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DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

7 CFR Part 1703

RIN 0572-AA60

Deferments of REA Loan Payments for Rural Development Projects

AGENCY: Rural Electrification Administration, USDA.

ACTION: Final rule.

SUMMARY: The Rural Electrification Administration (REA) hereby adds regulations for a program that will allow REA-financed electric and telephone borrowers to defer insured or direct loan payments in an amount equal to an investment in a rural development project. Deferments of REA loan payments are provided for the purpose of promoting rural development opportunities.

EFFECTIVE DATE: May 24, 1993.

FOR FURTHER INFORMATION CONTACT: Blaine D. Stockton, Jr., Assistant Administrator, Economic Development and Technical Services, Rural Electrification Administration, telephone number (202) 720-9552.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This rule has been issued in conformance with Executive Order 12291 and Departmental Regulation 1512-1. This action has been classified as "nonmajor" because it does not meet the criteria for a major regulation as established by the Order.

Executive Order 12778

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 parties may file suit challenging the provisions of this rule.

Regulatory Flexibility Act

It was stated at the time the proposed rule was published in the **Federal Register** (57 FR 26782) on June 16, 1992, that this rule does not fall within the scope of the Regulatory Flexibility Act. Upon further examination, it has been determined that with respect to REA telephone borrowers this rule may fall within the scope of the Regulatory Flexibility Act. However, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

REA borrowers are eligible to receive deferments on loan payments under this rule in order to support rural development projects. REA estimates that approximately 12 of the 1,906 total REA borrowers will submit applications for deferments of REA payments to support rural development projects. Every effort has been made to minimize the application and recordkeeping burden on the applicant and yet maintain the security and integrity of the REA program. We have calculated that the additional cost burden for a REA borrower to utilize this program to be \$133 and that the average man-hour burden to review the instructions, search existing data sources, collect and assemble data, and perform recordkeeping and clerical duties will be approximately a total of 3 hours per REA borrower.

As utilities, most REA borrowers serve designated or certified areas on a noncompetitive basis. This program is expected to have no significant impact on a recipient's economic condition, market share, or its competitive position with larger businesses. Comments regarding the Regulatory Flexibility Act and the Administrator's certification that this rule will not have a significant economic impact on a substantial number of small entities should be addressed to the agency as provided in this rule by May 7, 1993.

Information Collection and Recordkeeping Requirements

In compliance with the Office of Management and Budget (OMB) regulations (5 CFR part 1320) which implement the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and section

3504 of that Act, the information collection and recordkeeping requirements contained in this rule have been submitted to OMB for review.

Comments concerning these requirements should be directed to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for USDA, room 3201, NEOB, Washington, DC 20503.

National Environmental Policy Act Certification

The Administrator has determined that this rule will not significantly impact 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.

Catalog of Federal Domestic Assistance

The program described by this rule is listed in the Catalog of Federal Domestic Assistance Programs under numbers 10.850, Rural Electrification Loans and Loan Guarantees and 10.851, Rural Telephone 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.

Background

On June 16, 1992, REA published a proposed rule in the **Federal Register** (57 FR 26782) that would implement a new rural development program established through amendment to section 12 of the Rural Electrification Act of 1936 (RE Act) by section 2344 of the Rural Economic Development Act of 1990 (7 U.S.C. 912). This program authorizes, subject to limitations established in appropriations Acts, the Administrator of REA to permit electric and telephone borrowers to defer the payment of principal and interest on any electric or telephone direct loan or insured loan made under the RE Act and invest the deferred amounts in rural development projects. The total amount of deferments approved under this program shall not exceed 3 percent of the total payments due during fiscal year 1993 from all borrowers on direct loans and insured loans made pursuant to the RE Act. For each subsequent fiscal year after 1993, the total amount of deferments in any year shall not

exceed 5 percent of the total payments due for the year from all borrowers on direct loans and insured loans.

Comments

REA received four comments regarding the proposed rule, which were taken into consideration in preparing the final rule. Comments were received from the following:

- (1) Edison Electric Institute.
- (2) Southwestern Electric Cooperative, Inc.
- (3) National Rural Electric Cooperative Association.
- (4) United States Department of the Treasury.

