amendments to RUS regulations to update the agency's

policies and requirements regarding loan contracts with distribution borrowers. These new policies and requirements are designed to complement the new distribution mortgage. The changes proposed today are in four different segments:

- A new Subpart C—Loan Contracts with Distribution Borrowers, to be added to 7 CFR part 1718. This proposed subpart sets forth agency policies and requirements regarding the scope, content, and usage of new loan contracts with distribution borrowers.

- A new Subpart M—Operational Controls, to be added to 7 CFR part 1717. This proposed new subpart outlines the main operational controls relating to new mortgages and loan contracts of distribution borrowers, and also modifies certain controls relating to existing mortgages and loan contracts of distribution and/or power supply borrowers.

- Proposed revisions to 7 CFR part 1717, Subpart R—Lien Accommodations and Subordinations for 100 Percent Private Financing. These revisions would adapt RUS policies and requirements regarding lien accommodations to the new loan contracts and mortgages.

- A limited number of proposed changes to 7 CFR part 1710 to conform those provisions to the new mortgages and loan contracts.

In addition to inviting written comments from the public on this proposed rule, REA stands ready to meet with interested individuals and organizations to discuss their comments and recommendations. Such meetings would be open to any interested person, and they would be "informal", as opposed to a formal hearing. Although any such meetings will not be transcribed, REA will include a summary of any such meeting in the file for this rulemaking. To facilitate scheduling, it would be better for individuals, especially the large number of borrowers affected by this proposed rule, to form one or more groups to represent their interests at such meetings.

7 CFR Part 1718, Subpart C—Loan Contracts With Distribution Borrowers

This new subpart would establish agency policies and requirements regarding the scope, content, and usage of new loan contracts with distribution borrowers. These policies are intended to complement those for new distribution mortgages, and to reflect changes in the electric industry and the RUS program over the past several years.