

exclusions are actions identified in an agency's NEPA implementing procedures that do not normally have a significant impact on the environment and therefore do not require either an environmental assessment (EA) or environmental impact statement (EIS). See 40 CFR 1508.4. In analyzing the applicability of a categorical exclusion, the agency must also consider whether extraordinary circumstances are present that would warrant the preparation of an EA or EIS. Id. Paragraph 3.c.5 of DOT Order 5610.1C incorporates by reference the categorical exclusions for all DOT Operating Administrations. This action is covered by the categorical exclusion listed in the Federal Highway Administration's implementing procedures, "[p]romulgation of rules, regulations, and directives." 23 CFR 771.117(c)(20). The purpose of this rulemaking is to update the regulation that outlines the requirements for Federal Awards and to revise section cross-references to conform with the 2020 changes to the OMB Guidance for Grants and Agreements. The agency does not anticipate any environmental impacts, and there are no extraordinary circumstances present in connection with this rulemaking.

List of Subjects in 2 CFR Part 1201

Accounting, Administrative practice and procedure, Adult education, Aged, Agriculture, American Samoa, Bilingual education, Blind, Business and industry, Civil rights, Colleges and universities, Communications, Community development, Community facilities, Copyright, Credit, Cultural exchange programs, Educational facilities, Educational research, Education, Education of disadvantaged, Education of individuals with disabilities, Educational study programs, Electric power, Electric power rates, Electric utilities, Elementary and secondary education, Energy conservation, Equal educational opportunity, Federally affected areas, Government contracts, Grant programs, Grants administration, Guam, Home improvement, Homeless, Hospitals, Housing, Human research subjects, Indians, Indians-education, Infants and children, Insurance, Intergovernmental relations, International organizations, Inventions and patents, Loan programs, Manpower training programs, Migrant labor, Mortgage insurance, Nonprofit organizations, Northern Mariana Islands, Pacific Islands Trust Territories, Privacy, Renewable energy, Reporting and recordkeeping requirements, Rural areas, Scholarships and fellowships, School construction, Schools, Science and technology, Securities, Small

businesses, State and local governments, Student aid, Teachers, Telecommunications, Telephone, Urban areas, Veterans, Virgin Islands, Vocational education, Vocational rehabilitation, Waste treatment and disposal, Water pollution control, Water resources, Water supply, Watersheds, Women.

For the reasons stated in the preamble, the Department of Transportation amends 2 CFR part 1201 as set forth below:

PART 1201—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

■ 1. The authority citation for part 1201 continues to read as follows:

Authority: 49 U.S.C. 322(a); 2 CFR 200.106.

§ 1201.80 [Amended]

■ 2. In § 1201.80, remove "2 CFR 200.80" and add in its place "2 CFR 200.1" and remove "See 2 CFR 200.77 Period of performance." and add in its place "See 2 CFR 200.1 Definitions."

§ 1201.206 [Redesignated as § 1201.207 and Amended]

■ 3. Redesignate § 1201.206 as § 1201.207 and amend the newly redesignated section by removing "2 CFR 200.206" and adding in its place "2 CFR 200.207".

§ 1201.327 [Redesignated as § 1201.328 and Amended]

■ 4. Redesignate § 1201.327 as § 1201.328 and amend the newly redesignated section by removing "2 CFR 200.327" and adding in its place "2 CFR 200.328".

Signed under authority provided by 49 U.S.C. 322(a), 2 CFR 200.106, and 49 CFR 1.27 in Washington, DC on February 21, 2023.

John E. Putnam,

General Counsel, U.S. Department of Transportation.

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DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Part 1710

[Docket No. RUS-22-ELECTRIC-0057]

RIN # 0572-AC60

Electric Program Coverage Ratios Clarification and Modifications

AGENCY: Rural Utilities Service, U.S. Department of Agriculture (USDA).

ACTION: Final rule; request for comment.

