

#### § 1779.4

which a reasonably prudent lender would act up to the time of loan maturity, or until a final loss is paid. The Loan Note Guarantee or Assignment Guarantee Agreement in the hands of a holder shall not cover interest accruing 90 days after the holder has demanded repurchase by the lender, nor shall the Loan Note Guarantee or Assignment Guarantee Agreement in the hands of a holder cover interest accruing 90 days after the lender or Agency has requested the holder to surrender the evidence of debt for repurchase.

#### § 1779.4 Conditions of guarantee.

A loan guarantee under this part will be evidenced by a Loan Note Guarantee issued by the Agency. Each lender will also execute a Lender's Agreement.

(a) The entire loan will be secured by the same security with equal lien priority for the guaranteed and non-guaranteed portions of the loan. The non-guaranteed portion of the loan will not be paid first nor given any preference or priority over the guaranteed portion.

(b) The lender will be responsible for servicing the entire loan and will remain mortgagee or secured party of record notwithstanding the fact that another party may hold a portion of the loan.

(c) When a guaranteed portion of a loan is sold to a holder, the holder shall have all rights of the lender under the Loan Note Guarantee to the extent of the portion purchased. The lender will remain bound by all the obligations under the Loan Note Guarantee, Lender's Agreement, and Agency program regulations. If the Agency makes a payment to a holder, then the lender must reimburse the Agency.

(d) A lender will receive all payments of principal and interest on the account of the entire loan and will promptly remit to each holder a pro rata share, less any lender servicing fee.

(e) The lender may retain all of the unguaranteed portion of the loan or may sell part of the unguaranteed portion of the loan through participation. However, the lender is required to retain 5 percent of the loan amount from the unguaranteed portion in their portfolio.

#### 7 CFR Ch. XVII (1-1-18 Edition)

#### §§ 1779.5-1779.7 [Reserved]

#### § 1779.8 Access to lender's records.

Upon request by the Agency, the lender will permit representatives of the Agency (or other agencies of the U.S. Department of Agriculture authorized by that Department or the U.S. Government) to inspect and make copies of any of the records of the lender pertaining to the guaranteed loans. Such inspection and copying may be made during regular office hours of the lender or at any other time the lender and the Agency agree upon.

#### § 1779.9 Environmental review requirements.

Facilities financed under this part must comply with the environmental review requirements in accordance with 7 CFR part 1970. In accordance with Agency guidance documents, the environmental review requirements shall be performed by the applicant simultaneously and concurrently with the project's engineering planning and design. The lender must assist the Agency in ensuring that the borrower complies with the Agency's environmental review requirements and implements any mitigation measure identified in the environmental review document or Conditional Commitment for Guarantee.

[81 FR 11028, Mar. 2, 2016]

#### §§ 1779.10-1779.11 [Reserved]

#### § 1779.12 Inspections.

The lender will notify the Agency of any scheduled field inspections during construction and after issuance of the Loan Note Guarantee. The Agency may attend such field inspections. Any inspections or review conducted by the Agency, including those with the lender, are for the benefit of the Agency only and not for the benefit of other parties in interest. Agency inspections do not relieve any parties in interest of their responsibilities to conduct necessary inspections.

#### § 1779.13 Appeals.

Only the borrower, lender, or holder can appeal an Agency decision. In cases where the Agency has denied or reduced the amount of final loss payment