

RHS, RBS, RUS, FSA, USDA

Pt. 1980, Subpt. E, App. C

APPENDIX B TO SUBPART E OF PART 1980—CERTIFICATE OF INCUMBENCY AND SIGNATURE

U.S. Department of Agriculture—Farmers Home Administration or its successor agency under Public Law 103-354

I, \_\_\_\_\_ (Name) \_\_\_\_\_, (Title) \_\_\_\_\_ of the Farmers Home Administration or its successor agency under Public Law 103-354, (FmHA or its successor agency under Public Law 103-354), an Agency of the United States Department of Agriculture, DO HEREBY CERTIFY that the following person holds the office of (State Director, State Program Loan Chief, District Director, or County Supervisor) \_\_\_\_\_ of \_\_\_\_\_, for FmHA or its successor agency under Public Law 103-354 and that the signature appearing below and that the signatures appearing above that person's name on the following described document is the genuine signature of such person:

1. Form(s) FmHA or its successor agency under Public Law 103-354 449-34, "Loan Note Guarantee," dated \_\_\_\_\_ relating to loan made by (Lender's Name) \_\_\_\_\_ to (Borrower's Name) \_\_\_\_\_, FmHA or its successor agency under Public Law 103-354 Loan Identification No. \_\_\_\_\_.

2. Form(s) FmHA or its successor agency under Public Law 103-354 449-35, "Lender's Agreement," dated \_\_\_\_\_ relating to loan made by (Lender's Name) \_\_\_\_\_ to (Borrower's Name) \_\_\_\_\_, FmHA or its successor agency under Public Law 103-354 Loan Identification No. \_\_\_\_\_.

3. Form(s) FmHA or its successor agency under Public Law 103-354 449-36, "Assignment Guarantee Agreement," dated \_\_\_\_\_ relating to loan made by (Lender's Name) \_\_\_\_\_ to (Borrower's Name) \_\_\_\_\_, FmHA or its successor agency under Public Law 103-354 Loan Identification No. \_\_\_\_\_.

Signature \_\_\_\_\_ (Name Type) \_\_\_\_\_.

In witness whereof, I have hereunto signed my name this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

Farmers Home Administration or its successor agency under Public Law 103-354.

By \_\_\_\_\_ (Title) \_\_\_\_\_

APPENDIX C TO SUBPART E OF PART 1980—GUIDELINES FOR LOAN GUARANTEES FOR ALCOHOL FUEL PRODUCTION FACILITIES

(1) Alcohol production facility. An alcohol production facility is a facility in which alcohol, suitable for use by itself or in combination with other substances as a substitute for petroleum or petrochemical feed-

stocks and not suitable for beverage purposes, is manufactured from biomass.

(2) The alcohol production facility includes all facilities necessary for the production and storage of alcohol and the processing of the by-products of alcohol production. The intent is to limit the alcohol and by-products processing facilities to those facilities which are necessary to yield marketable products and necessary for the financial success of the project. Further refinements, such as gasoline blending or the construction of facilities which use the alcohol or by-products in another manufacturing process, are not considered part of the alcohol production facility.

(3) Application will be reviewed by both B&I personnel and the State Office engineer and forwarded to the National Office if approval is recommended.

(4) The applicant should have a startup tangible book equity of 20-25 percent. (Appraisal surplus and subordinated debt are not eligible equity items.)

(5) Loan maturity maximums will be as follows:

- Real Estate=15-20 years
Machinery & Equipment=10 years or less depending on the estimated life of the equipment involved
Working Capital=3 years (It is assumed that the additional equity required for these projects will provide much of the working capital needs.)

(6) Farmers Home Administration or its successor agency under Public Law 103-354 will ordinarily only finance new facilities and will not get involved in the refinancing of existing ones.

(7) Priority consideration will be given to the use of primary fuel other than petroleum or natural gas.

(8) A positive energy balance must be indicated and supported by appropriate data; i.e., the energy content of the alcohol produced at the alcohol production facility must be greater than the energy used to produce the alcohol and by-products.

(9) Plant location, in relation to feedstocks, primary fuel and markets for product and by-products, will be an important consideration.

(10) Debt refinancing will only be considered in modest amounts and only when necessary to provide a satisfactory lien position.

(11) Feasibility studies are very important and required and will be prepared by competent and knowledgeable independent parties.

