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(c) Before every Board meeting closed on the basis of one or more of the exemptions in §1600.6(a), the Legal Counsel will publicly certify that, in Counsel's opinion, the meeting may be closed to the public and shall state each relevant exemption.

(d) Within one business day after any vote taken pursuant to paragraph (a), (b), or (c) of this section, the Board will make publicly available a written copy of the vote, reflecting the vote of each Board member. Except to the extent that such information is exempt from disclosure, if a meeting or portion of a meeting is to be closed to the public, the Board will make publicly available within one business day after the required vote a full written explanation of its action, together with a list of all persons expected to attend the meeting and their affiliation.

§ 1600.8 Transcript, recording or minutes; availability to the public.

(a) The Secretary of the Board will maintain the following records for each Board meeting, or portion thereof which is closed to the public pursuant to a vote under §1600.7:

(1) A copy of the Legal Counsel's certification required by §1600.7;

(2) A copy of a statement from the presiding officer which sets forth the time and place of the closed meeting or portion thereof and a list of persons present; and

(3) A complete verbatim transcript or electronic recording adequate to record fully the proceedings of each Board meeting or portion of a meeting, except that in the case of a meeting or portion of a meeting closed to the public on the basis of exemptions in paragraph (a)(8) or (a)(10) of §1600.6, the Secretary of the Board will maintain either a transcript, electronic recording, or a complete set of minutes. Such minutes shall fully and clearly describe all matters discussed and shall provide a full and accurate summary of actions taken and the reasons therefor, including a description of each of the views expressed on any item and the record of all roll-call vote reflecting the vote of each member of the question. All documents considered in connection with any action will be identified in such minutes.

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(b) The retention period for the records required by paragraph (a) of this section will be for a period of at least two years after the particular Board meeting or until one year after the conclusion of any Board proceeding with respect to which the meeting or portion thereof was held, whichever occurs later.

(c) The Secretary of the Board will make promptly available to the public the transcript, electronic recording, transcription of the recording, or minutes of the discussion of any item on the agenda of a Board meeting, except for such item or items of such discussion as the Board determines to contain information which may be withheld on the basis of one or more of the exemptions in §1600.6.

(d) Requests for public inspection of electronic recording, transcripts or minutes of Board meetings shall be made to the Assistant Secretary of the Board of Directors of the Rural Telephone Bank, room 4051-South Building, U.S. Department of Agriculture, 14th Street and Independence Avenue SW., Washington, DC 20250. Requests for inspection or copies of transcripts shall specify the date of the meeting, the name of the agenda and the agenda item number; this information will appear in the notice of the meeting.

(e) The transcripts, minutes, or transcriptions of electronic recordings of a Board meeting will disclose the identity of each speaker, and will be furnished to any person at the actual cost of transcription or duplication.

PART 1610—LOAN POLICIES

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AUTHORITY: 7 U.S.C. 941 *et seq.*; Pub. L. 103-354, 108 Stat. 3178 (7 U.S.C. 6941 *et seq.*).

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SOURCE: 38 FR 17184, June 29, 1973, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 1610 appear at 59 FR 66439, Dec. 27, 1994.

§ 1610.1 General.

Loans made by the Governor of the Rural Telephone Bank (the "Bank") will be made in conformance with title IV of the Rural Electrification Act of 1936 (the "Act"), as amended (7 U.S.C. 941 *et seq.*), and this part 1610. Loans are made under section 408(a)(1) of the Act for purposes of section 201 of the Act. Loans are also made for purposes of section 408(a)(2) of the Act. The Bank will give preference to the use of loan funds for purposes set forth in section 408(a)(2) of the Act to the extent that it has completed applications for such loans.

[38 FR 17184, June 29, 1973, as amended at 58 FR 66252, Dec. 20, 1993]

§ 1610.2 Definitions.

As used in this part:

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

Appropriated means funds appropriated based on subsidy.

Bank means the Rural Telephone Bank, an agency and instrumentality of the United States within the United States Department of Agriculture.

Borrower means any organization which has an outstanding telephone loan made by the Bank or RUS, or guaranteed by RUS, or which is seeking such financing.

Governor means the Governor of the Bank.

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.

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 cost-of-money-loan means a loan made under section 305(d)(2) of the Act bearing an interest rate as determined under 7 CFR 1735.31(c). RUS cost-of-money loans are made concurrently with Bank loans.

