Distribution borrowers that obtain a loan or loan guarantee from RUS after the effective date of this rule would be required to execute a new loan contract and mortgage based on the policies and requirements established by the new rules. Distribution borrowers obtaining other financial assistance from RUS after the effective date of this rule may be required by RUS to execute a new mortgage and loan contract. If there are other co-mortgagees on the borrower's existing mortgage, which there are in most cases, the borrower would have to obtain the approval of these co-mortgagees before executing a new mortgage.

Distribution borrowers receiving a loan during the transition period between now and the date the new model loan contract is published in final form in the **Federal Register** may opt to execute the new model mortgage and the proposed model loan contract. Such borrowers will have the further option of executing the final form of the model loan contract after it is published in the **Federal Register**. Distribution borrowers receiving a loan during the period after publication of the final form of the new model loan contract but before its effective date may opt for the final forms of both the model loan contract and the model mortgage.

Other borrowers not obtaining a new loan from RUS could request that a new mortgage and loan contract be executed, for example, in connection with a lien accommodation request or if the borrower is trying to expand its access to future private financing. RUS will attempt to honor these requests, but may be constrained by time and staff limitations.

The policies and requirements proposed in new Subpart C are designed to provide flexibility in dealing with the different financial needs, credit risks and other circumstances of individual borrowers and individual lending situations. This is intended to enable RUS to respond more quickly and effectively to the special and changing needs of individual borrowers, while at the same time meeting the government's need for loan security under different lending circumstances.

Under this approach, RUS and borrowers would have the flexibility to negotiate different loan contract provisions depending on individual circumstances and needs. This would go beyond the current situation where special needs and requirements are dealt with almost exclusively in the ''special provisions'' section of a loan contract or contract amendment. It is anticipated that the provisions in the model loan contact will be suitable in most cases. Since drafting and approving customized contract provisions would be more time consuming and could delay approval of a loan, RUS will consider such modifications only when they are needed to address individual needs or problems.

Proposed section 1718.103 sets forth the scope and content of loan contracts to be used with distribution borrowers in combination with new mortgages executed under 7 CFR Part 1718, Subpart B. The proposed section establishes the general requirements for loan contracts, in most cases leaving the specific language of individual provisions to be determined in the drafting of the loan contracts. An example of such a model loan contract is presented in Appendix A. This model represents one example of a loan contract drafted pursuant to this proposed new rule. Other loan contracts could vary substantially from this example in response to the financing needs of individual borrowers and the credit risks involved in those individual lending situations. It is anticipated that individual provisions of the model will be refined over time to reflect experience gained from use of the model and to respond to the rapidly changing electric industry.

Proposed § 1718.103, as reflected in the model contract in Appendix A, attempts to streamline, simplify and clarify loan contract provisions. A substantial number of restrictive covenants, complex provisions, and other outdated requirements contained in the present form of loan contract would be eliminated. Also, RUS is abandoning the practice of using the same loan contract with a series of amendments to cover all RUS loans throughout the lending relationship, which spans more than 50 years in many cases. Instead, RUS intends to use the approach followed by other lenders of using a new loan contract with each loan. This approach is intended to simplify administration for all parties and to guard against the use of outdated loan documentation.

Historically, RUS loan contracts have contained sweeping powers favoring the Administrator. In the absence of any explicit rulemaking authority in the Rural Electrification Act as originally enacted, these contracts together with their related mortgages lay the foundation for most RUS regulations. RUS has administered these loan documents through a variety of methods, including case-by-case determinations, letters from the Administrator to all borrowers or a group of borrowers, and notice and comment rulemaking.

RUS intends to retain these flexible approaches to program administration, including the practice of establishing the rights and limitations of the lending relationship broadly in the loan documents and subsequently refining them in regulations. Thus many provisions of the proposed model contract are stated in very broad terms which can be fully understood only in the context of the agency's regulations.

For example, most proposed covenants or ''operational controls'' in the model contract are expressed in broad language, although in some cases the language is narrower and more focused than in existing loan contracts. Such language leaves room for unforeseen circumstances, which can be addressed more specifically through RUS regulations. In most cases RUS intends to cut back the reach of these provisions through its regulations, as it did recently in the publication of the final rule 7 CFR part 1726 on construction policies and procedures (at 60 FR 10151), as well as in the recent publication of proposed revisions to controls on borrowers' investments (at 60 FR 8981). Under today's proposed rule, several additional operational controls would be eliminated from loan contracts, and several others would be cut back, as described below.

Some may argue that the controls and approval rights contained in the RUS loan contract itself ought to be more limited and more narrowly focused than what is being proposed today. RUS recognizes that approach may appear desirable from an individual borrower's standpoint. However, from the standpoint of administering a program serving nearly 1,000 utility systems and responding to the diverse interests of this group, the Congress, the Executive Branch, and other interested parties, RUS believes that the proposed approach is administratively less costly, less time-consuming, more flexible, and better able to respond quickly to changing needs and circumstances.

Certain provisions that had been included in the proposed mortgage for distribution borrowers, but deleted in the final rule, are proposed for inclusion in the loan contract. These provisions include the rate covenant, limitations on retirements of capital credits and other distributions, certain tests for the issuance of debt that had been included in sections 2.01 and 2.02 of the proposed mortgage, and limitations on the issuance of unsecured debt. These changes are discussed in the final rule on the mortgage published elsewhere in this **Federal Register**.