

**State of Minnesota  
Department of Agriculture**

**In the Matter of the Proposed Rules  
of the Department of Agriculture  
Governing the Agricultural Improvement  
Loan Program**

**Statement of Need  
and Reasonableness**

**INTRODUCTION**

This rule is needed to provide the procedures addressing implementation of the Agricultural Improvement Loan 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.043, subdivision 1 authorizes the authority to establish, and implement an agricultural improvement loan program to finance agricultural improvements. 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 beginning 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.

**1650.0601 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.

## **1650.0611 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.

## **1650.0621 DIRECT LOANS**

The Agricultural Improvement Loan Program is the only program administered by the RFA which provides direct loans to farmers. This part is necessary to provide potential applicants with the criteria they must meet to be eligible and what actions they must take to make application. This part also provides how the application will be processed and the general terms and conditions of a loan.

### **Subpart 1. Borrower Eligibility**

This subpart delineates the criteria that must be met by an applicant to be eligible for this program. Three of the criteria (items A-C) are statutory. This part is necessary to provide potential applicants with all of the eligibility criteria in one place and also to assure that the program's limited resources are available to the program's intended clientele (items D and E). It is reasonable to use the same net worth rule as is used in the basic beginning farmer loan program because these farmers are the most in need of financial assistance. The Restructure II Program is available to established farmers who have need to restructure their agricultural debt. It is reasonable to limit participants in that program (item G) from subsequently making application to this program because it is intended to assist younger, lower equity farmers to establish efficient full time farming operations.

### **Subpart 2. Application and procedures**

This subpart is necessary as it provides the required steps an applicant is to take in preparing and submitting a loan application to the RFA as well as some of the criteria that must be met to obtain approval for the amount of the loan requested. It is reasonable to provide the application form so that the same information is received from each applicant in a consistent format. The fee rule (item C) is necessary to notify applicants that application 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. Collection of the loan origination fee at closing is an industry standard.

Maximum loan amount is set by statute. The maximum term of the loan is reasonable because this is the depreciable life of many of the improvements financed. The collateral requirement is reasonable to protect the interests of the state yet not be overly burdensome to the applicant. It is reasonable to expect that responsible farmers will not begin the project until they have approved financing. Item G is necessary to notify applicants of the consequences of misrepresentation in the application or failure to update information. It is reasonable to expect that misrepresentation may affect eligibility and the need to revoke approval.

### **Subpart 3. RFA review, notice appeal**

It is necessary to inform applicants that they will receive a response within a certain time due to

their experience with other government agencies. The time frame is reasonable because an evaluation of the project must be made and a farm visit to inspect the property and review the project plans by the staff in St. Paul must be completed prior to making a decision. It is necessary to inform applicants that the RFA will have specific, finite reasons for 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 an 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 is reasonable because the appeal process would need to be completed prior to expiration of construction bids, which are normally affective for less than 60 days.

#### **Subpart 4. Loan administration, enforcement, inspection**

This subpart is necessary to establish the level of responsibility that the RFA is expected to meet in the management of direct loans and to inform borrowers as to the RFA's responsibility. This part is reasonable in that it hold the RFA to industry standards. It is necessary and reasonable to provide for inspection of the collateral to assure that the loan is adequately secured.

### **1650.0661 LOAN PARTICIPATION**

This part is necessary to provide lenders and potential applicants with the criteria that must be met for a loan to be eligible for participation. This section also provides how the application will be processed and the general terms and conditions of a loan.

#### **Subpart 1. Borrower eligibility**

This subpart delineates the criteria that must be met by an applicant to be eligible for this program. The first three criteria are statutory. This subpart 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 those who apply for a loan have the capacity to service their debt. It is reasonable to use the same net worth as is used in the basic beginning farmer loan program because these farmers are the most in need of financial assistance. The Restructure II Program is available to established farmers who have need to restructure their agricultural debt. It is reasonable to limit participants in that program (subp. 1.F.) from subsequently making application to this program because it is intended to assist younger, lower equity farmers to establish efficient, full time farming operations.

#### **Subpart 2. Lender eligibility**

This subpart is a restatement of the definition of eligible lender in Minnesota Statute, section 41B.02, subd. 8. This subpart 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.

#### **Subpart 3. Application process and offer of participation**

This subpart 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. It is reasonable to expect that responsible farmers will not begin the

project until they have obtained approved financing. Item E is necessary to notify applicants and 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.

The maximum participation is set by statute. The collateral requirement is reasonable to protect the interests of the state and still provide substantial financing for those that need RFA participation. Item H is necessary to notify lenders of the consequences of misrepresentation in the application. It is reasonable to expect that misrepresentations may affect eligibility and the need to revoke approval.

#### **Subpart 4. RFA review, notice, appeal**

It is necessary to inform lenders that they will receive a response within a certain time due to their experience with other government agencies. The time frame is reasonable because bids on construction are normally effective for less than 60 days. It is necessary to inform lenders that the RFA will 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 time to systematically consider alternatives if the appeal is not successful.

#### **Subpart 5. Loan closing, purchase of participation, and loan management**

It is necessary to provide this subpart 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 (item F) that might be detrimental to the borrower or the state.

#### **Subpart 6. 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.

#### **Subpart 7. 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 1650.0600; 1650.0610; 1650.0620; 1650.0630; 1650.0640; and 1650.0650 and 1650.0660 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. 30, 1995  
Date

Jim Boerboom  
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