One commenter suggested that REA require the projects to be reviewed by the state Rural Economic Development Review Panels to help ensure that the most meritorious projects with the greatest community backing are selected. The 1990 amendment to section 12 of the RE Act provides for the deferral of principal and interest on direct loan and insured loan payments to promote rural development efforts through REA borrowers. REA believes Congress intended that REA borrowers would make the determination of whether or not to provide business financing or other rural development assistance under this program. This is consistent with REA's policy of promoting local involvement and initiative in its rural development programs. At the same time, the rule provides requirements that will protect REA's loan security and ensure that deferments are actually used to invest in rural development projects. REA believes the application requirements are consistent with the intent of the law and no additional review by a state board is warranted.

The same commenter also suggested that projects should be selected without regard to which entity is providing electricity to the project. REA considered this comment and a related comment suggesting that language be added to prohibit REA borrowers from conditioning assistance on the purchase of electricity. REA believes these comments have merit, but cannot at this time incorporate such a provision since this issue has not been subject to notice and comment. REA does not interpret these rules as promoting ties between the receipt of rural development assistance from REA borrowers and the acceptance of electric or telephone service. As stated in the preamble to the Rural Economic Development Loan and Grant Program published September 25, 1992 (57 FR 44313), REA supports economic development in rural areas without regard to service territory.

Another commenter suggested that REA require REA borrowers applying for deferments to set up a local public notice and comment procedure for local input on the project. As stated above, REA believes Congress intended REA borrowers to make the determination of whether to promote a particular rural development project. The REA borrowers will use public input to make these determinations because REA borrowers are by nature local institutions that respond to community concerns and opinions. The electric and telephone cooperatives consist of boards of directors elected from the local community. In addition, the projects receiving assistance through this program generally receive public exposure through the press, newsletters, and other media. Therefore, REA does not believe a formal notice and comment procedure is necessary.

Another commenter suggested that REA add language providing that activities pursuant to the program do not supplant existing businesses and reject any request for deferment if the proposed project would result only in the transfer of employment or manufacturing. REA believes that this is already covered in § 1703.306(c) which prohibits funds from the deferment to be used to transfer existing employment or business activities from one area to another.

One commenter expressed concern that the rule would not allow an REA borrower to use the Deferment Program if REA provided a lien accommodation for private capital used by the REA borrower to make an investment in the rural development project. This concern was based on the language in § 1703.304 of the proposed rule which stated that the REA borrower's investment in the rural development project must be made from the REA borrower's own funds. "Borrower's own funds" were defined in § 1703.302 to exclude proceeds of loans made, guaranteed, or lien accommodated by the Administrator or grants made by the Administrator. REA also intended this definition to exclude proceeds from loans made by the Administrator in his capacity as Governor of the Rural Telephone Bank and proceeds from grants made pursuant to section 2331 through section 2335A of the Rural Economic Development Act of 1990.

REA intends to allow REA borrowers to use the proceeds from loans that have received a lien accommodation from REA for the required investment in the rural development project, as long as the lien accommodation is in accordance with the agency's lien accommodation regulations. REA is currently developing

regulations for lien accommodations and has published an advance notice of proposed rulemaking on December 2, 1991, at 56 FR 61201.

In order to correct the technical problems involved in the proposed definition of "borrower's own funds", the definition has been deleted from § 1703.302. The limitations formerly contained in the definition have been modified as discussed and moved to separate § 1703.304(c) for clarification. REA incorporated these restrictions on the funds that a REA borrower may use to make the required investment because REA believes Congress intended for the REA borrower to have its own financial commitment to the rural development project. Congress stated that an REA borrower may defer its debt service payments only in an amount equal to an investment made by such REA borrower. Section 1703.304(c) prohibits the REA borrower from using funds which are not actually in the REA borrower's sole discretion to use, and therefore cannot be considered the REA borrower's financial commitment to the rural development project. These restricted funds include proceeds of loans made or guaranteed pursuant to the RE Act or grants made pursuant to the RE Act or the Rural Economic Development Act of 1990, funds necessary to make payment on loans made, guaranteed, or lien accommodated pursuant to the RE Act, and funds subject to conditions or liens pursuant to REA loan documents. For example, § 1703.304 (c)(6) prohibits an REA borrower from using funds which are required to be held in trust for the Government, such as loan proceeds advanced by the Government which must be deposited in a special construction account pursuant to REA or RTB loan documents.