SUMMARY: The Rural Utilities Service (RUS), a Rural Development (RD) agency of the United States Department of Agriculture (USDA), is issuing a final rule with comment. The intent of this rule is to modify its coverage ratio requirements, add an additional set of ratios, and update and add definitions. The effect of this action is to reduce the regulatory impact on RUS Electric Program borrowers, ensure that loan funds will be repaid in the time agreed upon, facilitate the lending for construction of rural electric infrastructure, and allow RUS to focus on feasibility and security issues while increasing customer efficiency, customer satisfaction and service.

DATES: This final rule is effective May 30, 2023.

Comments must be submitted on or before May 1, 2023.

ADDRESSES: You may submit comments, identified by Docket Number (RUS-22-ELECTRIC-0057) or the RIN #(0572-AC60).

• *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow instructions for sending comments. In the "Search Documents" box, enter the Docket Number (RUS-22-ELECTRIC-0057) or the RIN # (0572-AC60), and click the "Search" button. To submit a comment, choose the "Comment Now!" button. Information on using *Regulations.gov*, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's FAQ page.

Instructions: All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this rulemaking. All comments received will be posted without change to www.regulations.gov, including any personal information provided.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

I. Background

Rural Development (RD) is a mission area within the U.S. Department of Agriculture (USDA) comprising the Rural Utilities Service (RUS), Rural Housing Service, and Rural Business-Cooperative Service. RD's mission is to increase economic opportunity and improve the quality of life for all rural Americans. RD meets its mission by providing loans, loan guarantees, grants, and technical assistance through numerous programs aimed at creating and improving housing, business, and infrastructure throughout rural America. RUS loan, loan guarantee, and grant programs act as a catalyst for economic and community development. By financing improvements to rural electric, water and waste, and telecommunications and broadband infrastructure, RUS also plays a significant role in improving other measures of quality of life in rural America, including public health and safety, environmental protection, and cultural and historic preservation. The RUS Electric Program provides funding to maintain, expand, upgrade, and modernize America's rural electric infrastructure. The loans and loan guarantees finance the construction or improvement of electric distribution, transmission, and generation facilities in rural areas.

This rulemaking is part of the RUS Electric Program's continuing effort to improve customer service for its borrowers and to create a more efficient work process for its staff. This rulemaking will continue to streamline RUS Electric Program procedures and revise regulations, including removing unnecessary and outdated regulations and simplifying other policies and procedures that impose burdensome requirements on borrowers and applicants.

The intent of these proposed changes is to provide an additional method for complying with RUS's coverage ratio requirements. The goal is to (1) reduce the regulatory impact on RUS Electric Program borrowers, (2) ensure that loan funds will be repaid in the time agreed upon, and (3) that the RUS loans remain adequately secured. RUS expects that these actions will enhance RUS and customer efficiency, thereby increasing customer satisfaction and service. RUS uses these ratios as part of its loan application review and/or its annual review of the Financial and Operating Report data to monitor the financial

stability of the borrowers to ensure loan security.

There are no alternatives except to maintain the current RUS Electric Program ratio coverage regulations. The proposed changes will improve customer experience and customer service, and allow RUS to better focus on feasibility and security issues while lessening the burdens on the RUS Electric Program borrowers. These changes provide added flexibility to borrowers to be in compliance with mortgage requirements without increasing rates to meet their operating coverage ratios when the borrower has cash reserves to cover debt service payments. This action should not impose additional costs on applicants or on electric borrowers as the additional ratios are already calculated as part of a Borrower's Statistical Profile which is currently calculated utilizing the data provided on the borrower's RUS Financial and Operating Reports. These changes will positively affect the RUS Electric borrower experience and enhance RUS customer service by removing unnecessary and burdensome requirements for electric borrowers and applicants, minimizing the regulatory impact of applying for loans made or guaranteed by RUS, and facilitating lending for construction of rural electric infrastructure.

