

RD AN No. 4678 (1980-E, 4280-B, 4287-B
and 7 CFR part 4287, subpart D)

September 13, 2012

TO: State Directors, Rural Development

ATTN: Business Programs Directors

SUBJECT: Business and Industry Guaranteed and Direct Loans, Section 9003 Bio-refinery Assistance Loan, Section 9006 Renewable Energy Systems and Energy Efficiency Improvement Guaranteed Loan Program and Section 9007 Rural Energy for America Program
Submitting Servicing Action Requests to Rural Development (National Office)

PURPOSE/INTENDED OUTCOME:

To provide guidance on the information to be submitted to the National Office for Business and Industry (B&I) Guaranteed and Direct Loan Programs, Bio-refinery Assistance Program (BAP), Section 9006 Renewable Energy Systems and Energy Efficiency Improvement Guaranteed Loan Program (Section 9006) and Rural Energy for America Program (REAP) guaranteed loan servicing action requests.

COMPARISON WITH PREVIOUS AN:

There is no previous Administrative Notice.

IMPLEMENTATION RESPONSIBILITIES:

In accordance with the administrative language contained in RD Instruction 4279-B, section 4279.165(e), 7 CFR part 4287, subpart D, the National Office Executive Loan (NOEL), National Office Business and Industry (NOBI) Committees, and the National Office Renewable Energy (NORE) Committee will evaluate recommendations and recommend loan processing and/or servicing action(s) on all B&I, BAP, Section 9006, and REAP guaranteed and/or direct loan servicing actions that are in excess of delegated authorities given to State Directors.

EXPIRATION DATE:
September 30, 2013

FILING INSTRUCTIONS:
Preceding RD Instructions 1980-E, 4280-B, 4287-B
and 7 CFR part 4287, subpart D

RD Instruction 4287-B, Appendix A, Modification or Administrative Action, is the format for providing information on a servicing action request. This document is required and is a part of the Agency's instructions. As a reminder, all servicing actions exceeding your delegated authority must be submitted to the National Office for concurrence prior to approval.

Your request for Modification or Administrative Action must be in the proper format and include a complete explanation of the request, detailed analysis, supporting documentation, and the State Director's recommendation. Guaranteed loans must be supported by a recommendation from the lender on official letterhead. The information should include, at a minimum, the State Loan Committee minutes, prior related actions, current financial information for the borrower, co-borrower, and any guarantor (note any changes in financial conditions) documentation to support value of collateral, loan covenant violations, proposal to mitigate or correct violations, environmental concerns with comments from the State Environmental Coordinator, as applicable, Regional Attorney comments/opinions, the lender's financial analysis and credit memorandum, any findings from lender and/or borrower visits, and any concerns of lender negligence, fraud, and/or misrepresentation. All requests should address regulatory requirements; i.e., recommendations for liquidation should be accompanied by the documentation required in a liquidation plan. In summary, the request should include any and all information necessary to make an informed credit decision.

The Modification or Administrative Action form requires program officials to communicate the request and provide justification for the recommendation (discuss the worse case scenario, i.e. what will happen if the proposed action is not taken). In addition to the Modification or Administrative Action form, the transmittal memorandum, with a recommendation, must be signed by the State Director or his/her designee.

A detailed review of the lender's financial analysis with comments from the lender and your office is required. The documentation should clearly identify the risk(s) to the Agency (best estimate of loss and potential negative implications). All alternatives should be clearly communicated, and documentation included, supporting the proposed action as the best alternative for the Agency. If the borrower is out of compliance with the Loan Agreement, please provide this information and advise what actions are being taken to bring the borrower into compliance.

Requests involving legal concerns require legal review and must be reviewed by the Regional Attorney prior to submission to the National Office. Requests for National Office action should include opinions and/or Regional Attorney's comments.

When submitting B&I, BAP, Section 9006 and REAP program requests to the National Office, including requests for servicing actions, please provide the information about the case in the revised format. This is the absolute minimum information needed. This will enable us to maintain a consistent record of the circumstances involved and to expedite your requests in a timely manner.

Request for waivers must include documentation to support why proposed actions are in the best interest of the United States Department of Agriculture. When considering a request for release of collateral, please refer to RD Instruction 4287-B, section 4287.113(c), for additional guidance.

We appreciate the time-sensitive nature of servicing actions and provide these guidelines to facilitate expeditious responses to your request. Often, incomplete requests are submitted which prevent this office from evaluating loan servicing requests in a timely manner. A complete submission, which addresses the requirements of this AN, can assist us to improve customer service. Your assistance is greatly appreciated.

All Section 9006 and REAP guaranteed loans are to be serviced in accordance with RD Instruction 4280-B, section 4280.152.

All BAP guaranteed loans are to be serviced in accordance with 7 CFR part 4287, section 4287.307.

If you have any questions, please contact the B&I Division, Servicing Branch at (202) 690-4103.

(Signed by John C. Padalino)

John C. Padalino
Acting Administrator
Rural Business-Cooperative Service