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Department : Agriculture

STATE OF MINNESOTA
Office Memorandum

Date : December 7, 1995

To : Maryanne Hruby, Director
LCRAR

From : Carol Milligan 
Agriculture Planning Division

Phone : 296-6906

Subject : **Submittal of Statement of Need and Reasonableness**

As required by Minnesota Statutes, sections 14.131 and 14.23, attached are the Statements of Need and Reasonableness for seven sets of rules governing different programs of the Rural Finance Authority. The Notices of Intent to Adopt Rules and the rules will be published in the *State Register* on 12/26/95.

Please call me if you have any questions.

Attachment

**State of Minnesota
Department of Agriculture**

**In the Matter of the Proposed Rules
of the Department of Agriculture
Governing the Agricultural Development
Bond Beginning Farmer Loan Program**

**Statement of Need
and Reasonableness**

INTRODUCTION

This rule is needed to provide the procedures addressing implementation of the Agricultural Development Bond Beginning Farmer Loan Program (the program) by the Minnesota Rural Finance Authority (RFA). Minnesota Statutes, section 41C.13 states: "The authority may adopt rules for the efficient administration this chapter. The rules need not be adopted in compliance with chapter 14."

Minnesota Statutes, section 41C.03(d) instructs the authority to establish a beginning farmer loan program to aid in the acquisition of agricultural land and improvements and depreciable agricultural property by beginning farmers. Rules were adopted under M.S. 41C.13. These rules were exempt from chapter 14 and were adopted on that basis.

The department is readopting this rule in compliance with Minnesota Statutes, chapter 14 because changes to the chapter passed in 1995 make this necessary. Some of the parts of this rule are a restatement of portions of Minnesota Statutes, sections 41C.01 to 41C.13 in order to provide all information in one document to those who do not have access to Minnesota Statutes. This rule is provided to lending institutions, individuals with farm land for sale, potential applicants and to the general public.

SMALL BUSINESS IMPACT

All applicants and most of the eligible lenders (bond purchaser) who participate in this program are a small business. All parts of the proposed rule have been designed to provide time schedules, compliance requirements and performance standards acceptable to a small business, within the constraints of the law. No additional information and documentation is required from applicants than a responsible agricultural lender would require. Only the degree of care and diligence usually maintained by agricultural real estate lenders and those who sell land by contract for deed is required from the bond purchaser. There have been no significant complaints in the four years of this program from applicants or bond purchasers to any provisions not required by law.

COST TO PUBLIC BODIES

This rule will not result in the expenditure of public money by local public bodies.

1650.0501 APPLICABILITY AND PURPOSE

This part describes who the process applies to and its general purpose. It is reasonable to provide this part to set the limits of applicability and to inform readers as to the purpose of the program and the procedures.

1650.0511 DEFINITIONS

Definitions are necessary to clarify the meanings of specific words and phrases used throughout the rule. This part specifically refers to definitions from the enabling statute (Minnesota Statute, chapter 41C) as being applicable to this rule. This part also provides specific definitions for words and phrases used exclusively in this rule and which have specific meanings within this rule.

1650.0521 BORROWER ELIGIBILITY

This part delineates the criteria that must be met by an applicant to be eligible for this program. This part is necessary to provide the public with all of the eligibility criteria in one place. Criteria applicable to subpart 1 are in statute. It is reasonable to expect that applicants read the informational materials provided, including this rule, and personally certify that they are eligible (subp. 2.). The net worth rule (subp. 3.) is necessary and reasonable because one of the eligibility criteria is a low or moderate net worth as defined in statute.

1650.0531 OPERATION OF PROGRAM

The program is a federal bonding program administered by the state through the RFA. The RFA serves as the intermediary between the bond purchaser (an eligible lender), a beginning farmer and the federal government. The eligible lender will make the loan by purchasing from the RFA a federally tax-exempt private activity bond in the amount of the loan. The proceeds of that bond are lent to an eligible borrower by the RFA. The borrower gives a promissory note to the RFA. The note is assigned to the bond purchaser as security for the tax exempt bond. Operation of the program is controlled by Federal tax laws and the Internal Revenue Code of 1986, as amended, and the rules, regulations, and revenue procedures issued under it. Minnesota Statutes enables the RFA to administer the program and facilitates operation of the program. This part is necessary to provide eligible lenders, potential applicants and the general public who may not have access to the Federal tax laws, the Code and the Minnesota Statutes with the needed information all in one source.