II. Summary of Changes to Rule

7 CFR 1710.2 Definitions and Rules of Construction

The definitions MTIER (Modified Times Interest Earned Ratio) and MDSC (Modified Debt Service Coverage) are not currently in the regulation and are added to assist applicants in better understanding the program's requirements.

The definitions of TIER (Times Interest Earned Ratio Debt Service Coverage), OTIER (Operating Times Interest Earned Ratio), DSC (Debt Service Coverage) and ODSC (Operating Debt Service Coverage) are updated to remove outdated sections and references and by reorganizing remaining sections accordingly and improving logical flow.

7 CFR 1710.114 TIER, DSC, OTIER and ODSC Requirements

Paragraphs (a) and (b) will be modified to remove outdated language and to reflect RUS' current Financial and Operating Reports.

Paragraph (b)1 will be modified to allow Modified Times Interest Earned Ratio (MTIER) and Modified Debt Service Coverage (MDSC) to be considered if a borrower does not meet the coverage requirements for Operating

Times Interest Earned Ratio (OTIER) and Operating Debt Service Coverage (ODSC). This allows more flexibility to borrowers regarding the coverage requirements.

III. Executive Orders and Acts

Executive Order 12866—Classification

This rule has been determined to be non-significant for purposes of Executive Order (E.O.) 12866 and, therefore, has not been reviewed by the Office of Management and Budget (OMB).

Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this rule as not a major rule, as defined by 5 U.S.C. 804(2).

Assistance Listing Number (Formally Known as the Catalog of Federal Domestic Assistance)

The Assistance Listing Number assigned to the Rural Electrification Loans and Loan Guarantees Program is 10.850. The Assistance Listings are available on the internet at <https://sam.gov/>.

Executive Order 12372, Intergovernmental Review of Federal Programs

This rule is excluded from the scope of E.O. 12372, Intergovernmental Consultation, which may require a consultation with State and local officials. See the final rule related notice entitled, "Department Programs and Activities Excluded from E.O. 12372" (50 FR 47034) advising that RUS loans and loan guarantees were not covered by E.O. 12372.

Paperwork Reduction Act

This rule contains no new reporting or recordkeeping burdens under OMB control number 0572-0032 that would require approval under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

National Environmental Policy Act

In accordance with the National Environmental Policy Act of 1969, Public Law 91-190, this final rule has been reviewed in accordance with 7 CFR part 1970 ("Environmental Policies and Procedures"). RUS has determined that (i) this action meets the criteria established in 7 CFR 1970.53(f); (ii) no extraordinary circumstances exist; and (iii) the action is not "connected" to other actions with potentially significant impacts, is not considered a "cumulative action" and is not precluded by 40 CFR 1506.1. Therefore,

RUS has determined that the action does not have a significant effect on the human environment, and therefore neither an Environmental Assessment nor an Environmental Impact Statement is required.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act (APA) or any other statute. The Administrative Procedure Act exempts from notice and comment requirements rules “relating to agency management or personnel or to public property, loans, grants, benefits, or contracts” (5 U.S.C. 553(a)(2)). This final rule is not subject to the APA under 5 U.S.C. 553(a)(2) and 5 U.S.C. 553(b)(3)(A) nor any other statute.

Executive Order 12988—Civil Justice Reform

This rule has been reviewed under E.O. 12988, Civil Justice Reform. In accordance with this rule: (1) unless otherwise specifically provided, all State and local laws that conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule except as specifically prescribed in the rule; and (3) administrative proceedings of the National Appeals Division of the Department of Agriculture (7 CFR part 11) must be exhausted before bringing suit in court that challenges action taken under this rule.

