

Agency will not attempt to obtain, or participate in the obtaining of, replacement notes from the borrower. It will be the responsibility of the holder to bear costs of note replacement if the borrower agrees to issue a replacement instrument. Should such note be replaced, the terms of the note cannot be changed. If the evidence of debt has been lost, stolen, destroyed, mutilated or defaced, such evidence of debt must be replaced before the Agency will replace any instruments.

§§ 4279.85–4279.99 [Reserved]

§ 4279.100 OMB control number.

The information collection requirements contained in this regulation have been approved by OMB and have been assigned OMB control number 0575–0171. Public reporting burden for this collection of information is estimated to vary from 1 hour to 8 hours per response, with an average of 4 hours per response, including time for reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Department of Agriculture, Clearance Officer, OIRM, Stop 7630, Washington, D.C. 20250. You are not required to respond to this collection of information unless it displays a currently valid OMB control number.

Subpart B—Business and Industry Loans

§ 4279.101 Introduction.

(a) *Content.* This subpart contains loan processing regulations for the Business and Industry (B&I) Guaranteed Loan Program. It is supplemented by subpart A of this part, which contains general guaranteed loan regulations, and subpart B of part 4287 of this chapter, which contains loan servicing regulations.

(b) *Purpose.* The purpose of the B&I Guaranteed Loan Program is to improve, develop, or finance business, industry, and employment and improve the economic and environmental climate in rural communities. This purpose is achieved by bolstering the existing private credit structure through

the guarantee of quality loans which will provide lasting community benefits. It is not intended that the guarantee authority will be used for marginal or substandard loans or for relief of lenders having such loans.

(c) *Documents.* Copies of all forms, regulations, and Instructions referenced in this subpart are available in any Agency office.

§ 4279.102 Definitions.

The definitions and abbreviations in § 4279.2 of subpart A of this part are applicable to this subpart.

§§ 4279.103 Exception authority.

Section 4279.15 of subpart A of this part applies to this subpart.

§ 4279.104 Appeals.

Section 4279.16 of subpart A of this part applies to this subpart.

§ 4279.105–4279.106 [Reserved]

§ 4279.107 Guarantee fee.

The guarantee fee will be paid to the Agency by the lender and is nonrefundable. The fee may be passed on to the borrower. Except as provided in this section, the guarantee fee will be 2 percent multiplied by the principal loan amount multiplied by the percent of guarantee and will be paid one time only at the time the Loan Note Guarantee is issued.

(a) The guarantee fee may be reduced to 1 percent if the Agency determines that the business meets the following criteria:

(1) High impact business development investment (It is the goal of this program to encourage high impact business investment in rural areas. The weight given to business investments will be in accordance with § 4279.155(b)(5) of this subpart); and

(2) The business is located in a community that is experiencing long term population decline and job deterioration; or

(3) The business is located in a rural community that has remained persistently poor over the last 60 years; or

(4) The business is located in a rural community that is experiencing trauma as a result of natural disaster or that is experiencing fundamental

structural changes in its economic base.

(b) Each fiscal year, the Agency shall establish a limit on the maximum portion of guarantee authority available for that fiscal year that may be used to guarantee loans with a guarantee fee of 1 percent. The limit will be announced by publishing a notice in the FEDERAL REGISTER. Once the limit has been reached, the guarantee fee for all additional loans obligated during the remainder of that fiscal year will be 2 percent.

§ 4279.108 Eligible borrowers.

(a) *Type of entity.* A borrower may be a cooperative organization, corporation, partnership, or other legal entity organized and operated on a profit or nonprofit basis; an Indian tribe on a Federal or State reservation or other Federally recognized tribal group; a public body; or an individual. A cooperative organization is a cooperative or an entity, not chartered as a cooperative, that operates as a cooperative in that it is owned and operated for the benefit of its members, including the manner in which it distributes its dividends and assets. A borrower must be engaged in or proposing to engage in a business. Business may include manufacturing, wholesaling, retailing, providing services, or other activities that will:

- (1) Provide employment;
- (2) Improve the economic or environmental climate;
- (3) Promote the conservation, development, and use of water for aquaculture; or
- (4) Reduce reliance on nonrenewable energy resources by encouraging the development and construction of solar energy systems and other renewable energy systems (including wind energy systems, geothermal energy systems, and anaerobic digesters for the purpose of energy generation).

(b) *Citizenship.* Individual borrowers must be citizens of the United States (U.S.) or reside in the U.S. after being legally admitted for permanent residence. Citizens and residents of the Republic of Palau, the Federated States of Micronesia, and the Republic of the Marshall Islands shall be considered U.S. citizens. Corporations or other

nonpublic body organization-type borrowers must be at least 51 percent owned by persons who are either citizens of the U.S. or reside in the U.S. after being legally admitted for permanent residence.

(c) *Rural area.* The business financed with a B&I Guaranteed Loan must be located in a rural area, except for cooperative organizations financed in accordance with paragraph (d)(3) of this section. Loans to borrowers with facilities located in both rural and non-rural areas will be limited to the amount necessary to finance the facility in the eligible rural area, except for cooperative organizations financed in accordance with paragraph (d)(3) of this section. Rural areas are any areas other than:

- (1) A city or town that has a population of greater than 50,000 inhabitants; and
- (2) The urbanized area contiguous and adjacent to such a city or town, as defined by the U.S. Bureau of the Census using the latest decennial census of the United States.

(d) *Loans to cooperative organizations.*
 (1) B&I loans to eligible cooperative organizations may be made in principal amounts up to \$40 million if the project is located in a rural area, the cooperative facility being financed provides for the value-added processing of agricultural commodities, and the total amount of loans exceeding \$25 million does not exceed 10 percent of the funds available for the fiscal year.

(2) Cooperative organizations that are headquartered in a non-rural area may be eligible for a B&I loan if the loan is used for a project or venture that is located in a rural area.

(3) B&I loans to eligible cooperative organizations may also be made in non-rural areas provided:

(i) The primary purpose of the loan is for a facility to provide value-added processing for agricultural producers that are located within 80 miles of the facility;

(ii) The applicant satisfactorily demonstrates that the primary benefit of the loan will be to provide employment for rural residents;

(iii) The principal amount of the loan does not exceed \$25 million; and