

§ 1943.75

7 CFR Ch. XVIII (1-1-05 Edition)

(1) The land to be irrigated is suitable for irrigation.

(2) The applicant has a right to use water for irrigation.

(3) The water is suitable to use for irrigation and is available in sufficient quantities to irrigate a specified amount of land.

(4) If irrigation specialists have prepared any feasibility studies, copies of these studies have been submitted to FmHA or its successor agency under Public Law 103-354.

(d) *Insurance.* (1) Insurance will be obtained on buildings and other property as provided in subpart A of part 1806 of this chapter (FmHA Instruction 426.1) on real estate taken as primary security, as defined in §1943.54 of this subpart. Property insurance will not be required when real estate is taken as additional security, as defined in §1943.54 of this subpart.

(2) See §1943.73(a) of this subpart for information about flood and mudslide hazard areas.

(3) Chattel security should be insured against hazards customarily insured against in the area if the loss of such security would jeopardize the interests of the Government.

(e) *Life estates.* When life estates are involved, loans may be made:

(1) To both the life estate holder and the remainderman, provided:

- (i) Both have a legal right to occupy and operate the farm; and
- (ii) Both are eligible for the loan; and
- (iii) Both parties sign the note and mortgage

(2) To the remainderman only, provided:

- (i) The remainderman has a legal right to occupy and operate the farm; and
- (ii) The lien instrument is signed by the remainderman, life estate holder, and any other party having any interest in the security.

(3) To the life estate holder only, provided:

- (i) There is no legal restriction placed on a life estate holder who occupies and operates a farm; and
- (ii) The lien instrument is signed by the life estate holder, remainderman, and any other party having any interest in the security.

(f) *Liens junior to the FmHA or its successor agency under Public Law 103-354 lien.* A loan will not be approved if a lien junior to the FmHA or its successor agency under Public Law 103-354 lien is likely to be taken simultaneously with or immediately subsequent to the loan closing to secure any debt the borrower may have at the time of loan closing or any debt that may be incurred in connection with the SW loan, unless the total debt against the security would be within its market value.

(g) *Graduation of SW borrowers.* If, at any time, it appears that the borrower may be able to obtain a refinancing loan from a cooperative or private credit source at reasonable rates and terms, comparable to those for loans for similar purposes and periods of time prevailing in the area the borrower will, upon request, apply for and accept such financing.

[53 FR 35706, Sept. 15, 1988, as amended at 58 FR 26681, May 5, 1993]

§ 1943.75 Options, planning, and appraisals.

(a) *Options.* An applicant is responsible for obtaining options on real property. Form FmHA or its successor agency under Public Law 103-354 440-34, "Option to Purchase Real Property," may be used. Other forms may be used if acceptable to all parties concerned and to FmHA or its successor agency under Public Law 103-354. When an FmHA or its successor agency under Public Law 103-354 form is not used, a provision should be included which makes the option contingent upon FmHA or its successor agency under Public Law 103-354 making a loan to the buyer.

(b) *Planning.* Farm and Home Plans and nonagricultural enterprise plans, when appropriate, will be completed as provided in subpart B of part 1924 of this chapter.

(c) *Appraisals.* (1) Except as provided in paragraph (c)(2) of this section, real estate appraisals will be completed on forms in accordance with §761.7 of this title, and in the case of an appraisal of residential real estate, the appropriate Agency form (available in each Agency

State Office) or other format that contains the same information, by a designated FmHA or its successor agency under Public Law 103-354 real property appraiser, or FmHA or its successor agency under Public Law 103-354 State-certified general contract real property appraiser. Appraisals are necessary when real estate is taken as primary security, as defined in §1943.4 of this subpart, and when loans are serviced in accordance with subpart S of part 1951 of this chapter. Real estate appraisals are not required when real estate is taken as additional security, as defined in §1943.4 of this subpart. However, the County Supervisor will document in the running record the estimated market value of the additional security and the basis for the estimate.

(2) Other real estate appraisals completed by other State-certified general appraisers may be used providing such appraisals meet the ethics, competency, departure provisions, etc., and sections I and II of the Uniform Standards of Professional Appraisal Practices, and contain a mineral rights appraisal as set out in paragraph (c)(4) of this section. Prior to acceptance, the appraisal must have an acceptable desk review (technical) completed by an FmHA or its successor agency under Public Law 103-354 designated review appraiser.

(3) Real estate appraisals will be completed as provided in §761.7 of this title. The rights to mining products, gravel, oil, gas, coal, or other minerals will be considered a portion of the security for Farmer Programs loans and will be specifically included as a part of the appraised value of the real estate securing the loans using Form FmHA or its successor agency under Public Law 103-354 1922-11, "Appraisal for Mineral Rights" or other format that contains the same information.

(4) The value of stock required to be purchased by Federal land Bank (FLB) borrowers may be added to the recommended market value of the security, provided:

- (i) An assignment is obtained on the stock, or
- (ii) An assignment is obtained which provided that:

(A) The value of the stock at the time the FLB loan is satisfied will be applied on the FLB loan, or

(B) The stock refund check is made payable to the borrower and FmHA or its successor agency under Public Law 103-354, or

(C) The stock refund check is made payable to the borrower and mailed to the County Supervisor.

(iii) The total of the stock value and the recommended market value of real estate is indicated in the comments section of the appraisal report.

(5) In the case of nonreal estate security, the following items apply:

(i) Form FmHA or its successor agency under Public Law 103-354 440-21, "Appraisal of Chattel Property," will be used.

(ii) The property which will serve as security will be described in sufficient detail so it can be identified.

(iii) The current market value or, if appropriate, the current cash value will be determined.

[53 FR 35706, Sept. 15, 1988, as amended at 58 FR 48289, Sept. 15, 1993; 59 FR 16773, Apr. 8, 1994; 64 FR 62568, Nov. 17, 1999]

§ 1943.76 Planning and performing development.

The development work will be planned and completed in accordance with part 1924, subpart A of this chapter.

§ 1943.77 Relationship with other lenders.

(a) An applicant will be requested to obtain credit from another source when information indicates such credit is available. When another lender will not make a loan for the total needs of the applicant but is willing to participate with an SW loan, consideration will be given to a participation loan. FmHA or its successor agency under Public Law 103-354 employees may not guarantee, personally or for FmHA or its successor agency under Public Law 103-354, repayment of advances made from other credit sources. However, lenders may be assured that lien priorities will be recognized.

(b) The County Supervisor and the other lender's representative should maintain a close working relationship