Unfunded Mandate Reform Act (UMRA)

Title II of the UMRA, Public Law 104–4, establishes requirements for Federal Agencies to assess the effects of their regulatory actions on State, local, and Tribal governments and on the private sector. Under Section 202 of the UMRA, Federal Agencies generally must prepare a written statement, including cost-benefit analysis, for proposed and Final Rules with “Federal mandates” that may result in expenditures to State, local, or Tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires a Federal agency to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective, or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for

State, local, and Tribal governments or for the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order 13132—Federalism

It has been determined, under E.O. 13132, Federalism, that the policies contained in this rule do not have any substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Nor does this rule impose substantial direct compliance costs on State and local governments. Therefore, consultation with the States is not required.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

This executive order imposes requirements on RUS in the development of regulatory policies that have Tribal implications or preempt Tribal laws. RUS has determined that the rule does not have a substantial direct effect on one or more Indian Tribe(s) or on either the relationship or the distribution of powers and responsibilities between the Federal Government and Indian Tribes. Thus, this rule is not subject to the requirements of Executive Order 13175. If Tribal leaders are interested in consulting with RUS on this rule, they are encouraged to contact USDA’s Office of Tribal Relations or RD’s Native American Coordinator at: *AIAN@usda.gov* to request such a consultation.

E-Government Act Compliance

Rural Development is committed to the E-Government Act of 2002, Public Law 107–347, which requires government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible and to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to government information and services, and for other purposes.

Civil Rights Impact Analysis

Rural Development has reviewed this rule in accordance with USDA Regulation 4300–004, “Civil Rights Impact Analysis,” to identify any major civil rights impacts the rule might have on program participants on the basis of age, race, color, national origin, sex, disability, marital or familial status. Based on the review and analysis of the rule and all available data, issuance of

this final rule is not likely to negatively impact low and moderate-income populations, minority populations, women, Indian Tribes, or persons with disability, by virtue of their age, race, color, national origin, sex, disability, or marital or familial status.

USDA Non-Discrimination Statement

In accordance with Federal civil rights laws and USDA civil rights regulations and policies, the USDA, its Mission Areas, agencies, staff offices, employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (*e.g.*, Braille, large print, audiotape, American Sign Language) should contact the responsible Mission Area, agency, or staff office; the USDA TARGET Center at (202) 720–2600 (voice and TTY); or the 711 Relay Service.

To file a program discrimination complaint, a complainant should complete a Form AD–3027, *USDA Program Discrimination Complaint Form*, which can be obtained online at <https://www.usda.gov/oascr/how-to-file-a-program-discrimination-complaint> from any USDA office, by calling (866) 632–9992, or by writing a letter addressed to USDA. The letter must contain the complainant’s name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD–3027 form or letter must be submitted to USDA by:

- a. *Mail*: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, DC 20250–9410; or
- b. *Fax*: (833) 256–1665 or (202) 690–7442; or
- c. *Email*: program.intake@usda.gov.

List of Subjects in 7 CFR Part 1710

Electric power, Grant programs-energy, Loan programs-energy, Reporting and recordkeeping requirements, Rural areas.

For the reason set forth in the preamble, RUS amends 7 CFR part 1710 as follows:

PART 1710—GENERAL AND PRE-LOAN POLICIES AND PROCEDURES COMMON TO ELECTRIC LOANS AND GUARANTEES

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

Authority: 7 U.S.C. 901 *et seq.*, 1921 *et seq.*, and 6941 *et seq.*

Subpart A—General

■ 2. Amend § 1710.2 in paragraph (a) by:

- a. Revising the definition of “DSC”;
- b. Adding definitions in alphabetical order for “MDSC” and “MTIER”; and
- c. Revising the definitions of “DSC”, “ODSC”, “OTIER”, and “TIER”.

The revisions and additions read as follows

§ 1710.2 Definitions and rules of construction.

