

**State of Minnesota
Department of Agriculture**

**In the Matter of the Proposed Rules
of the Department of Agriculture
Governing the Seller-Sponsored
Loan Participation Program**

**Statement of Need
and Reasonableness**

INTRODUCTION

This rule is needed to provide the procedures addressing implementation of the Seller-Sponsored Loan Participation 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.042, subdivision 1 directed the authority to within 120 days after August 1, 1989, establish, develop criteria and implement a seller-sponsored loan participation program to assist persons entering or re-entering farming. 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 and most 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.

1651.0011 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.

1651.0021 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.

1651.0031 SELLER ELIGIBILITY

This part is necessary to provide potential seller-sponsors with all the criteria in one place that they must meet to utilize this program. Parts A, B and E are based on statute. The remaining parts are reasonable to protect the interests of the state and to provide the information needed to determine debt servicing needs of the borrowers.

1651.0041 BORROWER ELIGIBILITY

This part delineates the criteria that must be met by an applicant to be eligible for this program. All but three of the 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 expect that applicants read the informational materials provided, including this rule, and personally certify that they are eligible (subp. 2.D.). The fee rule (subp. 2.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 RFA Restructure II Program was established in 1993, five years after this program. 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. 2.F.) from subsequently making application to this program that is intended to assist younger, lower equity beginning farmers to establish a full time farming operation.

1651.0051 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.

1651.0061 APPLICATION PROCESS AND OFFER OF PARTICIPATION

This part is necessary as it provides the required steps the lender, the sponsoring seller and the applicant are to take in preparing and submitting a loan to the RFA for participation. It is reasonable to provide that the sponsoring seller and applicant jointly present the initial proposal to an approved lender and the lender and applicant will jointly complete the application form and supporting documents because they are all parties to the total financing of the land purchase.

1651.0071 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 many purchase agreements include a provision that closing of the sale will occur within 60-90 days and are subject to buyer obtaining financing.

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 parts are reasonable to protect the interests of the state, to comply with the statutes and to protect the interests of applicants who may not knowledgeable in land market values.

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 purchase agreement for which financing was being sought.

1651.0081 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.

1651.0091 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.

1651.0101 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 1651.0010; 1651.0020; 1651.0030; 1651.0040; 1651.0050; 1651.0060; 1651.0070; 1651.0080; 1651.0090; and 1651.0100 were the assigned numbers when adopted as an exempt rule. The Revisor's Office renumber 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 two years.

Nov 28, 1995

Date

Jim Boerboom

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RFA Executive Director