

difficult for borrowers to ensure that there will be no minor violations of requirements which have no material adverse effect on the interests of RUS. RUS agrees that minor violations of certain requirements, which in the agency's judgment will have no material adverse effect on the agency's interests, should not represent a default. This has been reflected in changes made to proposed sections 5.2(b), 5.6, 5.10, and 6.15.

#### Borrowers Exempt From Certain Controls Under Section 306E of the Act

Section 306E of the Rural Electrification Act directed RUS to issue interim final regulations to minimize approval rights and restrictions imposed on the operations of electric borrowers whose net worth exceeds 110 percent of the outstanding loans made or guaranteed by RUS, and to offer without delay to share the government's lien on the borrower's system or subordinate its lien on the property financed by a private lender. In issuing the regulations, RUS is authorized to establish requirements, guided by the practices of private lenders with respect to similar credit risks, to ensure that the security, including loan repayment, of the government's loans will remain reasonably adequate.

RUS issued the interim final regulations on January 28, 1994 at 59 FR 3982. Comments on the regulations were received from NRECA, the National Rural Utilities Cooperative Finance Corporation, and 6 borrowers. In general, the comments argued for greater relaxation of operational controls than in the interim final rule.

When the proposed loan contract and final new mortgage for distribution borrowers was published in July of this year, RUS indicated that comments on these documents as well as on the interim final rule would be considered in making revisions to the interim final rule relating to so-called 110 percent borrowers. As indicated above, the new loan contract has been substantially revised to reduce the number and breadth of operational controls. These controls are intended to apply to a fairly broad spectrum of credit risks, and as such RUS believes they reflect the types of controls that some private lenders would require for a similar spectrum of credit risks.

The provisions of the new mortgage and new loan contract, and 7 CFR part 1717 subpart M, in many cases provide greater latitude to borrowers than established originally in 7 CFR 1710.7 for 110 percent borrowers. Therefore, 1710.7 has been revised to reflect the

greater latitude provided by the new loan documents and Subpart M.

In assessing credit risks, private lenders look at a large number of factors relating to the size and quality of the financial assets of a borrower; the borrower's new worth and debt position; current and past financial performance; the strength and stability of the borrower's markets and the borrower's position in those markets; market diversity, concentrations, and growth or decline; the borrower's cost competitiveness and investment in new technologies and system modernization; commitments to research and development and innovation; experience and structure of management; internal cost and financial controls; and a number of other factors. When considering the adequacy of net worth, most private lenders look at the quality of the borrower's assets and the ratio of net worth to total debt, rather than only the long-term debt owed to the lender. It is RUS' judgment that the fact that a borrower has net worth equal to 110 percent of only the government's outstanding long-term loans does not justify further relaxation of operational controls over and above those provided in the new loan documents and regulations based on prudent private lending practices for a similar spectrum of credit risks. RUS is willing to consider, on a case by case basis, alternative loan document provisions for the better quality credits.

#### List of Subjects

##### 7 CFR Part 1710

Electric power, Electric utilities, Loan programs—energy, Rural areas.

##### 7 CFR Part 1717

Administrative practice and procedure, Electric power, Electric utilities, Intergovernmental relations, Investments, Lien accommodation, Lien subordination, Loan programs—energy, Operational controls, Reporting and recordkeeping requirements, Rural areas.

##### 7 CFR Part 1718

Administrative practice and procedure, Electric power, Electric utilities, Loan programs—energy, Loan security documents, Reporting and recordkeeping requirements, Rural areas.

For the reasons explained in the preamble and under the authority of 7 U.S.C. 901 *et seq.*, RUS amends 7 CFR Chapter XVII as follows:

## PART 1710—GENERAL AND PRE-LOAN POLICIES AND PROCEDURES COMMON TO INSURED AND GUARANTEED ELECTRIC LOANS

1. The authority citation for part 1710 continues to read as follows:

Authority: 7 U.S.C. 901–950b; Public Law 99–591, 100 Stat. 3341–16; Public Law 103–354, 108 Stat. 3178 (7 U.S.C. 6941 *et seq.*).

2. Section 1710.2 is amended in paragraph (a) by revising the definition for “Tier” and by adding the new definitions in alphabetical order to read as follows:

### § 1710.2 Definitions and rules of construction.

(a) *Definitions.* \* \* \*

\* \* \* \* \*  
DSC means Debt Service Coverage of the borrower calculated as:

$$DSC = \frac{A + B + C}{D}$$

Where:

All amounts are for the same calendar year and are based on the RUS system of accounts and RUS Forms 7 and 12. References to line numbers in the RUS Forms 7 and 12 refer to the June 1994 version of RUS Form 7 and the December 1993 version of RUS Form 12, and will apply to corresponding information in future versions of the forms;

A=Depreciation and Amortization Expense of the borrower, which equals Part A, Line 12 of RUS Form 7 (distribution borrowers) or Section A, Line 20 of RUS Form 12a (power supply borrowers);

B=Interest expense on total long-term debt of the borrower, which equals Part A, Line 15 of RUS Form 7 or Section A, Line 22 of RUS Form 12a, except that interest expense shall be increased by 1/3 of the amount, if any, by which restricted rentals of the borrower (Part M, Line 3 of RUS Form 7 or Section K, Line 4 of RUS Form 12h) exceed 2 percent of the borrower's equity (RUS Form 7, Part C, Line 36 [Total Margins & Equities] less Line 26 [Regulatory Assets] or RUS Form 12a, Section B, Line 38 [Total Margins & Equities] less Line 28 [Regulatory Assets]);

C=Patronage Capital or Margins of the borrower, which equals Part A, Line 28 of RUS Form 7 or Section A, Line 35 of RUS Form 12a; and

D=Debt Service Billed (RUS + other), which equals the sum of all payments of principal and interest required to be made on account of total long-term debt of the borrower during the calendar year, plus 1/3 of the amount, if any, by which restricted rentals of the borrower (Part M, Line 3 of RUS Form 7 or Section K, Line 4 of RUS Form 12h) exceed 2 percent of the borrower's equity (RUS Form 7, Part C, Line 36 [Total Margins & Equities] less Line 26 [Regulatory Assets] or RUS Form 12a, Section B, Line 38 [Total Margins & Equities] less Line 28 [Regulatory Assets]);

\* \* \* \* \*

*Electric system* means all of the borrower's interests in all electric