(a) * * *

DSC means Debt Service Coverage of the borrower calculated as:

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

Where:

A = Depreciation and Amortization Expense of the borrower, which equals Part A, Line 13b of the RUS Financial and Operating Report Electric Distribution for distribution borrowers or Section A, Line 22b of the RUS Financial and Operating Report Electric Power Supply for power supply borrowers;

B = Interest expense on total long-term debt of the borrower, which equals Part A, Line 16b of the RUS Financial and Operating Report Electric Distribution for distribution borrowers or Part A, Section A, Line 24b of the RUS Financial and Operating Report Electric Power Supply for power supply borrowers, except that interest expense shall be increased by 1/3 of the amount, if any, by which restricted rentals of the borrower (Part L, Total Column c) of the RUS Financial and Operating Report Electric Distribution for distribution borrowers or Part H, Section K, Total Column c of the RUS Financial and Operating Report Electric Power Supply for power supply borrowers) exceed 2 percent of the borrower's equity (RUS Financial and Operating Report Electric Distribution for distribution borrowers, Part C, Line

36 [Total Margins & Equities] less Part C, Line 27 [Regulatory Assets] or RUS Financial and Operating Report Electric Power Supply for power supply borrowers, Part A, Section B, Line 39 [Total Margins & Equities] less Part A, Section B, Line 29 [Regulatory Assets]);

C = Patronage Capital or Margins of the borrower, which equals Part A, Line 29b of the RUS Financial and Operating Report Electric Distribution for distribution borrowers or Part A, Section A, Line 38b of the RUS Financial and Operating Report Electric Power Supply for power supply borrowers; 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 from Total of Column D of Part N of the RUS Financial and Operating Report Electric Distribution for distribution borrowers or Total of Column D of Part H, Section H of the RUS Financial and Operating Report Electric Power Supply for power supply borrowers, plus 1/3 of the amount, if any, by which restricted rentals of the borrower (Part L, Line 3c of the RUS Financial and Operating Report Electric Distribution for distribution borrowers or Part H, Section K, Line 4c of the RUS Financial and Operating Report Electric Power Supply for power supply borrowers) exceed 2 percent of the borrower's equity (RUS Financial and Operating Report Electric Distribution for distribution borrowers, Part C, Line 36 [Total Margins & Equities] less Part C, Line 27 [Regulatory Assets] or RUS Financial and Operating Report Electric Power Supply for power supply borrowers, Part A, Section B, Line 39 [Total Margins & Equities] less Part A, Section B, Line 29 [Regulatory Assets]);

* * * * *

MDSC means Modified Debt Service Coverage of the electric system calculated as:

$$MDSC = \frac{A + B + C - D - E}{F}$$

Where:

A = Depreciation and Amortization Expense of the borrower, which equals Part A, Line 13b of the RUS Financial and Operating Report Electric Distribution for distribution borrowers or Part A, Section A, Line 22b of the RUS Financial and Operating Report Electric Power Supply for power supply borrowers;

B = Interest expense on total long-term debt of the borrower, which equals Part A, Line 16b of the RUS Financial and Operating Report Electric Distribution for distribution borrowers or Part A, Section A, Line 24b of the RUS Financial and Operating Report Electric Power Supply for power supply borrowers, except that interest expense shall be increased by 1/3 of the amount, if any, by which restricted rentals of the borrower (Part L, Line 3c of the RUS Financial and

Operating Report Electric Distribution for distribution borrowers or Part H, Section K, Line 4c of the RUS Financial and Operating Report Electric Power Supply for power supply borrowers) exceed 2 percent of the borrower's equity (RUS Financial and Operating Report Electric Distribution for distribution borrowers, Part C, Line 36 [Total Margins & Equities] less Part C, Line 27 [Regulatory Assets] or RUS Financial and Operating Report Electric Power Supply for power supply borrowers, Part A, Section B, Line 39 [Total Margins & Equities] less Part A, Section B, Line 29 [Regulatory Assets]);

C = Patronage Capital or Margins of the borrower, which equals Part A, Line 29b of the RUS Financial and Operating Report Electric Distribution for distribution borrowers or Part A, Section A, Line 38b of the RUS Financial and Operating Report Electric Power Supply for power supply borrowers; and

