

RD AN No. 4406 (1942-G, 4279-B  
4280-A, 4280-B, and 4284-G)  
December 1, 2008

TO: State Directors, Rural Development

ATTN: Business Programs Directors

SUBJECT: Business Programs Farm Bill Rural Area Definition  
Rural in Character Provision

PURPOSE/INTENDED OUTCOME:

The purpose of this Administrative Notice (AN) is to implement a discretionary provision of the 2008 Farm Bill as it relates to the rural area definition for the Business and Industry Guaranteed Loan Program, the Rural Business Enterprise Grant Program, and the Rural Business Opportunity Grant Program. The Agency is also adopting the 2008 Farm Bill rural area definition at 7 U.S.C. 1991(a)(13)(A), including the rural in character determination discussed in this AN, for the Rural Energy for America Program (formerly the Renewable Energy System and Energy Efficiency Improvements Guaranteed Loan and Grant Program), the Biorefinery Assistance Program (Section 9003), and the Rural Economic Development Loan and Grant Programs.

COMPARISON WITH PREVIOUS AN:

There has been no previous AN on this subject.

IMPLEMENTATION RESPONSIBILITIES:

Section 6018 of the 2008 Farm Bill makes several revisions to the rural area definition for programs administered under the Consolidated Farm and Rural Development Act. One of these provisions is mandatory, while others are discretionary and may be implemented at the option of the Secretary.

The general rural area definition remains any areas other than: a city or town that has a population of greater than 50,000 inhabitants and any urbanized area contiguous and

EXPIRATION DATE:  
December 31, 2009

FILING INSTRUCTIONS:  
Preceding RD Instructions 1942-G, 4279-B,  
4280-A, 4280-B, and 4284-G

adjacent to such a city or town. The Agency has decided to implement a discretionary portion of the Farm Bill known as the “rural in character” provision. The determinations under this provision will be to areas that are determined to be “rural in character” and are within: (1) an urbanized area that has two points on its boundary that are at least 40 miles apart, which is not contiguous or adjacent to a city or town that has a population of greater than 150,000 inhabitants or the urbanized area of such a city town; or (2) an area within an urbanized area contiguous and adjacent to a city or town of greater than 50,000 population that is within ¼ mile of a rural area.

Units of local government may petition the Under Secretary for a “rural in character” designation by submitting a petition that demonstrates how the area is “rural in character” by addressing the “rural in character” criteria outlined in this paragraph. Rural Development State Directors, on behalf of the Under Secretary, may also request determinations under this provision by addressing the same criteria. The Under Secretary will make a determination based upon a review of the petition/justification. “Rural in character” decisions must be made by the Under Secretary, whose authority cannot be delegated. The petitions from units of local government and requests from State Directors must discuss how the area is “rural in character,” including, but not limited to: the area’s population density; demographics; topography; and how the local economy is tied to a rural economic base.

Units of local government may petition the Under Secretary for a “rural in character” designation by submitting a petition to both the appropriate Rural Development State Director and the Administrator on behalf of the Under Secretary. The petition must document how the area meets the statutory requirements and discuss why the petitioner believes the area is “rural in character,” as suggested through criteria identified above. Upon receiving a petition, the Under Secretary will also consult with the applicable Governor and request comments within 5 business days, unless gubernatorial comments were submitted with the petition. The Under Secretary will release to the public a notice of a petition filed by a unit of local government not later than 30 days after receipt of the petition by way of notice in a local newspaper and notice on the Agency’s Web site, and the Under Secretary will make a determination not less than 15 days, but no more than 60 days, after the release of the notice. Upon a negative determination, the Under Secretary will provide to the petitioner an opportunity to appeal a determination to the Under Secretary, and the petitioner will have 10 business days to appeal the determination and provide further information for consideration.

Rural Development State Directors, on behalf of the Under Secretary, may also request the Under Secretary to determine if an area is “rural in character”. A written recommendation should be sent to the Administrator on behalf of the Under Secretary that documents how the area meets the statutory requirements and discusses why the State Director believes the area is “rural in character,” as suggested through criteria identified above. Upon receipt of such a request, the Administrator on behalf of the Under Secretary will review the request for compliance with the “rural in character” provisions and make a recommendation to the Under Secretary. Provided a favorable determination is made, the Under Secretary will consult with the applicable Governor and request comments within 5 business days, unless gubernatorial comments were submitted with the request. A public notice will be published in the local newspaper and posted on the Agency Web site upon a determination by National Office that the request for a rural in character determination meets the provisions outlined in paragraph 2 under “Implementation Responsibilities”. The public notice will appear for at least 3 consecutive days if published in a daily newspaper or otherwise in two consecutive publications. There is no appeal process for requests made on the initiative of the Under Secretary.

All requests for rural in character determinations using the above provision will be submitted to the National Office, Business and Industry Division, with supporting documentation for review, analysis, and decision by the Under Secretary for Rural Development. If you have any questions, please contact the Business and Industry Division at (202) 690-4103 or the Specialty Lenders Division at (202) 720-1400.

*(Signed by Thomas C. Dorr)*

THOMAS C. DORR  
Under Secretary  
Rural Development