

**§§ 1941.26–1941.28**

**7 CFR Ch. XVIII (1–1–05 Edition)**

completing the report must be State-certified general.

[53 FR 35684, Sept. 14, 1988, as amended at 57 FR 18676, Apr. 30, 1992; 58 FR 26680, May 5, 1993; 58 FR 48286, Sept. 15, 1993; 59 FR 16772, Apr. 8, 1994; 59 FR 25800, May 18, 1994; 64 FR 62568, Nov. 17, 1999; 69 FR 30999, June 2, 2004]

**§§ 1941.26–1941.28 [Reserved]**

**§ 1941.29 Relationship between FSA loans, direct and guaranteed.**

(a) An eligible emergency loan (EM) applicant's total credit needs will be satisfied under the EM loan authorities, to the extent possible, before OL loan assistance is considered.

(b) A direct OL may be made to a guaranteed loan borrower provided the requirements of 7 CFR 761.8 and all other loan requirements are met.

(c) An direct OL loan may be made to refinance a guaranteed OL loan when the following conditions are met:

(1) The circumstances resulting in the need to refinance were beyond the borrower's control.

(2) Refinancing is in the best interest of the Government and the borrower.

(3) The guaranteed OL loan must be completely paid off at the time the direct OL loan is closed.

[53 FR 36240, Sept. 19, 1988, as amended at 55 FR 21527, May 25, 1990; 58 FR 44747, Aug. 25, 1993; 66 FR 7568, Jan. 24, 2001]

**§§ 1941.30–1941.31 [Reserved]**

**§ 1941.32 Catastrophic Risk Protection (CAT) insurance requirement.**

Applicants must comply with the CAT insurance requirement no later than loan closing by either:

(1) Obtaining at least the CAT level of coverage, if available, for each crop of economic significance as defined by the Federal Crop Insurance Corporation, or,

(2) By waiving eligibility of emergency crop loss assistance in connection with the uninsured crop. FSA emergency (EM) loss loan assistance is not considered emergency crop loss assistance for the purpose of the crop insurance waiver on the uninsured crop.

[62 FR 9355, Mar. 3, 1997]

**§ 1941.33 Loan approval or disapproval.**

(a) *Loan approval authority.* Initial and subsequent loans may be approved as authorized by subpart A of part 1901 of this chapter, provided the total direct operating loan principal balance at loan closing does not exceed \$200,000.

(b) *Loan approval action.* (1) The loan approval official must approve or disapprove applications within the deadlines set out in §1910.4 of subpart A of part 1910 of this chapter. The loan approval official is responsible for reviewing the docket to determine whether the proposed loan complies with established policies and all pertinent regulations. When reviewing the docket and before approving the loan, the loan approval official will determine that:

(i) The Agency has certified the applicant eligible,

(ii) Funds are requested for authorized purposes,

(iii) The proposed loan is based on a feasible farm operating plan.

(iv) The security is adequate,

(v) Necessary supervision is planned, and

(vi) All other pertinent requirements have been met or will be met.

(2) When approving the loan, the approval official will:

(i) Indicate on all copies of Form FmHA or its successor agency under Public Law 103-354 1940-1, "Request for Obligation of Funds," any conditions required by Agency or its successor agency under Public Law 103-354 regulations that must be met for loan closing;

(ii) Specify all security requirements;

(iii) Indicate special conditions or agreements needed with prior lienholders when appropriate;

(iv) Indicate that approval is subject to satisfactory title evidence when required, if such evidence has not been obtained; and

(v) Send a signed copy of Form FmHA or its successor agency under Public Law 103-354 1940-1 to the borrower on the date of loan approval.

(c) *Loan disapproval.* The loan approval official must approve or disapprove applications within 60 days after receiving a complete application, as set out in §1910.4 of subpart A of part 1910 of this chapter. The following

actions will be taken when a loan is disapproved:

(1) The reasons for disapproval will be indicated on Form FmHA or its successor agency under Public Law 103-354 1940-1 by the loan approval official. The reasons may be in a letter or the running record if this form has not been completed. Suggestions of how to remedy the disapprovals should be included.

(2) The County Supervisor will notify the applicant in writing of the action taken, and include any suggestions that could result in favorable action. The applicant will be notified, in writing, of the opportunity to appeal.

(3) Items furnished by the applicant during docket processing will be returned.

(4) The County Supervisor will notify any other interested parties of the disapproval.

[53 FR 35664, Sept. 14, 1988, as amended at 54 FR 11366, Mar. 20, 1989; 57 FR 18676, Apr. 30, 1992; 58 FR 48282, Sept. 15, 1993; 61 FR 35925, July 9, 1996; 68 FR 62224, Nov. 3, 2003]

**§ 1941.34 [Reserved]**

**§ 1941.35 Actions after loan approval.**

(a) *Requesting check.* If the County Supervisor is reasonably certain that the loan can be closed within 20 working days from the date of the check, loan funds may be requested at the time of loan approval through the State Office terminal system. If funds are not requested when the loan is approved, advances in the amount needed will be requested through the County Office computer terminal system. Each advance will be limited to an amount which can be used promptly, usually within 60 days from the date of the check. Loan funds must be provided to the applicant(s) within 15 days after loan approval, unless the applicant(s) agrees to a longer period. If no funds are available within 15 days of loan approval, funds will be provided to the applicant as soon as possible and within 15 days after funds become available, unless the applicant(s) agrees to a longer period. If a longer period is agreed upon by the applicant(s), the same will be documented in the case file by the County Supervisor.

(b) *Cancellation of loan check and/or obligation.* If, for any reason, a loan check or obligation will be canceled, the County Supervisor will notify the State Office and the Finance Office of loan cancellation by using Form 1940-10, "Cancellation of U.S. Treasury Check and/or Obligation." If a check received in the County Office is to be canceled, the check will be returned as prescribed in FmHA Instruction 2018-D (available in any FmHA or its successor agency under Public Law 103-354 office).

(c) *Cancellation of advances.* When an advance is to be cancelled the County Supervisor must take the following actions:

(1) Complete and distribute Form FmHA or its successor agency under Public Law 103-354 1940-10.

(2) When necessary, prepare and execute a substitute promissory note reflecting the revised total of the loan and the revised repayment schedule. When it is not necessary to obtain a substitute promissory note, the County Supervisor will show on Form FmHA or its successor agency under Public Law 103-354 440-57 the revised amount of the loan and the revised repayment schedule.

(d) *Increase or decrease in loan amount.* If it becomes necessary to increase or decrease the amount of the loan prior to closing, the County Supervisor will request that all distributed docket forms be returned to the County Office for reprocessing unless the change is minor and replacement forms can be promptly completed and submitted.

[53 FR 35684, Sept. 14, 1988, as amended at 54 FR 39727, Sept. 28, 1989; 59 FR 54788, Nov. 2, 1994]

**§§ 1941.36-1941.37 [Reserved]**

**§ 1941.38 Loan closing.**

Operating loans will be closed in accordance with subpart B of part 1941 of this chapter.

**§§ 1941.39-1941.41 [Reserved]**

**§ 1941.42 Loan servicing.**

Loans will be serviced in accordance with subpart A of part 1962 of this chapter and/or subpart S of part 1951 of this chapter.