D = Generation and Transmission Capital Credits of the borrower, which equals Part A, Line 26b of the RUS Financial and Operating Report Electric Distribution for distribution borrowers or Part A, Section A, Line 35b of the RUS Financial and Operating Report Electric Power Supply for power supply borrowers;

E = Other Capital Credits and Patronage Dividends of the borrower, which equals Part A, Line 27b of the RUS Financial and Operating Report Electric Distribution for distribution borrowers or Part A, Section A, Line 36b of the RUS Financial and Operating Report Electric Power Supply for power supply borrowers; and

F = Total Long-Term 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 electric system during the calendar year from Part N, Line 12d of the RUS Financial and Operating Report Electric Distribution for distribution borrowers or Part H, Section H, Line 12d of the RUS Financial and Operating Report Electric Power Supply for power supply borrowers.

* * * * *

MTIER means Modified Times Interest Earned Ratio of the electric system calculated as:

$$MTIER = \frac{A + B - C - D}{B}$$

Where:

A = Patronage Capital or Margins of the borrower, which equals Part A, Line 29b of the RUS Financial and Operating Report Electric Distribution for distribution borrowers;

B = Interest expense on total long-term debt of the borrower, which equals Part A, Line 16b of the RUS Financial and Operating Report Electric Distribution for distribution borrowers, except that interest expense shall be increased by 1/3 of the amount, if any, by which restricted

rentals of the borrower (Part L, Line 3c of the RUS Financial and Operating Report Electric Distribution for distribution borrowers) exceed 2 percent of the borrower's equity (RUS Financial and Operating Report Electric Distribution for distribution borrowers, Part C, Line 36 [Total Margins & Equities] less Part C, Line 27 [Regulatory Assets]);

- C = Generation and Transmission Capital Credits of the borrower, which equals Part A, Line 26b of the RUS Financial and Operating Report Electric Distribution for distribution borrowers; and
- D = Other Capital Credits and Patronage Dividends of the borrower, which equals Part A, Line 27b of the RUS Financial and Operating Report Electric Distribution for distribution borrowers.

* * * * *
 ODSC means Operating Debt Service Coverage of the electric system calculated as:

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

Where:

- A = Depreciation and Amortization Expense of the borrower, which equals Part A, Line 13b of the RUS Financial and Operating Report Electric Distribution for distribution borrowers;
- B = Interest expense on total long-term debt of the borrower, which equals Part A, Line 16b of the RUS Financial and Operating Report Electric Distribution for distribution borrowers, except that interest expense shall be increased by 1/3 of the amount, if any, by which restricted rentals of the borrower (Part L, Line 3c of the RUS Financial and Operating Report Electric Distribution for distribution borrowers) exceed 2 percent of the borrower's equity (RUS Financial and Operating Report Electric Distribution for distribution borrowers, Part C, Line 36 [Total Margins & Equities] less Part C, Line 27 [Regulatory Assets]);
- C = Patronage Capital & Operating Margins of the electric system, which equals Part A, Line 21b of the RUS Financial and Operating Report Electric Distribution for distribution borrowers, plus cash received from the retirement of patronage capital by suppliers of electric power and by lenders for credit extended for the Electric System from Part I, Line 2c of the RUS Financial and Operating Report Electric Distribution for distribution borrowers; 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 electric system during the calendar year from Part N, Line 12d of the RUS Financial and Operating Report Electric Distribution for distribution borrowers, plus 1/3 of the amount, if any, by which

restricted rentals of the Electric System (Part L, Line 3c of the RUS Financial and Operating Report Electric Distribution for distribution borrowers) exceed 2 percent of the borrower's equity (RUS Financial and Operating Report Electric Distribution for distribution borrowers, Part C, Line 36 [Total Margins & Equities] less Part C, Line 27 [Regulatory Assets]).