TIER (Times Interest Earned Ratio) means the ratio of the borrower's net income (after taxes) plus interest expense, all divided by interest expense. For the purpose of this calculation, all amounts will be annual figures and interest expense will include only interest on debt with a maturity greater than one year.

[58 FR 66252, Dec. 20, 1993, as amended at 59 FR 66439, Dec. 27, 1994]

§ 1610.3 Loan authorizations.

The aggregate amount of loans made will not exceed the amount authorized by the Board of Directors (the "Board") of the Bank.

[38 FR 17184, June 29, 1973. Redesignated at 58 FR 66252, Dec. 20, 1993]

§ 1610.4 Loan applications.

No application for a loan will be considered for approval by the Bank until it has been reviewed by RUS and the Governor has determined, based on such review, the eligibility of the applicant for a Bank loan and the amount thereof. Loan application forms are available from RUS on request. No fees or charges are assessed for Bank loans.

[58 FR 66252, Dec. 20, 1993]

§ 1610.5 Minimum Bank loan.

A Bank loan will not be made unless the applicant qualifies for a Bank loan of at least \$50,000.

[38 FR 17184, June 29, 1973. Redesignated at 58 FR 66252, Dec. 20, 1993]

§ 1610.6 Concurrent Bank and RUS cost-of-money loans.

(a) The Bank makes loans, under section 408 of the Act, concurrently with RUS cost-of-money loans made under section 305(d)(2) of the Act. To qualify for concurrent Bank and RUS cost-of-money loans on or after November 1, 1993, a borrower must meet each of the following requirements:

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(1) The average number of proposed subscribers per mile of line in the service area of the borrower is not more than 15, or the borrower has a projected TIER (including the proposed loans) of at least 1.0, but not greater than 5.0, as determined by the feasibility study prepared in connection with the loans, see 7 CFR part 1737, subpart H; and

(2) The Administrator of RUS has approved and the borrower is participating in a telecommunications modernization plan for the state, see 7 CFR part 1751, subpart B.

(b) The loan amounts from each program (Bank, including amounts for class B stock, and RUS cost-of-money) will be proportionate to the total amount of funds appropriated for the fiscal year for Bank loans and RUS cost-of-money loans. To determine the Bank portion, the total loan amount will be multiplied by the ratio of Bank funds appropriated for the fiscal year to the sum of RUS cost-of-money and Bank funds appropriated for the fiscal year in which the loan is approved. The same method would be used to calculate the RUS cost-of-money portion (see 7 CFR 1735.31(b)). If during the fiscal year the amount of funds appropriated changes, the ratio will be adjusted accordingly and applied only to those loans approved afterwards.

(c) The actual rate of interest on the Bank loan shall be determined as provided in §1610.10; the RUS cost-of-money loan shall bear interest at a rate equal to the current cost of money to the Federal Government, on the date of advance of funds to the borrower, for loans of similar maturity, but not more than 7 percent per year (see 7 CFR 1735.31(c)).

(d) Generally, no more than 10 percent of lending authority from appropriations in any fiscal year for Bank and RUS cost-of-money loans may be loaned to a single borrower. The Bank will publish by notice in the FEDERAL REGISTER the dollar limit that may be loaned to a single borrower in that particular fiscal year based on approved Bank and RUS lending authority.

[58 FR 66252, Dec. 20, 1993, as amended at 62 FR 46869, Sept. 5, 1997]

§ 1610.7 Acquisition of certain exchange facilities.

In the interest of making optimum use of the Bank's loan funds, a Bank loan for the acquisition of exchange facilities under section 408(a)(2) of the Act (7 U.S.C. 948(a)(2)) will not be recommended by the Governor for approval by the Secretary of Agriculture unless the Governor determines that the acquisition is reasonably necessary to improve the efficiency, effectiveness, or financial stability of the borrower's telephone system, that the location and character of the proposed acquisition are such that the acquisition is reasonably necessary to accomplish such improvement, and that the amount of the requested loan for such acquisition is reasonably justified by the nature and scope of the improvement which the acquisition would effect.

§ 1610.8 Adoption of applicable RUS policy.

The policies embodied in 7 CFR part 1610, in all parts of 7 CFR chapter XVII except those identified below, will be utilized by the Governor in carrying out the Bank's loan program to the extent that such policies are consistent with title IV of the Act (7 U.S.C. 941 *et seq.*) and to the extent that policies in 7 CFR chapter XVII are consistent with 7 CFR part 1610. The parts of 7 CFR chapter XVII applicable solely to the Electric Program and thus exceptions to this section are parts 1710 through 1734 inclusive.

