

Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2) and, therefore, is not subject to the requirements of the SBREFA.

Paperwork Reduction Act

The Agency's information collection requirements, currently approved under OMB control numbers 0560-0154, 0560-0157, 0560-0162, 0560-0166, 0560-0167, 0560-0171, and 0560-0178 are not affected by the final rule.

Federal Assistance Programs

The titles and numbers of the Federal assistance programs, as found in the Catalog of Federal Domestic Assistance, to which this final rule applies are:

10.404—Emergency Loans

10.406—Farm Operating Loans

10.407—Farm Ownership Loans

Discussion of the Final Rule

This rule implements the general credit provisions of title V of the 2002 Act as they apply to FSA's Farm Loan Programs (FLP). The changes to Federal credit policies are relatively minor. The changes focus more FSA resources on beginning farmers and ranchers and make slightly more applicants eligible for FSA farm credit assistance. The effects of the changes are difficult to estimate, but they are expected to boost demand minimally for FSA farm loan programs. The specific regulatory changes are discussed below.

Refinancing Bridge Loans

Section 5002 of the 2002 Act authorizes FSA to refinance a temporary bridge loan that was obtained from a commercial or cooperative lender because a shortage of loan funds prevented FSA from closing an approved direct farm ownership (FO) loan. This rule amends 7 CFR 1943.16 to implement this section.

Amount of Guarantee for Operations on Tribal Land

Section 5003 of the 2002 Act expands the category of loans eligible for a 95 (instead of 90) percent guarantee to include operating loans (OL) made to a farmer or rancher whose land is subject to the jurisdiction of an Indian tribe and whose loan is secured by one or more security instruments that are subject to the jurisdiction of an Indian tribe. This rule amends FSA's guaranteed loan eligibility requirements at 7 CFR 762.129 accordingly.

Term and Loan Percentage Changes for Downpayment Loan Program

Section 5005 of the 2002 Act modifies the terms for loans made under the Downpayment FO Loan Program for qualified beginning farmers and ranchers. Accordingly, this rule amends 7 CFR 1943.14 to specify that loans made under this program will be for 40 (instead of 30) percent of the purchase price or appraised value of the farm or ranch, whichever is less. The term of the loan is limited to 15 (instead of 10) years or less. Also, the time period in which balloon installments are prohibited on loans obtained from other lenders in conjunction with a Downpayment FO loan is increased to 15 (instead of 10) years.

Term Limits on Direct Operating Loans

Section 5101 of the 2002 Act requires the Agency to waive the term limit for a direct OL to a farmer or rancher when their land is subject to the jurisdiction of an Indian tribe and commercial credit is not available. The 2002 Act also provides for a one-time waiver for two years of the direct OL term limit on a case-by-case basis to other borrowers if certain criteria are met. The determination is not subject to administrative appeal. This rule amends 7 CFR 1941.12 to comply with these provisions. One of the statutory requirements for a case-by-case waiver is that the borrower have a "viable farm or ranch operation." The Agency has adopted this requirement by referring to the existing definition of "financially viable operation" at 7 CFR 1941.4 and 1924.54. Another statutory requirement is that the borrower has successfully completed, or will complete within one year, borrower training under section 359 of the Consolidated Farm and Rural Development Act (CONACT). The other statutory requirements for a case-by-case waiver are that the borrower applied for commercial credit from at least two commercial lenders and was unable to obtain a commercial loan, including a loan guaranteed by the Secretary.

Emergency Loan Eligibility for Quarantine Losses

Section 5201 of the 2002 Act authorizes emergency (EM) loans for losses resulting from quarantines imposed by the Secretary under the Plant Protection Act or animal quarantine laws as defined in section 2509 of the Food, Agriculture, Conservation, and Trade Act of 1990. This rule amends 7 CFR 764.2 to add a definition of "quarantine" and revise the definition of "disaster" to comply with this requirement.

Entity Eligibility

Section 5302 of the 2002 Act adds trusts and limited liability companies to the list of entities eligible for EM loans and direct and guaranteed OL and FO loans. Thus, 7 CFR 762.102, 764.2, 1910.4, 1924.74, 1941.4 and 1943.4 are amended by revising the definitions of "entity" and "joint operation" to comply with this requirement.

Simplified Loan Guarantee Application

Section 5307 of the 2002 Act increases the loan amount for which FSA can accept a simplified guaranteed loan application from \$50,000 to \$125,000. Accordingly, 7 CFR 762.102 and 762.110 have been amended to meet this requirement.

Beginning Farmer Definition

Section 5310 of the 2002 Act changes the definition of qualified beginning farmer or rancher by increasing the acres of land that these applicants may own to a maximum of 30 (instead of 25) percent of the average farm or ranch size in the county. This rule amends 7 CFR 762.102, 1941.4 and 1943.4 definitions accordingly to comply with this requirement.

Term and Interest Rate Changes for Seed Loans

Section 10103 of the 2002 Act extends to 36 (from 18) months the period of time for which the zero percent interest rate may apply to loans made under the Emergency Loan for Seed Producers Program. The Act also increases the term of these loans to the earlier of 36 months or the settlement of the bankruptcy proceeding involving AgriBiotech. These requirements are implemented in this rule by amending 7 CFR 774.18.

Eligibility Criteria for Direct Loans

Section 227(b) of the Department of Agriculture Reorganization Act of 1994 repealed a portion of section 333 of the CONACT, which contained eligibility criteria relating to an applicant's character and honesty. Therefore, this rule removes these obsolete eligibility criteria from 7 CFR 1941.12 and 1943.12.

Debt Settlement

Section 5303 of the 2002 Act provides the Secretary the authority to approve or disapprove applications for debt settlement and release of liability without the recommendation of, but after consultation with, the local FSA County Committee (COC). The COC will be consulted by the Agency prior to an action of this type to comply with this statute and ensure that all available