* * * * *
 OTIER means Operating Times Interest Earned Ratio of the electric system calculated as:

$$OTIER = \frac{A + B}{A}$$

Where:

- A = Interest expense on total long-term debt of the borrower, which equals Part A, Line 16b of the RUS Financial and Operating Report Electric Distribution for distribution borrowers, except that interest expense shall be increased by 1/3 of the amount, if any, by which restricted rentals of the borrower (Part L, Line 3c of the RUS Financial and Operating Report Electric Distribution for distribution borrowers) exceed 2 percent of the borrower's equity (RUS Financial and Operating Report Electric Distribution for distribution borrowers, Part C, Line 36 [Total Margins & Equities] less Part C, Line 27 [Regulatory Assets]); and
- B = Patronage Capital & Operating Margins of the electric system, which equals Part A, Line 21b of the RUS Financial and Operating Report Electric Distribution for distribution borrowers, plus cash received from the retirement of patronage capital by suppliers of electric power and by lenders for credit extended for the Electric System from Part I, Line 2c of the RUS Financial and Operating Report Electric Distribution for distribution borrowers.

* * * * *
 TIER means Times Interest Earned Ratio of the borrower calculated as:

$$TIER = \frac{A + B}{A}$$

Where:

- A = Interest expense on total long-term debt of the borrower, which equals Part A, Line 16b of the RUS Financial and Operating Report Electric Distribution for distribution borrowers or Part A, Section A, Line 24b of the RUS Financial and Operating Report Electric Power Supply for power supply borrowers, except that interest expense shall be increased by 1/3 of the amount, if any, by which restricted rentals of the borrower (Part L, Line 3c of the RUS Financial and Operating Report Electric Distribution for distribution borrowers or Part H,

Section K, Line 4c of the RUS Financial and Operating Report Electric Power Supply for power supply borrowers) exceed 2 percent of the borrower's equity (RUS Financial and Operating Report Electric Distribution for distribution borrowers, Part C, Line 36 [Total Margins & Equities] less Part C, Line 27 [Regulatory Assets] or RUS Financial and Operating Report Electric Power Supply for power supply borrowers, Part A, Section B, Line 39 [Total Margins & Equities] less Part A, Section B, Line 29 [Regulatory Assets]); and

- B = Patronage Capital or Margins of the borrower, which equals Part A, Line 29b of the RUS Financial and Operating Report Electric Distribution for distribution borrowers or Part A, Section A, Line 38b of the RUS Financial and Operating Report Electric Power Supply for power supply borrowers.

* * * * *
 ■ 3. Amend § 1710.114 by revising paragraphs (a), (b)(1), and (e)(2) to read as follows:

§ 1710.114 TIER, DSC, OTIER and ODSC requirements.

(a) *General.* Requirements for coverage ratios are set forth in the borrower's mortgage, loan contract, or other contractual agreements with RUS. Nothing in this section, however, shall limit the Administrator's ability to contractually agree to a different ratio provided in this section when doing so would advance or protect the interests of the government.

* * * * *
 (b) * * *
 (1) The minimum coverage ratios required of distribution borrowers whether applied on an annual or average basis of the 2 best years out of the 3 most recent calendar years, are a TIER of 1.25, DSC of 1.25. Further, the minimum coverage ratios required of distribution borrowers whether applied on an annual or average basis of the 2 best years out of the 3 most recent calendar years are an OTIER and ODSC of 1.1 or an MTIER and MDSC of 1.1.

* * * * *
 (e) * * *
 (2) With respect to any outstanding loan approved by RUS if, based on actual or projected financial performance of the borrower, RUS determines that the borrower may not achieve its required coverage ratios in the current or future years, RUS may withhold the advance of loan funds until the borrower has taken remedial action satisfactory to RUS.

Andrew Berke,
Administrator, Rural Utilities Service.
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