

time the Loan Note Guarantee is issued.

(a) The fee will be paid to the Agency by the lender and is nonreturnable. The lender may pass on the fee to the borrower.

(b) Guarantee fee rates are specified in exhibit K of RD Instruction 440.1 (available in any Rural Development Office).

[64 FR 7402, Feb. 12, 1999]

**§ 1980.22 Charges and fees by lender.**

(a) *Routine charges and fees.* The lender may establish the charges and fees for the loan, provided they are the same as those charged other applicants for similar types of transactions. "Similar types of transactions" means those transactions involving the same type of loan requested for which a non-guaranteed loan applicant would be assessed charges and fees.

(b) *Late payment charges.* Late payment charges will not be covered by the Loan Note Guarantee. Such charges may not be added to the principal and interest due under any guaranteed note. Late payment charges may be made only if:

(1) *Routine.* They are routinely made by the lender in all types of loan transactions.

(2) *Payments received.* Payment has not been received within the customary time frame allowed by the lender. The term "payment received" means that the payment in cash or by check, money order, or similar medium has been received by the lender at its main office, branch office, or other designated place of payment.

(3) *Calculating charges.* The lender agrees with the applicant in writing that the rate or method of calculating the late payment charges will not be changed to increase charges while the Loan Note Guarantee is in effect.

[48 FR 30947, July 6, 1983, as amended at 50 FR 39884, Sept. 30, 1985; 58 FR 48291, Sept. 15, 1993; 64 FR 7402, Feb. 12, 1999]

**§ 1980.23 Prohibition of the guaranteeing of tax-exempt transactions.**

(a) FmHA or its successor agency under Public Law 103-354 will not guarantee any loan or line of credit made with the proceeds of any obligation the

interest on which is excludable from income under section 103 of the Internal Revenue Code of 1954, as amended (IRC). Funds generated through the issuance of tax-exempt obligations may not be used to purchase the guaranteed portion of any FmHA or its successor agency under Public Law 103-354 guaranteed loan or line of credit nor may an FmHA or its successor agency under Public Law 103-354 guaranteed loan or line of credit serve as collateral for a tax-exempt issue.

(b) The only time FmHA or its successor agency under Public Law 103-354 may guarantee a loan or line of credit for a project which involves tax-exempt financing is when the guaranteed loan funds are (1) used to finance a part of the project which is separate and distinct from the part of the project which is financed by the tax-exempt issue, and (2) the guaranteed loan or line of credit has at least a parity security position with the tax-exempt obligation.

[50 FR 39884, Sept. 30, 1985]

**§§ 1980.24-1980.39 [Reserved]**

**§ 1980.40 Environmental requirements.**

The need for an Environmental Impact Statement (EIS) will be determined by the FmHA or its successor agency under Public Law 103-354 approval official. The determination will be based upon FmHA or its successor agency under Public Law 103-354's completion of the appropriate environmental review and Form FmHA or its successor agency under Public Law 103-354 1940-20, "Request for Environmental Information," when required as set forth in subpart G of part 1940 of this chapter and other agency comments or other information available. If an EIS is necessary, applicants and lenders will be required to provide essential data for use in its preparation. FmHA or its successor agency under Public Law 103-354 State Directors will coordinate preparation and processing of any required EIS. If joint financing for the proposal is involved, the lead agency will be responsible for preparation of the EIS. In all cases, FmHA or its successor agency under Public Law 103-354 is responsible for assuring that the requirements of section 102(2)(c) of