

**State of Minnesota  
Department of Agriculture**

**In the Matter of the Proposed Rules  
of the Department of Agriculture  
Governing the Value-Added  
Agricultural Product Loan Program**

**Statement of Need  
and Reasonableness**

**INTRODUCTION**

This rule is needed to provide the procedures addressing implementation of the Value-Added Agricultural Product 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.046, subdivision 2 directed the authority to establish and implement a value-added agricultural product loan program to help farmers finance the purchase of stock in a cooperative proposing to build or purchase and operate an agricultural product processing facility. Rules were adopted under M.S. 41B.07. 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.

**1656.0011 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 and the procedures.

**1656.0021 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.

#### **1650.0031 BORROWER ELIGIBILITY**

This part delineates the criteria that must be met by an applicant to be eligible for this program. Three (items A-C) of the five criteria 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 use 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. Because of the limited funds in the revolving account supporting this program, it is reasonable to limit applicants to one loan so that a larger number of applicants may be assisted.

#### **1656.0041 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.

#### **1656.0051 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. The fee rule (subp. 4) 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 RFA participation and interest rate is set by statute. It is reasonable to establish a fixed rate rather than a variable rate to reduce administrative costs.

Subpart 6 is necessary due to the wide variety of terms different lenders utilize for this type of loan. It is reasonable to allow interest only payments for a limited period until the cooperative is operating and providing a return to the borrower. The eight year maximum term is reasonable in that it fits in the five to eight year time frame a majority of lenders would use.

Subpart 7 is necessary to notify lenders of the consequences of misrepresentation in the application. It is reasonable to expect that misrepresentation may affect eligibility and the need to revoke approval.

#### **1656.0061 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 the stock may be available for a limited period of time.

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 five 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 because the appeal process would need to be completed prior to expiration of the time in which stock was

available.

**1656.0071 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.

**1656.0081 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.

**1656.0091 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.

**1656.0095 STOCK IN CERTAIN LIVESTOCK PROCESSING FACILITIES ELIGIBLE**

This part is a restatement of Minnesota Laws 1995, chapter 220, section 57. This part is necessary to provide lenders and potential applicants who may not have access to Minnesota Laws 1995 with the eligibility criteria for stock in a livestock processing facility.

**1656.0100 STOCK IN FARM-GENERATED WIND ENERGY PRODUCTION FACILITIES ELIGIBLE**

This part is a restatement of Minnesota Laws, chapter 245, section 3. This part is necessary to provide lenders and potential applicants who may not have access to Minnesota Laws 1995 with the eligibility criteria for stock in wind generated energy generation facility.

**REPEALER**

Minnesota Rules, parts 1656.0010; 1656.0020; 1656.0030; 1656.0040; 1656.0050; 1656.0060; 1656.0070 and 1656.0080 were the assigned numbers when adopted as an exempt rule. The Revisor's Office renumbered the rule and made some minor stylistic changes to this rule. 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 year.

Nov. 28 1995  
Date

Jim Boerboom  
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