§ 4279.227 Borrower eligibility. 

Borrower eligibility will be determined according to the provisions of this section in lieu of § 4279.108.

(a) Eligible entities. To be eligible, a borrower must meet the requirements specified in paragraphs (a)(1) and (a)(2) of this section, as applicable.

(1) Type of borrower. The borrower must be one of the following:

(i) An individual;
(ii) An entity;
(iii) An Indian tribe;
(iv) A unit of State or local government;
(v) A corporation;
(vi) A farm cooperative;
(vii) A farmer cooperative organization;
(viii) An association of agricultural producers;
(ix) A National Laboratory;
(x) An institution of higher education;
(xi) A rural electric cooperative;
(xii) A public power entity; or
(xiii) A consortium of any of the above entities.

(b) Annual renewal fee. The annual renewal fee, which may be passed on to the borrower, will be paid to the Agency as long as the guaranteed loan is outstanding and is payable during the construction period. Unless otherwise specified by the Agency in a notice published in the Federal Register, the annual renewal fee shall be as follows:

(1) One hundred basis points (1 percent) for guarantees on loans that were originally greater than 75 percent of total project costs.
(2) Seventy five basis points (0.75 percent) for guarantees on loans that were originally greater than 65 percent but less than or equal to 75 percent of total project costs.
(3) Fifty basis points (0.50 percent) for guarantees on loans that were originally for 65 percent or less of total project costs.

§ 4279.228 Project eligibility.

In lieu of the requirements specified in §4279.113, to be eligible for a guaranteed loan under this subpart, at a minimum, a borrower and project, as applicable, must meet each of the requirements specified in paragraphs (a) through (g) of this section.

(a) The project must be located in a State, as defined in §4279.2.

(b) The project must be for either:

(1) The development and construction of commercial-scale biorefineries using eligible technology or
(2) The retrofitting of existing facilities, including, but not limited to, wood products facilities and sugar mills, with eligible technology.

(c) The project must use an eligible feedstock for the production of advanced biofuels and biobased products. Eligible feedstocks include, but are not
limited to, renewable biomass, including municipal solid waste consisting of renewable biomass, biosolids, treated sewage sludge, and byproducts of the pulp and paper industry. For the purposes of this subpart, recycled paper is not an eligible feedstock.

(d) The majority of the biorefinery production must be an advanced biofuel. Unless otherwise approved by the Agency, and determined to be in the best financial interest of the government, the advanced biofuel must be sold as a biofuel. The following will be considered in determining what constitutes the majority of production:

(1) When the biorefinery produces a biobased product and, if applicable, byproduct that has an established BTU content from a recognized Federal source, majority biofuel production will be based on BTU content of the advanced biofuel, the biobased product, and, if applicable, the byproduct, or

(2) When the biorefinery produces a biobased product or, if applicable, byproduct that does not have an established BTU content, then majority biofuel production will be based on output volume, using parameters announced by the Agency in periodic Notices in the FEDERAL REGISTER, of the advanced biofuel, the biobased product, and, if applicable, the byproduct.

(e) An advanced biofuel that is converted to another form of energy for sale will still be considered an advanced biofuel.

(f) The project must provide funds (e.g., cash, subordinate financing, non-federal grant) of not less than 20 percent of eligible project costs. All projects must meet the equity requirements specified in §4279.234(c)(1).

(g) The Agency will consider refinancing only under either of the two conditions specified in paragraphs (g)(1) and (g)(2) of this section.

(1) Permanent financing used to refinance interim construction financing of the proposed project only if the application for the guaranteed loan under this subpart was approved prior to closing the interim loan for the construction of the facility.

(2) Refinancing that is no more than 20 percent of the loan for which the Agency is guaranteeing and the purpose of the refinance is to enable the Agency to establish a first lien position with respect to pre-existing collateral subject to a pre-existing lien and the refinancing would be in the best financial interests of the Federal Government.

§ 4279.229 Guaranteed loan funding.

Instead of the provisions found in §4279.119, the provisions of this section apply to loans guaranteed under this subpart.

(a) In administering this program’s budgetary authority each fiscal year, the Agency will allocate up to, but no more, than 50 percent of its budgetary authority to fund applications received by the end of the first application window, including those carried over from the previous application period. Any funds not obligated to support applications submitted by the end of the first application window will be available to support applications received by the end of the second window, including those carried over from the previous application period. The Agency, therefore, will have a minimum of 50 percent of each fiscal year’s budgetary authority for this program available to support applications received by the end of the second application window.

(b) The amount of a loan guaranteed for a project under this subpart will not exceed 80 percent of total eligible project costs. Total Federal participation will not exceed 80 percent of total eligible project costs. The borrower needs to provide the remaining 20 percent from other non-Federal sources to complete the project. Eligible project costs are specified in paragraph (e) of this section.

(c) The maximum principal amount of a loan guaranteed under this subpart is $250 million to one borrower; there is no minimum amount. If an eligible borrower receives other direct Federal funding (i.e., direct loans and grants) for a project, the amount of the loan that the Agency will guarantee under this subpart must be reduced by the same amount of the other direct Federal funding that the eligible borrower received for the project. For example, an eligible borrower is applying for a loan guarantee on a $1 million project. The borrower provides the minimum matching requirement of 20 percent, or