

**State of Minnesota
Department of Agriculture**

**In the Matter of the Proposed Rules
of the Department of Agriculture
Governing the Restructure II
Program**

**Statement of Need
and Reasonableness**

INTRODUCTION

This rule is needed to provide the procedures addressing implementation of the Restructure II Program (the program) by the Minnesota Rural Finance Authority (RFA). Minnesota Statutes, section 41B.07 states: "The authority may adopt rules for the efficient administration of sections 41B.01 to 41B.23. The rules need not be adopted in compliance with chapter 14."

Minnesota Statutes 41B.004, subdivision 2 authorized the authority to implement a program to restructure agricultural loans and to purchase loan participation interests in qualified restructuring loans. Rules were adopted under M.S. 41B.07 and amended several times since to meet changes in the state's farm economy and financial needs of active farmers, and legislative changes to sections 41B.01 to 41B.23. 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 41B.01 to 41B.23 in order to provide all information in one document to those who do not have access to Minnesota Statutes. This rule is provided to all potential lenders, to potential applicants and is available to the general public.

SMALL BUSINESS IMPACT

All applicants and most of the eligible lenders 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 is required from participating lenders. There have been no significant complaints in several years from applicants or lenders 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.

1653.0011 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.

1653.0021 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 41B) 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.

1653.0031 BORROWER ELIGIBILITY

This part delineates the criteria that must be met by an applicant to be eligible for this program. Three of the criteria (items A, B & F) listed in subp. 2 and all of subp. 3 are statutory. This part is necessary to provide the public with all of the eligibility criteria in one place and to assure that the program's limited resources are available to the program's intended clientele. It is reasonable to expect that applicants read the informational materials provided, including this rule, and personally certify that they are eligible (subp. 2.H.). Funding for this program is not unlimited. Therefore, it is reasonable that an applicant be allowed to take advantage of this program one time only (subp. 2.C.) and that there be a limit to the wealth of eligible applicants (subp. 2.D.). Farming is a business that is becoming more technical and highly capitalized. Thus it is reasonable to expect that applicants will have education, training and experience to prepare them for potential success in the business. It is reasonable to expect applicants to follow approved soil and water conservation practices given that the purpose of this program is to preserve and develop the state's agricultural resources.

1653.0041 COLLATERAL REQUIREMENTS

This part is necessary to inform lenders and applicants what standard the RFA will follow because of the great variability of collateral requirements set by various lenders. The level set is reasonable to protect the interests of the state yet provide for those that need the assistance of this program.

1653.0051 APPRAISAL

This part is necessary because of the variety of appraisals and procedures used by different lenders. It is reasonable to utilize appraisal industry standards to protect the interests of the state.

1653.0061 LENDER ELIGIBILITY

This part is a restatement of the definition of eligible lender in Minnesota Statute, section 41B.02, subd. 8. This part is necessary to provide potential lenders who may not have access to Minnesota Statutes, section 41B.02 with the criteria they must meet to be an eligible lender.

1653.0071 APPLICATION PROCESS AND OFFER OF PARTICIPATION

This part is necessary as it provides the required steps the lender is to take in preparing and submitting a loan to the RFA for participation. It is reasonable to provide that the lender and applicant will jointly complete the application form and supporting documents because they are both parties to the loan.

1653.0081 RFA REVIEW, NOTICE, APPEAL

Time frame for RFA response is set by statute. Subp. 1 is necessary to provide lenders who may not have access to Minnesota Statutes with this time frame so that they know when to expect a

response.

It is necessary to have specified, finite reasons for not accepting an offer to ensure that the program is administered in a consistent manner. The four items are reasonable to protect the interests of the state and to comply with the statutes.

It is necessary to provide an appeal process because it is anticipated that a lender or applicant adversely affected by the RFA decision not to accept an offer may dispute the basis for rejection and may wish to appeal that decision. The time frame for appeal is reasonable to provide the lender and applicant with time to systematically consider alternatives if the appeal is not successful.

1653.0091 LOAN CLOSING, PURCHASE OF PARTICIPATION, AND LOAN MANAGEMENT

It is necessary to provide this part so that all parties are aware of whose responsibility it is to complete what actions in order to avoid misunderstandings and assure responsible actions taken in a timely manner. The required actions and time frames are reasonable in that they reflect industry standards, protect the interests of the state and the borrower, and provide flexibility to the lender to appropriately manage the loan.

It is necessary and reasonable to set limits on actions that lenders may take (subpart 6) that might be detrimental to the borrower or the state.

1653.0101 PARTICIPATION REPURCHASE

It is necessary to clearly provide lenders with the limited circumstances under which the RFA may require repurchase. The limited circumstances are reasonable to protect the state's interest in the loan while providing the lender with flexibility to manage their loan portfolio by assuring the lender that the RFA will not wantonly force repurchase.

1650.0111 REVIEW OF LOAN AND COLLATERAL

It is necessary and reasonable to provide for these actions to assure that the loan is properly managed and adequately secured.

REPEALER

Minnesota Rules, parts 1653.0010; 1653.0020; 1653.0030; 1653.0040; 1653.0050; 1653.0060; 1653.0070; 1653.0080; 1653.0090; 1653.0100; and 1653.0110 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 two years.

Nov. 28, 1995
Date

Jim Boerboom
Jim Boerboom
RFA Executive Director