Several additional changes were made in order to clarify the rule or rectify the rule with the RE Act. Section 1703.304, Requirement criteria for deferment of loan payments, was clarified and divided into two sections in order to separate the restrictions for deferment of loan payments from the requirements for deferment of loan payments. Section 1703.304 now reads as Restrictions on the deferment of loan payments, and § 1703.305 now reads as Requirements for deferment of loan payments. Accordingly, former §§ 1703.305—1703.312 have been renumbered. Also, part of § 1703.304(d) has been reworded and moved to a new § 1703.309(e) for clarification.

Section 1703.305 was changed in order to limit the REA borrower's grace period for making the cushion of credit payment to 30 days. The language in the

proposed rule would have allowed the REA borrower to use those cushion of credit payments made within one year prior to the date REA received the REA borrower's application. Upon further examination of subsection 12(b)(3)(D) of the RE Act as added by section 2344 of the Rural Development Act of 1990, REA does not believe that a payment made to a cushion of credit account prior to the date of REA's approval of a deferment satisfies the statutory requirement that the borrower make such payment "at the time of a deferment." REA interprets this requirement to mean that a linkage must exist between a cushion of credit payment and its corresponding deferral. The relationship can be established by making a payment contemporaneously with the deferral. In order to facilitate administration of this requirement, once an application has been approved, REA will deem a subsequent cushion of credit payment received on or within 30 days prior to its corresponding deferment date as fulfilling this requirement, dollar for dollar.

REA recognizes that in some instances it may take a borrower several payment periods to accumulate all of the deferrals it is eligible to receive for a particular rural development project. REA does not interpret section 12(b) of the RE Act as requiring the borrower and REA to segment the related local investment, cushion of credit payment, and deferral in order to at all times exactly match all three components to a borrower's debt amortization schedule. Thus, the rule permits a borrower to consolidate in one application, all of the related deferrals it wishes to receive in the year following application approval. In such a case, amounts paid into the cushion of credit account after the date of the approval will be considered by REA as satisfying the requirement of section 12(b)(3)(D). REA believes that this approach is not only consistent with Congressional intent, but also encourages this rural development by eliminating unnecessary paperwork and by promoting efficient program administration.

For similar reasons, REA will consider an investment made by a borrower in a rural development project after the date that the borrower applies for a deferment under this subpart in determining whether the requirement in section 12(b)(3)(B) that deferments not exceed the amount of the borrower's investment in the related rural development project is met. The permissible period for making matching investments in the project is greater than the period for making matching payments into the cushion of credit

account. REA believes that it has greater latitude with respect to the timing of the local investment because the statute does not contain any specific time limitation for such investment. Although this requirement is less time critical than the requirement in section 12(b)(3)(D) for making payments into the cushion of credit account, section 12(b) makes it clear that deferments must be made to "enable" the borrower to make rural development investments. REA interprets this to mean that a connection must be shown to exist between the deferral and the local investment. It would be difficult at best to establish the existence of such a connection in a case where a borrower had made its local investment before it had even applied for a deferment. Thus the application date establishes a clear line for satisfying this requirement. This objective standard will provide certainty for the borrowers and facilitate program administration by REA.

Finally, some minor changes were made in the regulatory text for the purposes of simple clarification and the elimination of ambiguity. In § 1703.302, Definitions and rules of construction, the definition of "RTB (Rural Telephone Bank)" was added, as was the definition of "Direct loan"; the definitions of "Financially distressed borrower" and of "Insured loan" were reworded slightly. In § 1703.303, Eligibility criteria for deferment of loan payments, paragraph (c) was deleted because the wording regarding not granting deferments for, "Other actions on the part of the borrower that thwart the achievement of the objectives of the REA program" was ambiguous and unnecessary. In § 1703.309, Terms of repayment of deferred loan payments, paragraph (b) was modified by clarifying the deferment payment schedule to be made on "...either a monthly or quarterly basis..." In § 1703.311, Application procedures for deferment of loan payments, paragraphs (a) (2)-(9) were reworded for clarification. Finally, in § 1703.312, REA review requirements, two sentences about borrower's applications were reworded as "...completed..." applications.