(12) Participating lenders must either have expertise or the availability of expertise in this field.

(13) The proposed operating managers must have experience in this or a related field.

(14) Alcohol Fuel Production Facilities are eligible for assistance under the Drought and

Disaster (D&D) Guaranteed Loan and Disaster Assistance for Rural Business Enterprises (DARBE) programs described in this subpart, and especially in appendix I and appendix K. Any such loan must meet the requirements for D&D and DARBE loans.

[52 FR 6522, Mar. 4, 1987, as amended at 53 FR 40403, Oct. 17, 1988; 54 FR 5, Jan. 3, 1989, and 54 FR 26946, June 27, 1989; 54 FR 42483, Oct. 17, 1989]

APPENDIX D TO SUBPART E OF PART 1980—ALCOHOL PRODUCTION FACILITIES PLANNING, PERFORMING, DEVELOPMENT AND PROJECT CONTROL

(I) *Design Policy.* The borrower shall ensure or cause to be ensured that:

(A) All project facilities are designed utilizing accepted engineering practices and are conformed to applicable Federal, State and local codes and requirements.

(B) Proven equipment and processes are employed in all project facilities unless an exception is granted by the Administrator or designee of the Farmers Home Administration or its successor agency under Public Law 103-354 (FmHA or its successor agency under Public Law 103-354) ("Administrator") in accordance with paragraph (B)(2) hereof and pilot equipment or processes are used instead.

(1) Equipment and processes shall be considered "proven" if they have been successfully employed in other commercial facilities.

(2) Equipment and processes shall be considered pilot if they have not been used in a commercial operation but have been operated on a scale such that all design and material problems have been identified and resolved and operations maintained to demonstrate that the equipment and process may be successfully applied to the proposed commercial operation. Pilot equipment and processes may be considered for use in the project subject to the following:

(a) The plans, specifications, and operational data for the applicable facilities are reviewed by the Administrator or designee and lender. If, in the opinion of FmHA or its successor agency under Public Law 103-354, the proposed processes or equipment are insufficiently developed to assure reliable and successful operation of the project, proven processes and equipment will be utilized.

(b) If pilot processes or equipment are used, the Administrator or designee will also require that:

(i) Reasonable provision is made in the project for conversion to proven equipment or processes; and

(ii) The borrower agrees to convert to proven equipment or processes if conversion is necessary to protect the interest of the Government in the project. A reserve account for

this conversion may be required. This account will not be an eligible loan purpose.

(C) Facility and equipment design incorporates cost-effective primary fuel systems, energy recovery systems and conservation measures to the maximum extent that this is feasible and consistent with paragraphs (I), (A), and (B) of this appendix.

(II) *Technical Services.*

(A) The borrower is responsible for selecting engineering consultants with suitable experience, training and professional competence in the design and construction of the project to assure that the completed project will operate at the prescribed levels of performance. In discharging its responsibility the borrower will obtain or cause to be obtained:

(1) Full engineering services for design and construction inspection for all project facilities. Resident inspection by qualified persons will be required.

(2) Agreements for engineering or design/build services which describe the project facilities in terms of the parameters critical to the successful operation of the project. The parameters shall include input quantities, conversion efficiency, rate of production and fuel consumption and product quality under normal operating conditions. The design parameters will be mutually agreed upon by the borrower, lender, the State Director and the project engineer, and may not be modified without the written concurrence of each of these parties. These agreements for engineering or design/build services will require, or the borrower will otherwise obtain, assurance satisfactory to the State Director that:

(a) The project engineer will maintain adequate insurance to protect the borrower, lender and the Government from incurring expenses resulting from errors and omissions of the engineer in performance of engineering services.

(b) The project engineer will certify that only proven equipment and processes will be utilized in the proposed development. The State Director may request evidence of successful operations of such proven equipment and process. If proven equipment or processes are not used in the project, the project engineer will identify these items and provide the information necessary for acceptance by the Administrator, borrower and lender in accordance with paragraph (I)(B)(2) of this appendix.

(c) If used equipment or existing facilities are incorporated into the project, they must be inspected by the project engineer or by another qualified engineer of the borrower. This engineer will prepare a report describing the proposed facilities or equipment and will comment on their suitability for use in the project. The report will also identify the modifications necessary for successful integration into the project. A cost estimate will also be included comparing new equipment