[55 FR 39397, Sept. 27, 1990]

§ 1610.9 Class B stock.

Borrowers receiving loans from the Bank shall be required to invest in class B stock at 5 percent of the total amount of loan funds advanced. Borrowers may purchase class B stock by:

(1) Paying an amount (using their own general funds) equal to 5 percent of the amount, exclusive of the amount for class B stock, of each loan advance, at the time of such advance; or

(2) Requesting that funds for the purchase of class B stock be included in the loan. If funds for class B stock are included in a loan, the funds for class B stock shall be advanced in an amount

equal to 5 percent of the amount, exclusive of the amount for class B stock, of each loan fund advance, at the time of such advance.

[56 FR 26596, June 10, 1991]

§ 1610.10 Determination of interest rate on Bank loans.

(a) All loan fund advances made on or after December 22, 1987 under Bank loans approved on or after October 1, 1987, shall bear interest at the rate determined as established below, but not less than 5 percent per annum.

(b) The interest rate for the period beginning on the date the advance is made and ending at the close of the fiscal year in which the advance is made shall be the average yield on the date of advance on outstanding marketable obligations of the United States having a final maturity comparable to the final maturity of the advance. The interest rate shall be determined to the nearest 0.01 percent.

(1) For this determination, the Bank will use yields on actively traded Treasury issues adjusted to constant maturities obtained from the *Federal Reserve statistical release* ("Treasury rate"). In accordance with standard Treasury procedures, the rate in effect for any given day is the rate set at the close of business on the preceding day. The 30-year Treasury rate will be applied to all advances with a final maturity of at least 30 years from date of advance. A straight-line interpolation between other Treasury rates will be used to determine the rate applicable for advances with final maturities of less than 30 years.

(2) The Bank will notify the borrower in writing of the interest rate that applies to each advance.

(c) After the fiscal year in which the advance is made, the interest rate applied to the advance will be the sum of the calculations made in paragraphs (c) (1) through (5) of this section. This interest rate determination shall be made by the Governor within 30 days of the end of each fiscal year and shall be determined to the nearest 0.01 percent.

(1) The aggregate of all amounts received by the Bank during the fiscal year from the issuance of Class A stock, multiplied by the rate of return payable by the Bank during the fiscal

year as specified in section 406(c) of the Act, which product is divided by the aggregate of the amounts advanced by the Bank during the fiscal year.

(2) The aggregate of all amounts received by the Bank during the fiscal year from the issuance of Class B stock, multiplied by the rate at which dividends are payable by the Bank during the fiscal year as specified in section 406(d) of the Act, which product is divided by the aggregate of the amounts advanced by the Bank during the fiscal year. Section 406(d) provides that "No dividends shall be payable on Class B stock." The "amounts received by the Bank during the fiscal year from the issuance of Class B stock" means the amount of cash received during the fiscal year for the purchase of Class B stock, plus the amount advanced to borrowers by the Bank during the fiscal year for such purchases, less any Class B stock that is rescinded during the fiscal year.

(3) The aggregate of all amounts received by the Bank during the fiscal year from the issuance of Class C stock, multiplied by the rate at which dividends are payable by the Bank during the fiscal year as specified in section 406(e) of the Act, which product is divided by the aggregate of the amounts advanced by the Bank during the fiscal year.

(4) The amounts received by the Bank during the fiscal year from each issue of telephone debentures and other obligations of the Bank, multiplied, respectively, by the rates at which interest is payable by the Bank during the fiscal year to holders of each issue, each of which product is divided, respectively, by the aggregate of the amounts advanced by the Bank during the fiscal year.

(5) The amount by which the aggregate of the amounts advanced by the Bank during the fiscal year exceeds the aggregate of the amount received by the Bank from the issuance of Class A stock, Class B stock, Class C stock, and telephone debentures and other obligations of the Bank during the fiscal year, multiplied by the historic cost of money rate as of the close of the immediately preceding fiscal year, which product is divided by the aggregate of

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the amounts advanced by the Bank during the fiscal year.