List of Subjects in 7 CFR Part 1703

Community development, Grant programs-housing and community development, Loan programs-housing and community development, Reporting and recordkeeping requirements, Rural areas.

For reasons set out in the preamble, REA hereby amends 7 CFR chapter XVII, part 1703, as follows:

PART 1703—RURAL DEVELOPMENT

1. The authority citation for 7 CFR part 1703 continues to read as follows:

Authority: 7 U.S.C. 901 *et seq.* and 950aaa *et seq.*

2. A heading is added to subpart C which is reserved and subpart E is added to part 1703 to read as follows:

Subpart C—Rural Business Incubator Program [Reserved]

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Subpart E—Deferments of REA Loan Payments for Rural Development Projects

Sec.

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Subpart C—Rural Business Incubator Program [Reserved]

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Subpart E—Deferments of REA Loan Payments for Rural Development Projects

§ 1703.300 Purpose.

This subpart E sets forth REA's policies and procedures for making loan deferments of principal and interest payments on direct loans or insured loans made for electric or telephone purposes, but not for loans made for rural economic development purposes, in accordance with subsection (b) of section 12 of the RE Act. Loan deferments are provided for the purpose of promoting rural development opportunities.

§ 1703.301 Policy.

It is REA's policy to encourage borrowers to invest in and promote rural development and rural job creation projects that are based on sound economic and financial analyses. Borrowers are encouraged to use this program to promote economic, business

and community development projects that will benefit rural areas.

§ 1703.302 Definitions and rules of construction.

(a) *Definitions.* For the purpose of this subpart, the following terms will have the following meanings:

Administrator means the Administrator of REA.

Borrower means any organization which has an outstanding direct loan or insured loan made by REA for the provision of electric or telephone service.

Cushion of credit payment means a voluntary unscheduled payment on an REA note made after October 1, 1987, credited to the cushion of credit account of a borrower.

Deferment means a re-amortization of a payment of principal and/or interest on an REA direct loan or insured loan for over either a 5- or 10 year period, with the first payment beginning on the date of the deferment.

Direct loan means a loan that is made by the Administrator pursuant to section 4 or section 201 of the RE Act (7 U.S.C. 901 *et seq.*) for the provision of electric or telephone service in rural areas and does not include a loan made to promote economic development in rural areas.

Financially distressed borrower means an REA-financed borrower determined by the Administrator to be either:

(i) In default or near default on interest or principal payments due on loans made or guaranteed under the RE Act;

(ii) A borrower that was in default or near default, but is currently participating in a workout or debt restructuring plan with REA; or

(iii) Experiencing a financial hardship.

Insured loan means a loan that is made, held, and serviced by the Administrator, and sold and insured by the Administrator, pursuant to Section 305 of the RE Act (7 U.S.C. 901 *et seq.*) for the provision of electric or telephone service in rural areas and does not include a loan made to promote economic development in rural areas.

Job creation means the creation of jobs in rural areas, or in close enough proximity to rural areas so that it is likely that the majority of the jobs created will be held by residents of rural areas.

Project means a rural development project that a borrower proposes and the Administrator approves as qualifying under this subpart.

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

REA means the Rural Electrification Administration, an agency of the United States Department of Agriculture.

RTB means the Rural Telephone Bank (telephone bank), a body corporate and an instrumentality of the United States, that obtains supplemental funds from non-Federal sources and utilizes them in making loans, operating on a self-sustaining basis to the extent practicable (section 401, RE Act).

Technical assistance means market research, product or service improvement, feasibility studies, environmental studies, and similar activities that benefit rural development or rural job creation projects.

(b) *Rules of construction.* Unless the context otherwise indicates, "includes" and "including" are not limiting, and "or" is not exclusive. The terms defined in § 1703.302(a) include both the plural and the singular.

§ 1703.303 Eligibility criteria for deferment of loan payments.

The deferment of loan payments may be granted to any borrower that is not financially distressed, delinquent on any Federal debt, or in bankruptcy proceedings. However, the deferment of loan payments will not be granted to a borrower during any period in which the Administrator has determined that no additional financial assistance of any nature should be provided to the borrower pursuant to any provision of the RE Act. The determination to suspend eligibility for the deferment of loan payments under this subpart will be based on:

(a) The borrower's demonstrated unwillingness to exercise diligence in repaying loans made by REA or RTB or guaranteed by REA that results in the Administrator being unable to find that such loans, would be repaid within the time agreed; or

(b) The borrower's demonstrated unwillingness to meet the requirements in REA's or RTB's legal documents or regulations.

