

Farm Service Agency, USDA

§ 762.101

(c) *OL loans based on ethnicity or race.* The OL loan target participation rate based on ethnicity or race in each:

(1) State is equal to the percent of the total number of farmers in the State who are members of such socially disadvantaged groups.

(2) County is equal to the percent of the total number of farmers in the county who are members of socially disadvantaged ethnic groups.

(d) *Women farmers.* (1) The target participation rate for women farmers in each:

(i) State is equal to the percent of farmers in the State who are women.

(ii) County is equal to the percent of farmers in the county who are women.

(2) In developing target participation rates for women, the Agency will consider the number of women who are current farmers and potential farmers.

§ 761.209 Loan funds for beginning farmers.

Each fiscal year, the Agency reserves a portion of direct and guaranteed FO and OL loan funds for beginning farmers in accordance with section 346(b)(2) of the Act.

§ 761.210 Transfer of funds.

If sufficient unsubsidized guaranteed OL funds are available, then beginning on:

(a) August 1 of each fiscal year, the Agency will use available unsubsidized guaranteed OL loan funds to make approved direct FO loans to beginning farmers under the Beginning Farmer Downpayment loan program; and

(b) September 1 of each fiscal year the Agency will use available unsubsidized guaranteed OL loan funds to make approved direct FO loans to beginning farmers.

PART 762—GUARANTEED FARM LOANS

Sec.

762.1-762.100 [Reserved]

762.101 Introduction.

762.102 Abbreviations and definitions.

762.103 Full faith and credit.

762.104 Appeals.

762.105 Eligibility and substitution of lenders.

762.106 Preferred and certified lender programs.

762.107-762.109 [Reserved]

762.110 Loan application.

762.111-762.119 [Reserved]

762.120 Applicant eligibility.

762.121 Loan purposes.

762.122 Loan limitations.

762.123 Insurance and farm inspection requirements.

762.124 Interest rates, terms, charges, and fees.

762.125 Financial feasibility.

762.126 Security requirements.

762.127 Appraisal requirements.

762.128 Environmental and special laws.

762.129 Percent of guarantee and maximum loss.

762.130 Loan approval and issuing the guarantee.

762.131-762.139 [Reserved]

762.140 General servicing responsibilities.

762.141 Reporting requirements.

762.142 Servicing related to collateral.

762.143 Servicing distressed accounts.

762.144 Repurchase of guaranteed portion from a secondary market holder.

762.145 Restructuring guaranteed loans.

762.146 Other servicing procedures.

762.147 Servicing shared appreciation agreements.

762.148 Bankruptcy.

762.149 Liquidation.

762.150 Interest assistance program.

762.151-762.158 [Reserved]

762.159 Pledging of guarantee.

762.160 Assignment of guarantee.

AUTHORITY: 5 U.S.C. 301, 7 U.S.C. 1989.

SOURCE: 64 FR 7378, Feb. 12, 1999, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 762 appear at 72 FR 63297, Nov. 8, 2007.

§§ 762.1-762.100 [Reserved]

§ 762.101 Introduction.

(a) *Scope.* This subpart contains regulations governing Operating Loans and Farm Ownership loans guaranteed by the Farm Service Agency. This subpart applies to lenders, holders, borrowers, Agency personnel, and other parties involved in making, guaranteeing, holding, servicing, or liquidating such loans.

(b) *Lender list.* The Agency maintains a current list of lenders who express a desire to participate in the guaranteed loan program. This list is made available to farmers upon request.

(c) *Lender classification.* Lenders who participate in the Agency guaranteed loan program will be classified into one of the following categories:

§ 762.102

(1) Standard Eligible Lender under § 762.105;

(2) Certified Lender, or

(3) Preferred Lender under § 762.106.

(d) *Type of guarantee.* Guarantees are available for both a loan note or a line of credit. A loan note is used for a loan of fixed amount and term. A line of credit has a fixed term, but no fixed amount. The principal amount outstanding at any time, however, may not exceed the line of credit ceiling contained in the contract. Both guarantees are evidenced by the same loan guarantee form.

(e) *Termination of loan guarantee.* The loan guarantee will automatically terminate as follows:

(1) Upon full payment of the guaranteed loan. A zero balance within the period authorized for advances on a line of credit will not terminate the guarantee;

(2) Upon payment of a final loss claim; or

(3) Upon written notice from the lender to the Agency that a guarantee is no longer desired provided the lender holds all of the guaranteed portion of the loan. The loan guarantee will be returned to the Agency office for cancellation within 30 days of the date of the notice by the lender.

[64 FR 7378, Feb. 12, 1999, as amended at 72 FR 63297, Nov. 8, 2007]

§ 762.102 Abbreviations and definitions.

Abbreviations and definitions for terms used in this part are provided in § 761.2 of this chapter.

[72 FR 63297, Nov. 8, 2007]

§ 762.103 Full faith and credit.

(a) *Fraud and misrepresentation.* The loan guarantee constitutes an obligation supported by the full faith and credit of the United States. The Agency may contest the guarantee only in cases of fraud or misrepresentation by a lender or holder, in which:

(1) The lender or holder had actual knowledge of the fraud or misrepresentation at the time it became the lender or holder, or

(2) The lender or holder participated in or condoned the fraud or misrepresentation.

7 CFR Ch. VII (1-1-08 Edition)

(b) *Lender violations.* The loan guarantee cannot be enforced by the lender, regardless of when the Agency discovers the violation, to the extent that the loss is a result of:

(1) Violation of usury laws;

(2) Negligent servicing;

(3) Failure to obtain the required security; or,

(4) Failure to use loan funds for purposes specifically approved by the Agency.

(c) *Enforcement by holder.* The guarantee and right to require purchase will be directly enforceable by the holder even if:

(1) The loan guarantee is contestable based on the lender's fraud or misrepresentation; or

(2) The loan note guarantee is unenforceable by the lender based on a lender violation.

§ 762.104 Appeals.

(a) A decision made by the lender adverse to the borrower is not a decision by the Agency, whether or not concurred in by the Agency, and may not be appealed.

(b) The lender or Agency may request updated information from the borrower to implement an appeal decision.

(c) Appeals will be handled in accordance with parts 11 and 780 of this title.

[64 FR 7378, Feb. 12, 1999, as amended at 72 FR 63297, Nov. 8, 2007]

§ 762.105 Eligibility and substitution of lenders.

(a) *General.* To participate in FSA guaranteed farm loan programs, a lender must meet the eligibility criteria in this part. The standard eligible lender must demonstrate eligibility and provide such evidence as the Agency may request.

(b) *Standard eligible lender eligibility criteria.* (1) A lender must have experience in making and servicing agricultural loans and have the capability to make and service the loan for which a guarantee is requested;

(2) The lenders must not have losses or deficiencies in processing and servicing guaranteed loans above a level which would indicate an inability to properly process and service a guaranteed agricultural loan.