

U.S.C. 2302(b) (1), 29 U.S.C. 206(d), 29 U.S.C. 631, 29 U.S.C. 633a, 29 U.S.C. 791 and 42 U.S.C. 2000e-16.

If you believe that you have been the victim of unlawful discrimination on the basis of race, color, religion, sex, national origin or disability, you must contact an Equal Employment Opportunity (EEO) counselor within 45 calendar days of the alleged discriminatory action, or, in the case of a personnel action, within 45 calendar days of the effective date of the action, before you can file a formal complaint of discrimination with your agency. *See, e.g.*, 29 CFR 1614. If you believe that you have been the victim of unlawful discrimination on the basis of age, you must either contact an EEO counselor as noted above or give notice of intent to sue to the Equal Employment Opportunity Commission (EEOC) within 180 days of the alleged discriminatory action. If you are alleging discrimination based on marital status or political affiliation, you may file a written complaint with the U.S. Office of Special Counsel (OSC) (*see* contact information below). In the alternative (or in some cases, in addition), you may pursue a discrimination complaint by filing a grievance through your agency's administrative or negotiated grievance procedures, if such procedures apply and are available.

#### Whistleblower Protection Laws

A Federal employee with authority to take, direct others to take, recommend or approve any personnel action must not use that authority to take or fail to take, or threaten to take or fail to take, a personnel action against an employee or applicant because of disclosure of information by that individual that is reasonably believed to evidence violations of law, rule or regulation; gross mismanagement; gross waste of funds; an abuse of authority; or a substantial and specific danger to public health or safety, unless disclosure of such information is specifically prohibited by law and such information is specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs.

Retaliation against an employee or applicant for making a protected disclosure is prohibited by 5 U.S.C. 2302(b)(8). If you believe that you have been the victim of whistleblower retaliation, you may file a written complaint (Form OSC-11) with the U.S. Office of Special Counsel at 1730 M Street NW., Suite 218, Washington, DC 20036-4505 or online through the OSC Web site—[www.osc.gov](http://www.osc.gov).

#### Retaliation for Engaging in Protected Activity

A Federal agency cannot retaliate against an employee or applicant because that individual exercises his or her rights under any of the Federal antidiscrimination or whistleblower protections laws listed above. If you believe that you are the victim of retaliation for engaging in protected activity, you must follow, as appropriate, the procedures described in the Antidiscrimination Laws and Whistleblower Protection Laws sections or, if applicable, the administrative or negotiated grievance procedures in order to pursue any legal remedy.

#### Disciplinary Actions

Under the existing laws, each agency retains the right, where appropriate, to discipline a Federal employee who has engaged in discriminatory or retaliatory conduct, up to and including removal. If OSC has initiated an investigation under 5 U.S.C. 1214, however, according to 5 U.S.C. 1214(f), agencies must seek approval from the Special Counsel to discipline employees for, among other activities, engaging in prohibited retaliation. Nothing in the No FEAR Act alters existing laws or permits an agency to take unfounded disciplinary action against a Federal employee or to violate the procedural rights of a Federal employee who has been accused of discrimination.

#### Additional Information

For further information regarding the No FEAR Act regulations, refer to 5 CFR 724, as well as the appropriate offices within your agency (*e.g.*, EEO/civil rights office, human resources office or legal office). Additional information regarding Federal antidiscrimination, whistleblower protection and retaliation laws can be found at the EEOC Web site—[www.eeoc.gov](http://www.eeoc.gov) and the OSC Web site—[www.osc.gov](http://www.osc.gov).

#### Existing Rights Unchanged

Pursuant to section 205 of the No FEAR Act, neither the Act nor this notice creates, expands or reduces any rights otherwise available to any employee, former employee or applicant under the laws of the United States, including the provisions of law specified in 5 U.S.C. 2302(d).

#### § 724.203 Training Obligations.

(a) Each agency must develop a written plan to train all of its employees (including supervisors and managers) about the rights and remedies available under the Antidiscrimination Laws and Whistleblower Protection Laws applicable to them.

(b) Each agency shall have the discretion to develop the content and method of its training plan. Each agency training plan shall describe:

- (1) The content and method of the training,
- (2) The training schedule, and
- (3) The means of documenting completion of training.

(c) Each agency may contact EEOC and/or OSC for information and/or assistance regarding the agency's training program. Neither agency, however, shall have authority under this regulation to review or approve an agency's training plan.

(d) Each agency is *encouraged* to implement its training as soon as possible, but *required* to complete the initial training under this subpart for all employees (including supervisors and managers) by the end of fiscal year 2005. Thereafter, each agency must train all existing employees on a training cycle of no longer than every 2 years.

(e) After the initial training is completed, each agency must train new

employees as part of its agency orientation program. Any agency that does not have a new employee orientation program must train new employees within 60 business days of the new employees' appointment.

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## DEPARTMENT OF AGRICULTURE

### Rural Business-Cooperative Service

#### Rural Utilities Service

#### 7 CFR Part 4279

#### RIN 0570-AA34

### Business and Industry Guaranteed Loan Program Annual Renewal Fee

**AGENCY:** Rural Business-Cooperative Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** The Rural Business-Cooperative Service (RBS) proposes to amend its regulation for Business and Industry (B&I) Guaranteed Loans to remove all references to a one-time, specific loan guarantee fee and provide the authority for the charging of an annual renewal fee on all loans obligated after the publication of the final rule. The intended effect of this rule is to reduce the subsidy rate for guaranteed loans and its associated budget authority dollar level, which will result in a greater level of assistance to the public (*i.e.*, higher supportable loan level). A notice will be published in the **Federal Register** each fiscal year that will establish the guarantee fee and any annual renewal fees for loans obligated during that fiscal year.

**DATES:** Written or e-mail comments must be received on or before April 29, 2005 to be assured of consideration.

**ADDRESSES:** Submit written comments via U.S. Postal Service, in duplicate, to the Regulations and Paperwork Management Branch, Attention: Cheryl Thompson, Rural Development, U.S. Department of Agriculture, STOP 0742, 1400 Independence Avenue, SW., Washington, DC 20250-0742. Submit written comments via Federal Express Mail, in duplicate, to the Regulations and Paperwork Management Branch, Attention: Cheryl Thompson, USDA-Rural Development, 7th Floor, 300 7th St., SW., Washington, DC 20546. Also, comments may be submitted via the Internet by addressing them to [comments@rus.usda.gov](mailto:comments@rus.usda.gov). The comment must contain the word *Fee* in the subject line. All comments will be available for

public inspection during regular work hours at the 300 7th St., SW., address listed above.

**FOR FURTHER INFORMATION CONTACT:** Rick Bonnet, Special Projects/Programs Oversight Division, Rural Business-Cooperative Service, U.S. Department of Agriculture, STOP 3221, 1400 Independence Avenue, SW., Washington, DC 20250-3221, telephone (202) 720-1804, or by e-mail to [rick.bonnet@usda.gov](mailto:rick.bonnet@usda.gov).

**SUPPLEMENTARY INFORMATION:**

**Classification**

This proposed rule has been determined to be significant and has been reviewed by the Office of Management and Budget (OMB) under Executive Order 12866.

**Programs Affected**

The Catalog of Federal Domestic Assistance number for the program impacted by this action is 10.768, Business and Industry Loans.

**Intergovernmental Review**

Business and Industry Guaranteed Loans are subject to the provisions of Executive Order 12372, which require intergovernmental consultation with state and local officials. RBS will conduct intergovernmental consultation in the manner delineated in RD Instruction 1940-J, "Intergovernmental Review of Rural Development Programs and Activities" and 7 CFR part 3015, subpart V.

**Civil Justice Reform**

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. In accordance with this rule, (1) all state and local laws and regulations that are in conflict with this rule will be preempted, (2) no retroactive effect will be given this rule, and (3) administrative proceedings of the National Appeals Division (7 CFR part 11) must be exhausted before bringing suit in court challenging action taken under this rule.

**Environmental Impact Statement**

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, "Environmental Program." RBS has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and, in accordance with the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, an Environmental Impact Statement is not required.

**Paperwork Reduction Act**

In accordance with the Paperwork Reduction Act of 1995, the Agency will seek OMB approval of the reporting requirements contained in this regulation. These reporting and recordkeeping requirements have been previously approved under OMB control number 0570-0017. The estimate of burden is as follows:

*Estimate of Burden:* Burden per response is 30 minutes.

*Respondents:* Lenders and business owners.

*Estimated Number of Respondents:* 1,725.

*Estimated Number of Responses per Respondent:* 1.

*Estimated Number of Responses:* 1,725.

*Estimated Total Annual Burden of Respondents:* 863 hours.

*Comments:* Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of RBS, including whether the information will have a practical utility; (b) the accuracy of RBS's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Cheryl Thompson, Regulations and Paperwork Management Branch, Rural Development, U.S. Department of Agriculture, STOP 0742, 1400 Independence Avenue, SW., Washington, DC 20250-0742. All responses to this rule will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

**Unfunded Mandates**

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104-4 establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, RBS generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, or tribal governments, in the aggregate, or to the private sector of \$100 million or

more in any one year. When such a statement is needed for a rule, section 205 of UMRA generally requires RBS to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective, or least burdensome alternative that achieves the objectives of the rule. This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

**Regulatory Flexibility Act**

In compliance with the Regulatory Flexibility Act, RBS has determined that this action would not have a significant economic impact on a substantial number of small entities, because the action will not affect a significant number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601). RBS made this determination based on the fact that this regulation only impacts those who choose to participate in the program. Small entity applicants will not be impacted to a greater extent than large entity applicants.

**Executive Order 13132**

It has been determined that, under Executive Order 13132, Federalism, this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will not have a substantial direct effect on states or their political subdivisions or on the distribution of power and responsibilities among the various levels of government.

**Executive Order 13175**

Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, imposes requirements on USDA in the development of regulatory policies that have tribal implications or preempt tribal law. USDA has determined that the proposed regulation does not have a substantial direct effect on one or more Indian tribes or on either the relationship or the distribution of powers and responsibilities between the Federal Government and the Indian Tribes. Thus, the proposed rule is not subject to the requirements of Executive Order 13175.

**Discussion of the Proposed Rule**

The cost of the B&I Guaranteed Loan Program has gone up in recent years. This is due to higher defaults and lower interest rates. In the meantime, there is still an interest in funding this program

in order to improve, develop, or finance business, industry, and employment and improve the economic and environmental climate in rural communities. To do that in a cost efficient manner for the taxpayer, RBS is proposing to implement an annual renewal fee. This will reduce the subsidy but will allow us to maintain the level of assistance that has been historically provided for this program at a level or even reduced cost to the taxpayers.

The proposed annual renewal fee is based on Small Business Administration (SBA) programs and is adopted for this program to provide additional funds to supplement the available funds appropriate to the program, thereby allowing the program to reach more potential applicants. Additionally, this type of fee is consistent with the recently authorized Renewable Energy Systems and Energy Efficiency Improvements Guaranteed Loan Program within RBS. The borrower pool for the B&I Guaranteed Loan is even more likely to be able to afford this type of fee than the other programs mentioned because they are not required to lack the ability to get credit elsewhere.

The SBA 7(a) Loan Guarantee Program and the B&I program are similar in that they both require an initial one-time fee; and 7(a) loans have an annual fee similar to the one being proposed for the B&I program. In fiscal year 1996, SBA made major changes in its 7(a) program by lowering the maximum percentage of the loan which could be guaranteed and increasing both the initial fee and the annual fee, which made the program more expensive and less valuable for borrowers and lenders. We examined changes in loan volume and loss levels associated with these changes, and found no convincing evidence that the FY96 changes decreased demand for the 7(a) program.

Subsidy rates are established using historic loss data from the program and other assumptions. In recent years the subsidy rate has increased significantly, resulting in a reduction in the amount of loans that could be guaranteed with the same budget authority. In the absence of additional budgetary authority, the proposed annual fee is necessary to cover expected losses from the program. The effect of the fee on the loan demand and program activity over the long term will depend on the size of the fee and other factors not related to the fee, including interest rates and general economic growth. This proposed change is prudent and cost efficient and will allow us to maintain the level of assistance going to rural

America at a reasonable cost to the taxpayer.

#### List of Subjects in 7 CFR Part 4279

Loan programs— Business and industry—Rural development assistance, Rural areas.

Therefore, chapter XLII, title 7, Code of Federal Regulations, is proposed to be amended as follows:

#### PART 4279—GUARANTEED LOANMAKING

1. The authority citation for part 4279 is revised to read as follows:

Authority: 5 U.S.C 301, 7 U.S.C 1989.

#### Subpart B—Business and Industry Loans

2. Section 4279.107 is revised to read as follows:

##### § 4279.107 Guarantee fee.

(a) For all new loans there are two types of non-refundable guarantee fees to be paid by the borrower to the lender and forwarded to the Agency. The fees may be forwarded to the Agency by a check payable to USDA/Rural Development, using Agency Form “Annual Renewal Fee Transmittal” or an USDA-approved electronic funds transfer system. The fee rate will be published annually by a notice in the **Federal Register**.

(1) The initial fee is paid at the time the Loan Note Guarantee is issued. The fee may be included as an eligible loan purpose in the guaranteed loan. The fee will be the rate (a specified percentage) multiplied by the principal loan amount, multiplied by the percent of guarantee.

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

(i) The annual renewal fee is the rate established by Rural Development in the annual notice in the **Federal Register**, multiplied by the outstanding principal loan amount, as of December 31 of each year. The rate of the fee is the rate in effect at the time of original issuance of the Conditional Commitment for the loan and will remain in effect for the life of the loan.

(ii) Annual renewal fees are due on March 1. Payments not received by April 1 are delinquent and will result in cancellation of the guarantee to the lender. Holders' rights will continue in effect as specified in the Loan Note Guarantee. For loans where the Loan Note Guarantee is issued between October 1 and December 31, the first annual guarantee fee payment is due March 1 of the second year following

the date the Loan Note Guarantee was issued.

(b) Subject to specified annual limits set by the Agency, the initial guarantee fee may be reduced to 1 percent if the borrower's business supports value-added agriculture and results in farmers benefiting financially, or

(1) Is a high impact business development investment in accordance with § 4279.155(b)(5), and

(2) Is located in a rural community that is:

- (i) Experiencing long-term population decline and job deterioration, or
- (ii) Has remained persistently poor over the last 60 years, or
- (iii) Experiencing trauma as a result of natural disaster, or
- (iv) That is experiencing fundamental structural changes in its economic base.

Dated: February 16, 2005.

**Gilbert Gonzalez,**

*Acting Under Secretary, Rural Development.*

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## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 72

#### RIN 3150-AH63

#### List of Approved Spent Fuel Storage Casks: NUHOMS®-24PT4 Revision

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations revising the Transnuclear, Inc., Standardized Advanced NUHOMS® System listing within the “List of Approved Spent Fuel Storage Casks” to include Amendment No. 1 to Certificate of Compliance Number (CoC No.) 1029. Amendment No. 1 would add another Dry Shielded Canister, designated NUHOMS®-24PT4, to the authorized contents of the Standardized Advanced NUHOMS® System. Also, the NRC staff is proposing that changes be made to the rule to correct a typographical error that incorrectly states the expiration date of the CoC.

**DATES:** Comments on the proposed rule must be received on or before March 30, 2005.

**ADDRESSES:** You may submit comments by any one of the following methods. Please include the following number (RIN 3150-AH63) in the subject line of your comments. Comments on rulemakings submitted in writing or in