§ 1703.304 Restrictions on the deferment of loan payments.

(a) The deferment must not impair the security of any loans made REA or RTB, or guaranteed by REA, pursuant to the RE Act.

(b) At no point in time may the amount of the debt service payments deferred exceed 50 percent of the total cost of a community, business, or economic development project for which a deferment is provided.

(c) A borrower may defer debt service payments only in an amount equal to the investment made by such borrower in a rural development project. The investment must not be made from:

(1) Proceeds of loans made or guaranteed pursuant to the RE Act, or grants made pursuant to the RE Act or section 2331 through section 2335A of the Rural Economic Development Act of 1990 (7 U.S.C. 950aaa *et seq.*);

(2) Funds necessary to make timely payments of principal and interest on loans made, guaranteed or lien accommodated pursuant to the RE Act;

(3) Insurance proceeds from mortgaged property;

(4) Damage awards and sale proceeds resulting from eminent domain and similar proceedings involving mortgaged property;

(5) Sale proceeds from mortgaged property sales requiring specific Administrator approval; and

(6) Funds which are restricted by REA or RTB loan instruments to be held in trust for the Government or to be held for any other specific purpose.

(d) Any investment made in a rural development project prior to the date of the application for a deferment based on such project cannot be used to satisfy the requirements of this section.

§ 1703.305 Requirements for deferment of loan payments.

(a) Except as otherwise provided in paragraph (b) of this section, the borrower must make a cushion of credit payment equal to the amount of the payment deferred and subject to the following rules:

(1) Cushion of credit payments made prior to the date that an application for deferral has been approved by REA cannot be used to satisfy the requirements of this section;

(2) Once a cushion of credit payment has been made to satisfy the requirements of paragraph (a) of this section, it must remain on deposit in the cushion of credit account on the date of the deferral or the deferral will not take place; and

(3) The cushion of credit payment must be received by REA on the date the payment being deferred is due, or within 30 days prior to this date.

(b) A borrower may elect to consolidate in one application filed pursuant to § 1703.311, all of the related deferrals it wishes to receive in a twelve month period following application approval. In such a case, the requirement contained in paragraph (a)(1) of this section may alternatively be satisfied by depositing an amount equal to the aggregate deferrals covered by such application into the cushion of credit account at the time the first cushion of credit payment is due under paragraph (a)(1) of this section.

§ 1703.306 Limitation on funds derived from the deferment of loan payments.

Funds derived from the deferment of loan payments will not be used:

(a) To fund or assist projects which would, in the judgement of the Administrator, create a conflict of interest or the appearance of a conflict of interest. The borrower must disclose to the Administrator information regarding any potential conflict of interest or appearance of a conflict of interest;

(b) For any purpose not reasonably related to the project as determined by the Administrator;

(c) To transfer existing employment or business activities from one area to another; or

(d) For the borrower's electric or telephone operations, nor for any operations affiliated with the borrower unless the Administrator has specifically informed the borrower in writing that the affiliated operations are part of the approved purposes.

§ 1703.307 Uses of the deferments of loan payments.

The deferment of loan payments will be made to enable the borrower to provide funding and assistance for rural development and job creation projects. This includes, but is not limited to, the borrower providing financing to local businesses, community development assistance, technical assistance to businesses, and other community, business, or economic development projects that will benefit rural areas.

§ 1703.308 Amount of deferment funds available.

(a) The total amount of deferments made available for each fiscal year under this program will not exceed 3 percent of the total payments due during fiscal year 1993 from all borrowers on direct loans and insured loans made under the RE Act. For each subsequent fiscal year after 1993, the total amount of deferments will not exceed 5 percent of the total payments due for the year from all borrowers on direct loans and insured loans.

(b) The total amount of annual deferments are subject to limitations established by appropriations Acts.

§ 1703.309 Terms of repayment of deferred loan payments.