Subpart 1.A. establishes the base level RFA loan and security, which is controlled by Minnesota Statutes, chapter 41C. All restrictions listed in subpart 1.B. come from the Code. Subpart 1.C-E, subpart 2 and subpart 3 are based on Minnesota Statutes, chapter 41C. It is necessary to require use of RFA provided standard documents and other documents as bond counsel requires (subpart 4) to ensure compliance with the Code.

Subpart 5 is necessary to establish and limit RFA responsibilities regarding tax matters. This subpart is reasonable because the RFA has no authority, knowledge or expertise in this area beyond that provided in Minnesota Statutes, chapter 41C, the loan documents, and bond counsel legal opinion.

Subpart 6 reflects restrictions in the Code. Subpart 7 is necessary to establish compliance responsibility in case of assignment of a bond and is reasonable to protect the interests of the borrower, who is the ultimate beneficiary of the tax exempt bond. Subpart 8 reflect provision of the Code and are reasonable to protect the interests of the eligible lender.

1650.0541 APPLICATION PROCEDURES

This part is necessary as it provides the required steps the eligible lender (bond purchaser) and the applicant are to take in preparing and submitting an application to the RFA. It is reasonable to provide that the eligible lender and applicant will jointly complete the application form and supporting documents because they are both parties to the loan. The RFA Board meets the first Wednesday of each month. It is necessary and reasonable to require that applications be submitted by the Friday prior to the Board meeting (subp. 1.B.) so that staff has time to review the application for eligibility and prepare the preliminary resolution that is to be presented for adoption by the Board. Subpart 1.C. is necessary to establish eligibility of the applicant. The time frame is reasonable in that sufficient time is provided for the eligible lender and applicant to solidify the major elements of the loan, yet provide the RFA with relative certainty that the applicant meets the net worth criterium.

The fee rule (subp. 2.) is necessary to notify applicants and eligible lenders that the fee is due with the application, not after the application is accepted. It is reasonable to expect that the fee is submitted at time of application because the fee is intended to meet part of the costs of application review.

Subparts 3-5 are necessary to provide eligible lenders and applicants who may not have access to Minnesota Statutes, chapter 474A with the information.

It is necessary to provide an appeal process because it is anticipated that an eligible lender or applicant adversely affected by the RFA decision not to accept an application may dispute the basis for rejection and may wish to appeal that decision. The time frame for appeal is reasonable because the appeal process would need to be completed prior to expiration of the purchase agreement for which financing was being sought.

It is necessary to set a time limit on inactive applications so that the limited funding may be utilized by another applicant. The time frame is reasonable in that most applications are completed in 60 days and practically all purchase agreements would call for some action in 90-120 days or less.

1650.0551 HEARING AND OTHER PROCEDURAL REQUIREMENTS

A public hearing and other procedural actions are required by the Internal Revenue Code of 1986, as amended, and the rules, regulations and revenue procedures issued under it. The state volume cap allocation law is found in Minnesota Statutes, chapter 474A. This part is necessary to provide eligible lenders and applicants who do not have access to the Code or the Minnesota Statutes with the procedures that must be followed in order to make the interest payable on a bond excludable from gross income for federal tax purposes.

1650.0561 LOAN DOCUMENTS; CLOSING PROCEDURES

This part is necessary to inform eligible lenders what actions the authority will take to provide appropriate forms for the bond and loan transactions to assure compliance with the Code and what actions the lender must take to protect their interests. Subpart 4 is necessary and reasonable to inform the eligible lender and applicant on collection of the origination fee authorized by statute and allowance for closing costs under the Code.

1650.0571 GENERAL MATTERS

Subpart 1 is necessary to provide direction to the executive director on forms. Subpart 2 is necessary because this is a federal program based on tax code that provides the benefit of this program, which is tax exemption of interest earned on the bond. These parts are reasonable to protect the interest of the state and the tax exclusion of interest on the bonds. It is necessary and reasonable to provide for an audit (subp. 3) to assure that the program requirements are being met. Subpart 4 is necessary to provide eligible lenders and applicants who may not have access to Minnesota Statutes, chapter 13 and the Code with information on how financial data will be classified and disclosed.

REPEALER

Minnesota Rules, parts 1650.0500, 1650.0510; 1650.0520; 1650.0530; 1650.0540; 1650.0550; 1650.0560; and 1650.0570 were the assigned numbers when adopted as an exempt rule. The Revisor's Office renumbered the rule and made some minor stylistic changes. The effect of the rule has not been changed although some wording changes have been made to meet chapter 14 standards and several minor modifications were made due to experience over the past three years.

Nov. 30, 1995
Date

Jim Boerboom
Jim Boerboom
RFA Executive Director