(6) As used in paragraph (c)(5) of this section, the term "historic cost of money rate as of the close of the immediately preceding fiscal year," means the sums of the results of the following calculations: The amounts advanced by the Bank in each fiscal year during the period beginning with fiscal year 1974 and ending with the immediately preceding fiscal year, multiplied, respectively, by the cost of money rate for the fiscal year (as set forth in Table I for fiscal years 1974 through 1987, and as determined by the Governor in paragraphs (c) (1) through (5) of this section for fiscal years after fiscal year 1987), with each product then divided by the aggregate of the amounts advanced by the Bank from the beginning of fiscal year 1974 through the end of the fiscal year just ended.

TABLE I

For advances made in fiscal year:	The cost of money rate shall be:
1974	5.01 percent.
1975	5.85 percent.
1976	5.33 percent.
1977	5.00 percent.
1978	5.87 percent.
1979	5.93 percent.
1980	8.10 percent.
1981	9.46 percent.
1982	8.39 percent.
1983	6.99 percent.
1984	6.55 percent.
1985	5.00 percent.
1986	5.00 percent.
1987	5.00 percent.

In this table, "fiscal year" means the 12-month period ending on September 30 of the designated year.

(d) A borrower with a Bank loan approved on or after October 1, 1987, and before December 22, 1987, and with funds not fully advanced as of December 22, 1987, may until the next advance under the loan or March 21, 1988, whichever is later, elect to have the interest rate specified in the loan commitment apply to the unadvanced portion in lieu of the rate which would otherwise apply as set forth in §1610.10(a). A borrower making such an election shall contact, in writing, the applicable Area Office of RUS. The Governor shall then adjust the interest rate that applies to the unadvanced portion of the loan accordingly.

(e) If the Bank, pursuant to section 407(b) of the Act, issues telephone debentures to refinance outstanding telephone debentures or other obligations, the Bank shall reduce the interest rate charged on each advance of Bank loan funds made during the fiscal year(s) in which the refinanced debentures or other obligations were originally issued. The reduction shall be for the period beginning on the issue date of the refinancing debentures and ending on the date the advance matures or is completely prepaid, whichever is earlier. This reduction shall be in addition to any other interest rate reduction required by section 408(b)(3) of the Act. The interest rate shall be reduced by the amount which fully reflects that percentage of the funds saved by the Bank as a result of the refinancing which is equal to the percentage representation of the advance of all advances made during the fiscal year(s) involved. In no case, however, shall the interest rate be reduced to less than 5 percent per annum. The interest rate reduction for each advance shall be determined as follows:

(1) The funds saved by the Bank as a result of the refinancing shall be computed.

(2) The advance shall be divided by the total of all advances made during the fiscal year(s) involved, and stated to the nearest .01 percent.

(3) The percentage in paragraph (e)(2) of this section is multiplied by the amount in paragraph (e)(1) of this section to determine the savings for a particular advance. The interest rate on that advance is then reduced to fully reflect the savings over the remaining amortization period of the loan from which the advance was made.

(f) Within 60 days after the issue date described in paragraph (e) of this section, the Governor shall amend the loan documentation for each advance described in paragraph (e) of this section, as necessary, to reflect any interest rate reduction applicable to the advance by reason of paragraph (e) of this section, and shall notify each affected borrower of the reduction.

(g) Within 5 days of determining the cost of money rate for a fiscal year, the Governor shall:

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(1) Cause the determination to be published in the FEDERAL REGISTER in accordance with section 552 of title 5, United States Code, and

(2) Furnish a copy of the determination to the Comptroller General of the United States.

(h) A borrower should not wait until the end of the fiscal year to submit a requisition for an advance of loan funds if it wants the advance made in that fiscal year. Borrower requisitions submitted late in the fiscal year may not be processed in that fiscal year because of workload and other factors.

[53 FR 36783, Sept. 22, 1988; 53 FR 39014, Oct. 4, 1988]

§ 1610.11 Prepayments.

(a) Bank loans approved before November 1, 1993, may be prepaid in ac-

cordance with the terms thereof, including payment of the premium as provided therein.

(b) A borrower may prepay part or all of a Bank loan made on or after November 1, 1993, by paying the outstanding principal and any accrued interest without being required to pay a prepayment premium.

(c) Borrowers that qualify to issue a refunding note or notes in accordance with 7 CFR 1735.43, Payments on loans, shall not be required to pay a prepayment premium on all payments made in accordance with the new payment schedule.

[58 FR 66252, Dec. 20, 1993, as amended at 62 FR 46869, Sept. 5, 1997]