(a) Deferments made to enable the borrower to provide financing to local businesses will be repaid over a period of 60 months, in equal installments, with payments beginning on the date of the deferment, and continuing in such a manner until the total amount of the deferment is repaid. The deferment payments will be made on either a

monthly or quarterly basis depending on the existing repayment terms of the direct loan or insured loan being deferred. The deferment will not accrue interest.

(b) In the case of deferments made to enable the borrower to provide community development assistance, technical assistance to businesses, and for other community, business, or economic development projects not included in paragraph (a) of this section, the deferment will be repaid over a period of 120 months, in equal installments, with payments beginning on the date of the deferment and continuing in such a manner until the total amount of the deferment is repaid. The deferment payments will be made on either a monthly or quarterly basis depending on the existing repayment terms of the direct loan or insured loan being deferred. The deferment will not accrue interest.

(c) The maturity date of a loan may not be extended as a result of a deferment.

(d) If the required payment is not made by the borrower or received by the Administrator when due, the Administrator will reduce the borrower's cushion of credit account established under this subpart in an amount equal to the deferment payment required.

(e) The balance in a borrower's cushion of credit account shall not be reduced by the borrower below the level of the unpaid balance of the payment deferred.

§ 1703.310 Environmental considerations.

Prospective recipients of funds received from the deferment of loan payments are encouraged to consider the potential environmental impact of their proposed projects at the earliest planning stage and plan development in a manner that reduces, to the extent practicable, the potential to affect the quality of the human environment adversely.

§ 1703.311 Application procedures for deferment of loan payments.

(a) A borrower applying for a deferment must:

(1) Submit a certified board resolution to the Administrator requesting a deferment of principal and interest. The resolution must:

(i) Be signed by the president or vice president of the borrower;

(ii) Contain information on the total amount of deferment requested for each specific project;

(iii) Contain information on the type of project and the length of deferment requested as defined in § 1703.309; and

(iv) Specify which officer of the borrower has been given the authority to certify to those matters required in this section;

(2) Submit certification by the appropriate officer to the Administrator that the proposed project will not violate the limitations set forth in § 1703.306 and disclose all information regarding any potential conflict of interest or appearance of a conflict of interest that would allow the Administrator to make an informed decision;

(3) Submit certification by the appropriate officer to the Administrator that an investment in the rural development project will be made by the borrower in an amount equal to the deferred debt service payment;

(4) Submit certification by the appropriate officer to the Administrator that the amount of the deferment will not exceed 50 percent of the total cost of the project for which the deferment is provided;

(5) Submit certification by the appropriate officer to the Administrator that it will make a cushion of credit payment necessary to satisfy the requirement of § 1703.305(a);

(6) Submit certification by the appropriate officer to the Administrator that it will comply with § 1703.313 and provide documentation showing that its total investments, including the proposed investment, will not exceed the investment limitations specified in 7 CFR part 1717, Subpart N, Investments, Loans and Guarantees by Electric Borrowers, or 7 CFR Part 1744, Post Loan Policies and Procedures Common to Guaranteed and Insured Loans. The documentation must provide a list of each rural development project the borrower has invested in to date, including the investment amounts;

(7) Submit to the Administrator written identification of the direct loan(s) and/or insured loan(s) for which payments are to be deferred;

(8) Submit to the Administrator a written narrative which contains information regarding the proposed rural development or job creation project such as the manner in which the project will promote community, business, or economic development in rural areas, the nature of the project, its location, the primary beneficiaries, and, if applicable, the number and type of jobs to be created; and

(9) Submit to the Administrator a letter of approval from the state regulatory authority, if applicable, granting its approval for the borrower to defer direct loan payment(s) and/or insured loan payment(s) and invest the amount in a rural development project.

(b) The Administrator reserves the right to determine that special circumstances require additional data from borrowers before acting on a deferment. The Administrator also reserves the right to require, as a condition of approving a loan payment deferment pursuant to this subpart, that the borrower execute and deliver any amendments or supplements to its loan documents that may be necessary or appropriate to achieve the purposes outlined in § 1703.300.

(c) The Administrator will decide whether the borrower is eligible for the deferment and will notify the borrower of the decision.

§ 1703.312 REA review requirements.

