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(iii) Is experiencing trauma as a result of natural disaster, or

(iv) Is experiencing fundamental structural changes in its economic base.

(b) *Annual renewal fee.* The annual renewal fee is paid once a year and is required to maintain the enforceability of the guarantee as to the lender.

(1) The rate of the annual renewal fee (a specified percentage) is established by Rural Development in an annual notice published in the FEDERAL REGISTER, multiplied by the outstanding principal loan balance as of December 31 of each year, multiplied by the percent of guarantee. The rate is the rate in effect at the time the loan is obligated, and will remain in effect for the life of the loan.

(2) Annual renewal fees are due on January 31. Payments not received by April 1 are considered delinquent and, at the Agency's discretion, may result in cancellation of the guarantee to the lender. Holders' rights will continue in effect as specified in the Loan Note Guarantee and Assignment Guarantee Agreement. Any delinquent annual renewal fees will bear interest at the note rate and will be deducted from any loss payment due the lender. For loans where the Loan Note Guarantee is issued between October 1 and December 31, the first annual renewal fee payment will be due January 31 of the second year following the date the Loan Note Guarantee was issued.

[70 FR 57486, Oct. 3, 2005]

§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

(iv) The total amount of loans guaranteed under this section does not exceed 10 percent of the funds available for the fiscal year.

(4) An eligible cooperative organization may refinance an existing B&I loan provided that the existing loan is current and performing, the existing loan is not and has not been in payment default (more than 30 days late) or the collateral of which has not been converted, and there is adequate security or full collateral for the new B&I loan.

(e) *Other credit.* All applications for assistance will be accepted and processed without regard to the availability of credit from any other source.

[61 FR 67633, Dec. 23, 1996, as amended at 67 FR 78130, Dec. 23, 2002; 69 FR 64830, Nov. 9, 2004]

§§ 4279.109–4279.112 [Reserved]

§ 4279.113 Eligible loan purposes.

Loan purposes must be consistent with the general purpose contained in § 4279.101 of this subpart. They include but are not limited to the following:

(a) Business and industrial acquisitions when the loan will keep the business from closing, prevent the loss of employment opportunities, or provide expanded job opportunities.

(b) Business conversion, enlargement, repair, modernization, or development.

(c) Purchase and development of land, easements, rights-of-way, buildings, or facilities.

(d) Purchase of equipment, leasehold improvements, machinery, supplies, or inventory.

(e) Pollution control and abatement.

(f) Transportation services incidental to industrial development.

(g) Startup costs and working capital.

(h) Agricultural production, when not eligible for Farm Service Agency (FSA) farmer program assistance and when it is part of an integrated business also involved in the processing of agricultural products.

(1) Examples of potentially eligible production include but are not limited to: An apple orchard in conjunction with a food processing plant; poultry buildings linked to a meat processing operation; or sugar beet production coupled with storage and processing. Any agricultural production considered for B&I financing must be owned, operated, and maintained by the business receiving the loan for which a guarantee is provided. Independent agricultural production operations, even if not eligible for FSA farmer programs assistance, are not eligible for the B&I program.

(2) The agricultural-production portion of any loan will not exceed 50 percent of the total loan or $1 million, whichever is less.

(i) Purchase of membership, stocks, bonds, or debentures necessary to obtain a loan from Farm Credit System institutions and other lenders provided that the purchase is required for all of their borrowers.

(j) Purchase of cooperative stock by individual farmers or ranchers in a farmer or rancher cooperative established for the purpose of processing an agricultural commodity.

(1) The cooperative may contract for services to process agricultural commodities or otherwise process value-added agricultural products during the 5-year period beginning on the operation startup date of the cooperative in order to provide adequate time for the planning and construction of the processing facility of the cooperative.