



This document is scheduled to be published in the Federal Register on 08/16/2016 and available online at <http://federalregister.gov/a/2016-19430>, and on FDsys.gov

BILLING CODE (3410-XY-P)

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Rural Utilities Service

7 CFR Parts 4279 and 4287

RIN 0570-AA85

Guaranteed Loanmaking and Servicing Regulations; Correction

AGENCIES: Rural Business-Cooperative Service and Rural Utilities Service; USDA.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to the final rule published in the Federal Register of June 3, 2016, entitled "Guaranteed Loanmaking and Servicing Regulations."

DATES: Effective [Insert date of publication in the **Federal Register**].

FOR FURTHER INFORMATION CONTACT: Brenda Griffin, Rural Development, Business Programs, U.S. Department of Agriculture, 1400 Independence Ave., SW, Stop 3224, Washington, DC, 20250-3224; email: Brenda.griffin@wdc.usda.gov; telephone number: (202) 720-6802.

SUPPLEMENTARY INFORMATION:

Need for Correction

On June 3, 2016, the Agency published a final rule for

the Business and Industry (B&I) Guaranteed Loan Program (81 FR 35984). Since then, the Agency has discovered three necessary technical corrections.

First. The Agency is clarifying that the list of eligible regulated lenders, which are identified in § 4279.29(a), can include "other financial institutions" that are, like the other entities already listed in said paragraph, "subject to credit examination and supervision by an agency of the United States or a State." This clarification implements the intent of the Agency to offer eligibility to all regulated lenders. As currently written, an unintended consequence is that some of the program's historically highest performing lenders may be excluded from eligibility.

Second. The Agency is correcting an inconsistency between a provision in § 4279.131(b)(1)(ii), associated with how the value of collateral is calculated for newly acquired equipment and a provision in § 4279.144, identifying when an appraisal of collateral is required. Briefly, the first provision allows the value of the collateral to be based on the purchase price of the newly acquired equipment without the need for an appraisal regardless of the purchase price, while the second provision as currently written, requires an appraisal for

such newly acquired equipment when the purchase price exceeds \$250,000. This poses a contradiction for newly acquired equipment whose collateral value, based on purchase price, is greater than \$250,000 - is an appraisal required or not? The intent of the Agency is found in the first provision and the correction being made is to modify the second provision to indicate that an appraisal is not required for newly acquired equipment whose collateral value is based on the purchase price. This correction provides clarity to the regulation as well as saves borrowers the added processing time and expense of obtaining an appraisal when purchasing new equipment in excess of \$250,000.

Third. One of the changes that the final rule put into effect was to limit interest accrual associated with guaranteed loans "closed on or after" the effective date of the rule (i.e., August 2, 2016). This provision was supposed to have been addressed consistently throughout the provisions. The Agency identified two places in bankruptcy provisions (§ 4287.170(b)(3)(i) and (ii)) where this change was unintentionally not made. This notice corrects those oversights.

List of Subjects for 7 CFR Parts 4279 and 4287

Loan programs—Business and industry, Direct loan programs, Economic development, Energy, Energy efficiency improvements, Grant programs, Guaranteed loan programs, Renewable energy systems, Rural areas, and Rural development assistance.

Accordingly, 7 CFR chapter XLIII is amended by making the following correcting amendments:

PART 4279 - GUARANTEED LOAN MAKING

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

Authority: 5 U.S.C. 301; and 7 U.S.C. 1989.

Subpart A - General

§ 4279.29 [Amended]

2. Amend the first sentence of § 4279.29(a) by adding "or other financial institution" after "State chartered bank".

Subpart B - Business and Industry Loans

3. Revise the first sentence of § 4279.144 introductory text to read as follows:

§ 4279.144 Appraisals

* * * * *

Lenders must obtain appraisals for real estate and

chattel collateral when the value of the collateral exceeds \$250,000, unless the chattel is newly-acquired equipment and the value is supported by a bill of sale. * * *

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PART—SERVICING

4. The authority citation for part 4287 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1932(a); 7 U.S.C. 1989.

Subpart B - Servicing Business and Industry Guaranteed

Loans

§ 4287.170 [Amended]

5. Amend § 4287.170(b)(3)(i) introductory text and (b)(3)(ii) by removing “approved” and adding “closed” in its place.

Dated: August 9, 2016.

Samuel H. Ridders
Administrator
Rural Business-Cooperative Service

Dated: August 10, 2016.

Brandon McBride
Administrator

Rural Utilities Service

[FR Doc. 2016-19430 Filed: 8/15/2016 8:45 am; Publication Date: 8/16/2016]