Borrowers shall ensure that funds are invested in the rural development project as approved by REA. The Administrator reserves the right to review the books and copy records of borrowers receiving loan payment deferments as necessary to ensure that the investments in the rural development project are in accordance with this subpart and the representations and purposes stated in the borrower's completed application. If an audit discloses that the amount deferred was not used for the purposes stated in the completed application, the borrower shall be required to promptly repay the amount deferred and the benefits of the deferment to the borrower will be recaptured by REA. The borrower is responsible for ensuring that disbursements and expenditures of funds covering the investment in the rural development project are properly supported with certifications, invoices, contracts, bills of sale, cancelled checks, or any other forms of evidence determined appropriate by the Administrator and that such supporting material is available at the borrower's premises for review by the REA field accountant, borrower's certified public accountant, the Office of Inspector General, the General Accounting Office and any other accountant conducting an audit of the borrower's financial statements for this rural development program.

§ 1703.313 Compliance with other regulations.

(a) Investments in a rural economic development project made by an electric borrower under this subpart are subject to the provisions of 7 CFR part 1717, Subpart N, Investments, Loans and Guarantees by Electric Borrowers.

(b) Investments in a rural economic development project made by a telephone borrower under this subpart are subject to the provisions of 7 CFR

Part 1744, Post Loan Policies and Procedures Common to Guaranteed and Insured Loans.

Dated: April 14, 1993.

Robert Peters,

Acting Under Secretary, Small Community and Rural Development.

[FR Doc 93-9541 Filed 4-22-93; 8:45 am]

BILLING CODE 3410-15-F

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 701 and 705

Community Development Revolving Loan Program for Credit Unions

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: NCUA regulations govern loans made from a revolving loan fund and technical assistance offered to certain credit unions that serve predominately low-income members. The NCUA Board is amending these regulations to make the Community Development Revolving Loan Program ("Program") more accessible to credit unions. The NCUA Board is also issuing technical amendments to another regulatory provision to conform it to the revised Program regulations.

EFFECTIVE DATE: May 24, 1993.

ADDRESSES: National Credit Union Administration, 1776 G Street NW., Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT: Michael J. McKenna, Staff Attorney, Office of General Counsel, at the above address, or telephone: (202) 682-9630.

SUPPLEMENTARY INFORMATION

A. Background

The NCUA Board, as part of its ongoing program of regulatory review, is revising the regulation under which the Community Development Revolving Loan Program operates. The purpose of the Program is to make reduced rate loans and provide technical assistance to both federal and state-chartered credit unions serving low-income communities so that those credit unions may provide needed financial services and help to stimulate the economy in the communities served. Although there have not been any major problems with the Program, the NCUA Board believes there are several areas that can be improved.

The NCUA Board is amending the Program for the following reasons: First, to increase the number of participating credit unions; second, to make the

Program more accessible to participating credit unions; third, to provide technical assistance to participating credit unions that may not necessarily receive loans; and finally, to reduce regulatory burden.

B. Comments

The NCUA Board issued proposed amendments to the Program on November 12, 1992 (57 FR 56868, December 1, 1992). The Board also issued proposed amendments to Section 701.32 of NCUA's Regulations to conform it to the recommended changes in part 705. Fifteen comment letters were received. Eight comments were received from federal credit unions, two from state-chartered credit unions, three from state credit union leagues, and two from national trade associations. The commenters expressed general approval of the proposed amendments. The final regulation contains the same structure as the proposed regulation. The comments and the substantive changes made to the regulation from the proposed rule are discussed below. Unless otherwise noted, the final regulation is the same as the proposed.

Section 705.3—Definitions

The issue that drew the most comment was the definition of "low-income member." Comment was requested on whether the definition of "low-income member" was satisfactory. In order for a credit union to participate in the Program, it must serve predominantly low-income members. Predominantly means a simple majority. Under the proposed rule, low income members were defined by either individual wage of members or household income of the geographic service area. A credit union could demonstrate that it predominantly serves low-income members either by documentation for the individual wage definition or geographic area for the household income definition.

Nine commenters approve of the proposed definition. One commenter suggests that instead of using the "median" standard in determining annual household income that NCUA adopt the "average" standard. An "average" standard would raise the annual household income included within the definition of low-income. The NCUA board believes the proposed median income level is more appropriate. Therefore, the NCUA Board will retain the "median" standard for household income.

One commenter posed the following questions concerning the new definition: