Billing Code 3410-05-P

DEPARTMENT OF AGRICULTURE

Farm Service Agency

7 CFR Parts 761, 762, 764, and 765

RIN 0560-AI29

Farm Loan Programs; Programs Changes

AGENCY: Farm Service Agency, USDA.

ACTION: Final rule.

SUMMARY: The Farm Service Agency (FSA) is amending Farm Loan Programs (FLP) loan making and servicing regulations to reflect several changes required by the Agricultural Act of 2014 (2014 Farm Bill). The changes were implemented administratively upon the passage of the 2014 Farm Bill; this rule makes conforming amendments in the FSA regulations.

DATE: Effective: **[Insert date of publication in the FEDERAL REGISTER]**.

FOR FURTHER INFORMATION CONTACT: Bradley A. Johnson, telephone: (202) 720-5847. Persons with disabilities or who require alternative means for communications (Braille, large print, audiotape, etc.) should contact the USDA Target Center at (202) 720-2600 (voice).

SUPPLEMENTARY INFORMATION:

Background

The FSA FLP direct loans and loan guarantees provide credit to farmers whose financial risk exceeds a level acceptable to commercial lenders. Through direct and guaranteed Farm Ownership loans (FO), Operating Loans (OL), and Conservation Loans

(CL); direct Microloans (ML), direct Emergency Loans (EM) and Land Contract (LC) guarantees, FSA assists tens of thousands of farmers each year in starting and maintaining profitable farm businesses. FSA loan funds may be used to pay normal operating or family living expenses; make capital improvements; refinance certain debts; and purchase farmland, livestock, equipment, feed and other materials essential to farm operations. FSA services extend beyond the typical loan by offering farmers ongoing consultation and advice, to help to make their farm successful. These loans are a temporary source of credit. Farmers with direct loans generally are required to graduate to other credit when their financial condition will allow them to do so.

In addition, the YL Program provides operating loans of up to $5,000 to eligible individual youths, ages 10 to 20, to finance income producing, agriculture related projects. The project must be of modest size, educational and initiated, developed and carried out by youths participating in 4-H Clubs, Future Farmers of America (FFA), or a similar organization.

Throughout this rule, any reference to "farm" or "farmer" also includes "ranch" or "rancher", respectively.

This rule makes changes in the FSA regulations required by several provisions of the 2014 Farm Bill (Pub. L. 113-79) regarding FSA's loan making and servicing programs. More specifically, the changes:

- Increase the percent of guarantee for CLs;
- Reduce the interest rate for direct FOs made under a joint financing arrangement;
- Eliminate the oil, gas, and mineral appraisal requirement;

- Increase the maximum loan amount for a direct FO made under the downpayment program;
- Eliminate the rural residency requirement for the YLs ;
- Allow a borrower who had YL debt forgiveness to receive future Government loans under certain circumstances;
- Exclude MLs to beginning or veteran farmers from the existing OL term limitations, and add a special ML interest rate available to beginning and veteran farmers;
- Eliminate the term limit for guaranteed OLs; and
- Amend the definition of a beginning farmer, specifically the maximum owned acreage requirement.

CL; Increase Percent of Guarantee

Guaranteed CLs promote conservation practices on farms that help protect natural resources, and provide credit for farmers to implement these conservation measures on their land. Unlike FSA's traditional FO and OL Programs that are targeted toward family and less financially established farmers, eligibility requirements for the CL Program permit FSA to provide assistance to applicants who may not be a family farmer or are financially strong.

Section 5002 of the 2014 Farm Bill amended section 304(e) of the Consolidated Farm and Rural Development Act (CONACT) (7 U.S.C. 1924e) to increase the percent of guarantee for CLs from 75 percent to 80 percent, and authorized a 90 percent

guarantee for a qualified beginning or socially disadvantaged (SDA) farmer. Lenders will now be able to have a greater guarantee on CLs.

Previously, CL received a 75 percent guarantee, which was less than the typical 90 percent guarantee on an FO or farm OL guarantee. Partially due to this lower percentage of guarantee, the use of CLs have been extremely limited since guaranteed FO or OL funds may also be used for conservation purposes.

This rule amends 7 CFR 762.129 and 762.130 to increase the percent of guarantee for CL. The increase in CL guarantee to 80 percent and the even higher 90 percent guarantee to beginning or SDA farmers will increase the use of CL guarantees used to implement conservation practices, which benefit not only the farmer, but the environment as well.

Direct FO as Part of Joint Financing Arrangement; Interest Rate

Direct FOs made as part of a participation (joint financing) arrangement are eligible for a special joint financing interest rate. These loans require that a commercial lender or private party provide a portion of the financing, such that the FO does not exceed 50 percent of the total amount financed. FOs may be used to purchase a farm, enlarge an existing farm, construct or improve farm structures, pay closing costs, and for soil and water conservation and protection. Repayment terms may be as long as 40 years and the maximum FO indebtedness is limited to $300,000.

Section 5003 of the 2014 Farm Bill amended section 307(a)(3) of the CONACT (7 U.S.C. 1927(a)(3)) to reduce the interest rate for FOs that are part of a joint financing

arrangement. This joint financing interest rate is the direct FO regular interest rate minus 2 percent, with a floor of 2.5 percent.

Previously, the joint financing interest rate for FOs was 5 percent and has been since March 24, 1997. For several years, the joint financing interest rate of 5 percent has been higher than the direct FO interest rate. As a result, there has been no financial incentive for the farmer to finance a portion of the real estate purchase with another lender, unless she or he qualified as a beginning or SDA farmer who was able to receive a downpayment FO with a lower interest rate.

This rule amends 7 CFR 764.154 to change the interest rate for FOs that are part of a joint financing arrangement. This reduced interest rate for FOs made under a joint financing agreement will encourage farmers to seek commercial lender financing, and therefore reduce FSA financing of the farm to 50 percent or less. FSA expects to be able to leverage the use of our typically limited direct FO funds, to assist an even greater number of eligible family farmers.

Mineral Rights Appraisal; Eliminate Requirement

FSA uses appraisals to determine the value of real and personal property. Appraisals ensure there is adequate security to support FSA loan making and servicing actions.

Section 5004 of the 2014 Farm Bill eliminated the requirement that in order for FSA to have the rights to oil, gas, or other minerals as FO collateral, the products' value must be considered in the appraised value of the real estate securing the loan.

Section 307(d) of the CONACT (7 U.S.C. 1927(d)), previously required that for FOs; the value of oil, gas, or other minerals must be included in the appraised value of the real estate security in order for FSA to have a valid lien on those products. This rule removes this mineral appraisal requirement in 7 CFR 761.7 and 765.252 for all future FLP loans. For all loans made after February 7, 2014, the date of the 2014 Farm Bill was enacted, FSA will have a security interest in oil, gas, or other minerals on or under the property regardless of whether the value of those products were included in the appraisal value of the property. This security interest is reflected in the FSA mortgage forms.

Downpayment FOs; Increase Maximum Loan Amount

FSA downpayment FOs are used to assist beginning and SDA farmers in purchasing a farm. The loans have a lower interest rate than other FO loans and require participation by another lender, along with cash down payment requirement of 5 percent.

Section 5005 of the 2014 Farm Bill amended section 310E(b)(1)(C) of the CONACT (7 U.S.C. 1935(b)(1)(C)) to increase the maximum loan limit for downpayment FOs to 45 percent of $667,000. This amount is $300,150; however, section 305 of the CONACT (7 U.S.C. 1925) limits the maximum loan amount for each FO, including downpayment FOs, to $300,000.

Previously, downpayment FOs were limited to a maximum of $225,000 (45 percent of $500,000) and all other types of direct FOs were limited to $300,000. This difference in maximum loan amounts was a limiting factor in many loan transactions, particularly as loan amounts have increased due to rising farm real estate values. The

rule amends 7 CFR 764.203 to increase the maximum loan limit for downpayment FO loans to $300,000.

YL; Eliminate Rural Residency Requirement

FSA makes YL of up to $5,000 to eligible individual youths, ages 10 to 20, to finance income producing and agricultural related projects. The project must be modest in size, educational, and initiated, developed and carried out by youths participating in a 4-H Club, FFA, or similar organization.

Section 5102 of the 2014 Farm Bill amended section 311(b)(1) of the CONACT (7 U.S.C. 1941(b)(1)) to eliminate the rural residency requirement for YL. Eligible youth in suburban and urban areas will now be eligible for YL.

Previously, to be eligible for a YL the applicant had to reside in a rural area. FSA regulations further defined this as "residing in a rural area, city, or town with a population of 50,000 or fewer people." The rule amends 7 CFR 764.302 to eliminate the rural residency requirement for YL. The removal of this requirement now allows FSA to extend YL assistance to youth residing in suburban and urban areas to finance eligible agricultural related projects.

YL; Forgiveness of Debt

Forgiveness of YL debt, due to circumstances beyond the borrower's control, will no longer preclude the borrower from obtaining additional loans from any U.S. Government agency. Additionally, borrowers with YL debt forgiveness, or who are delinquent on a YL, will now be able to receive student loans. The servicing and

collection of YLs is not affected by the statute and will continue under the present regulations.

Section 5103 of the 2014 Farm Bill amended section 311(b) of the CONACT (7 U.S.C. 1941(b)) to authorize the Secretary of Agriculture to, on a case by case basis, provide debt forgiveness of a YL if the borrower was unable to repay the loan due to circumstances beyond the control of the borrower. The Secretary may also determine that the debt forgiveness was caused by national disaster, act of terrorism, or other man-made disaster that resulted in an inordinate level of damage severely affecting the YL borrower. The debt forgiveness provided by this section is not to be used by other Federal agencies in determining eligibility of the borrower for any loan made or guaranteed by that agency.

In no case will a borrower provided debt forgiveness or a delinquent borrower be denied a loan or loan guarantee from the Federal government to pay for educational expenses of the borrower. As a practical matter, FSA has always provided debt forgiveness, in the form of debt settlement, to YL borrowers on the same terms as any other borrower. To determine if the forgiveness is beyond the borrower's control, consideration of the circumstances will be added to the Agency Handbooks and this rule revises the definition of "debt forgiveness" in 7 CFR section 761.2. This will ensure that, if the inability to pay giving rise to the debt forgiveness was due to circumstances beyond the borrower's control, it will not be used in consideration of a FSA loan application. As this is a mandate on the entire Federal Government with particular emphasis on loans for educational expenses, FSA will also make information regarding this change available to all YL borrowers who receive debt forgiveness and any other Federal agency that is

considering a loan application from the borrower after debt forgiveness or while they are delinquent.

With regard to YL debt servicing prior to debt forgiveness, the Debt Collection Improvement Act of 1996 (DCIA)(P.L. 104-134, April 26, 1996) requires that delinquent debts be reported to Treasury so that centralized collection can be pursued through the Treasury Offset Program and outside collection agencies. Section 373 of the CONACT (7 U.S.C. 2008h) also limits FSA direct loan borrowers to only one debt forgiveness from FSA. These requirements were not changed by the 2014 Farm Bill.

ML; Exclude from OL Term Limit Rule and Special Interest Rate for Beginning or Veteran Farmers

FSA initiated the ML Program in 2013 to better serve the unique financial operating needs of beginning, niche, or the smallest of family farm operations. ML offers more flexible access to credit for these types of family farm operations, who often face limited financing options.

Section 5106 of the 2014 Farm Bill amended section 311 of the CONACT (7 U.S.C. 1941) to exclude MLs made to beginning or veteran farmers from the direct OL term limit. Section 12201 of the 2014 Farm Bill defines a "veteran farmer or rancher" as someone who has served in the Armed Forces of the United States and who has not farmed, or has farmed for 10 years or less. This rule amends 7 CFR 761.2 to include the definition of a veteran farmer.

As previously mentioned, the term "farm" or "farmer" also includes the term "ranch" or "rancher," respectively. Therefore, all references to the term "farm" or

"farmer" will also respectively include "ranch" or "rancher," including the definition of a "veteran farmer." Once the farmer is no longer a beginning farmer or once a veteran has farmed more than 10 years, any ML they receive will count toward the OL term limit. Section 5106 of the 2014 Farm Bill also amended section 316 of the CONACT (7 U.S.C. 1946) to make available a special interest rate on ML equal to half the rate on 5-year treasuries plus 1 percent, but never less than 5 percent, to beginning or veteran farmers.

Previously, only MLs made to beginning farmers were excluded from the OL term limit. This rule amends 7 CFR 764.252 to expand the exclusion to include veteran farmers.

In addition, previously the ML interest rate was either the regular OL rate or a limited resource rate. This rule amends 7 CFR 764.254 to add the 2014 Farm Bill special ML interest rate that will be at the same rate as the limited resource OL rate, but will not be subject to special servicing reviews by FSA since it will not be considered a limited resource interest rate. For a beginning or a veteran farmer applying for a ML, they will now be able to choose between the direct OL interest rate and the special ML interest rate. These changes in the ML program will benefit both beginning and veteran farmers, who typically have fewer financial resources and limited options available to finance their farming operation.

Guaranteed OL; Eliminate Term Limit

Section 5107 of the 2014 Farm Bill amended section 319 of the CONACT (7 U.S.C. 1949) to eliminate all guaranteed OL term limits. Family farmers will no longer be restricted in the number of years they can receive a guaranteed OL.

Guaranteed OLs are used to assist family farmers to obtain credit for normal operating expenses, machinery, equipment, and livestock purchases, minor real estate repairs or improvement, and to refinance debt. The repayment term may vary, but are never longer than 7 years. OLs used to pay for normal operating expenses are set up as a line of credit and are typically repaid within 12 months.

Previously, guaranteed OL borrowers were limited to no more than 15 years in which they could receive OLs. As a result, many family farmers who continued to have difficulty in meeting lender credit standards and had received 15 years of OL, were unable to receive additional guaranteed OLs. The rule amends 7 CFR 762.122 to eliminate all guaranteed OL term limits. These family farmers will now be able to obtain additional guaranteed OLs, which typically will provide them with access to credit on better rates and terms.

Beginning Farmer; Amending Definition to Modify Acreage Ownership Limitation

Section 5303 of the 2014 Farm Bill amended section 343 of the CONACT (7 U.S.C. 1991) to change the owned real farm property limit from 30 percent of the median farm acreage to 30 percent of the average farm acreage. FSA makes and guarantees loans to beginning farmers who are unable to obtain financing from

commercial lenders. Each fiscal year, FSA targets a portion of its direct and guaranteed FO and OL funds to beginning farmers.

Previously, to meet FSA's definition of a beginning farmer, the loan applicant must not have owned real farm property that exceeded 30 percent of the median farm acreage, except for an OL applicant. According to the 2012 Census of Agriculture, nationally the median size farm is 80 acres, while the average size farm is 434 acres. The farm acreage limit, previously based on the median, set a limit so low in many counties it precluded applicants who owned small acreages of real farm property from qualifying as a beginning farmer. This eliminated many otherwise qualified applicants from accessing FSA farm loan funds targeted to beginning farmers. The rule amends 7 CFR 761.2 to change the owned real farm property limit. The farm acreage limit, now based on the average, will now allow many qualified applicants access to farm loan funds targeted to beginning farmers, which previously were not available to them.

Notice and Comment

In general, the Administrative Procedure Act (5 U.S.C. 553) requires that a notice of proposed rulemaking be published in the Federal Register and interested persons be given an opportunity to participate in the rulemaking through submission of written data, views, or arguments with or without opportunity for oral presentation, except when the rule involves a matter relating to public property, loans, grants, benefits, or contracts. This rule involved matters relating to loans and is therefore being published as a final rule without the opportunity for comments.

Effective Date

The Administrative Procedure Act provides generally that before rules are issued by Government agencies, the rule is required to be published in the Federal Register, and the required publication of a substantive rule is to be not less than 30 days before its effective date. One of the exceptions is when the agency finds good cause for not delaying the effective date. As noted above, the changes in this rule are conforming changes because the 2014 Farm Bill allowed no discretion in the changes and thus were implemented administratively after the enactment of the 2014 Farm Bill. Using the administrative procedure provisions in 5 U.S.C. 553, FSA finds that there is good cause for making this rule effective less than 30 days after publication in the Federal Register. Therefore, this final rule is effective when published in the Federal Register.

Executive Order 12866 and 13563

Executive Order 12866, "Regulatory Planning and Review," and Executive Order 13563, "Improving Regulation and Regulatory Review," direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

The Office of Management and Budget (OMB) designated this rule as not significant under Executive Order 12866, "Regulatory Planning and Review," and, therefore, OMB was not required to review this final rule.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601-612), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), generally require an agency to prepare a regulatory flexibility analysis of any rule subject to the notice and comment rulemaking requirements under APA or any other law, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. All FSA direct loan borrowers and all farm entities affected by this rule are small businesses according to the North American Industry Classification System and the U. S. Small Business Administration. There is no diversity in size of the entities affected by this rule, and the costs to comply with it are the same for all entities.

In this rule, FSA is revising regulations that affect both loan making and loan servicing. FSA does not expect these changes to impose any additional cost to the lenders or borrowers. Therefore, FSA certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Environmental

The environmental impacts of this rule have been considered in a manner consistent with the provisions of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321-4347), the regulations of the Council on Environmental Quality (40 CFR parts 1500-1508), and the FSA regulations for compliance with NEPA (7 CFR 1940, Subpart G). The changes contained in the rule are all mandatory changes required by the

2014 Farm Bill and involved no discretion by FSA, either in whether to implement or how to implement the changes; therefore, they are not subject to review under NEPA. FSA is making these changes through a final rule to update the regulations to match the changes previously implemented administratively with an agency directive in February 2014. As such, FSA will not prepare an environmental assessment or environmental impact statement for this regulatory action.

Executive Order 12372

Executive Order 12372, "Intergovernmental Review of Federal Programs," requires consultation with State and local officials. The objectives of the Executive Order are to foster an intergovernmental partnership and a strengthened Federalism, by relying on State and local processes for State and local government coordination and review of proposed Federal Financial assistance and direct Federal development. For reasons set forth in the Notice to 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), the programs and activities within this rule are excluded from the scope of Executive Order 12372.

Executive Order 12988

This final rule has been reviewed in accordance with Executive Order 12988, "Civil Justice Reform." This rule will not preempt State and local laws and regulations unless they represent an irreconcilable conflict with this rule. Before any judicial action may be brought concerning the provisions of this rule the administrative appeal provisions of 7 CFR parts 11 and 780 are to be exhausted.

Executive Order 13132

This rule has been reviewed under Executive Order 13132, "Federalism." The policies contained in this rule do not have any substantial direct effect on States, the relationship between the Federal government and the States, or the distribution of power and responsibilities among the various levels of government. Nor does this rule impose substantial direct compliance costs on State and local governments. Therefore, consultation with the States is not required.

Executive Order 13175

This rule has been reviewed in accordance with the requirements of Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments." Executive Order 13175 requires Federal agencies to consult and coordinate with tribes on a government-to-government basis on policies that have tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

FSA has assessed the impact of this rule on Indian tribes and determined that this rule does not, to our knowledge, have tribal implications that require tribal consultation under Executive Order 13175. If a Tribe requests consultation, FSA will work with the USDA Office of Tribal Relations to ensure meaningful consultation is provided where

changes, additions, and modifications identified in this rule are not expressly mandated by the 2014 Farm Bill.

Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA, Pub. L. 104-4) requires Federal agencies to assess the effects of their regulatory actions on State, local, or Tribal governments or the private sector. Agencies generally must prepare a written statement, including a cost benefit analysis, for final rule with Federal mandates that may result in expenditures of $100 million or more in any 1 year for State, local, or Tribal governments, in the aggregate, or to the private sector. UMRA generally requires agencies to consider alternatives and adopt the more cost effective or least burdensome alternative that achieves the objectives of the rule. This rule contains no Federal mandates under the regulatory provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA, Pub. L. 104-4) for State, local, or Tribal governments, or private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Paperwork Reduction Act

This regulatory changes in this final rule do not require any changes to the currently information collection request of OMB control numbers, 0560-0155, 0560-0233, 0560-0236, 0560-0237, 0560-0238 and 0560-0230.

E-Government Act Compliance

FSA is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services and other purposes.

Federal Assistance Programs

The title and number of the Federal assistance programs, as found in the Catalog of Federal Domestic Assistance, to which this final rule would apply are: 10.099 Conservation Loans; 10.404 Emergency Loans; 10.406 Farm Operating Loans; and10.407 Farm Ownership Loans.

List of Subjects

7 CFR Part 761

Accounting, Loan programs-agriculture, Rural areas.

7 CFR Part 762

Agriculture, Banks, Banking, Credit, Loan programs-agriculture, Agricultural commodities, Livestock.

7 CFR Part 764

Agriculture, Disaster assistance, Loan programs-agriculture, Agricultural commodities, Livestock.

7 CFR Part 765

Agriculture, Credit, Loan programs-agriculture, Agricultural commodities, Livestock.

For the reasons discussed above, FSA amends 7 CFR chapter VII as follows:

PART 761 – FARM LOAN PROGRAM; GENERAL PROGRAM ADMINISTRATION

The authority citation for part 761 continues to read as follows:

Authority: 5 U.S.C. 301 and 7 U.S.C. 1989.

Subpart A – General Provisions

1. Amend § 761.2(b) as follows:

a. Amend the definition of "Beginning farmer" in paragraph (5) by removing the word "median" each time it appears and adding the word "average" in its place;

b. Revise the definition of "Debt forgiveness"; and

c. Add the definition of "Veteran farmer" in alphabetical order.

The additions read as follows:

§ 761.2 Abbreviations and definitions.

* * * * *

(b) ***

* * * * *

Debt forgiveness is a reduction or termination of a debt under the Act in a manner that results in a loss to the Agency.

(1) Debt forgiveness may be through:

(i) Writing down or writing off a debt pursuant to 7 U.S.C. 2001;

(ii) Compromising, adjusting, reducing, or charging off a debt or claim pursuant to 7 U.S.C. 1981; or

(iii) Paying a loss pursuant to 7 U.S.C. 2005 on a FLP loan guaranteed by the Agency.

(2) Debt forgiveness does not include:

(i) Debt reduction through a conservation contract;

(ii) Any writedown provided as part of the resolution of a discrimination complaint against the Agency;

(iii) Prior debt forgiveness that has been repaid in its entirety;

(iv) Consolidation, rescheduling, reamortization, or deferral of a loan; or

(v) Forgiveness of YL debt, due to circumstances beyond the borrower's control.

The Agency will use the criteria in 7 CFR 766.104(a) (1) to determine if the circumstances were beyond the borrower's control.

* * * * *

Veteran farmer is a farmer who has served in the Armed Forces (as defined in 38 U.S.C. 101(10)) and who –

(1) has not operated a farm; or

(2) has operated a farm for not more than 10 years.

* * * * *

§ 761.7 [Amended]

2. In § 761.7, remove paragraph (b)(3).

PART 762 – GUARANTEED FARM LOANS

3. The authority citation for part 762 continues to read as follows:

Authority: 5 U.S.C. 301 and 7 U.S.C. 1989.

§ 762.122 [Amended]

4. In § 762.122, remove paragraph (b) and redesignate paragraphs (c) through (e) as (b) through (d).

5. In § 762.129, revise paragraphs (a), (b) and (c) to read as follows:

The revision reads as follows:

§ 762.129 Percent of guarantee and maximum loss.

(a) Percent of guarantee. The percent of guarantee will not exceed 90 percent based on the credit risk to the lender and the Agency both before and after the transaction. The Agency will determine the percentage of guarantee. See paragraph (b) of this section for exceptions.

(b) Exceptions. The guarantee will be determined by the Agency except:

(1) For OLs and FOs, the guarantee will be issued at 95 percent if:

(i) The sole purpose of a guaranteed FO or OL is to refinance an Agency direct farm loan. When only a portion of the loan is used to refinance a direct Agency loan, a weighted percentage of a guarantee will be provided; or

(ii) When the purpose of a guaranteed FO is to participate in the downpayment loan program; or

(iii) When a guaranteed OL is made to a farmer who is participating in the Agency's down payment loan program. The guaranteed OL must be made during the

period that a borrower has the down payment loan outstanding; or

(iv) When a guaranteed OL is made to a farmer whose farm 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.

(2) For CLs, the guarantee will be issued at 80 percent; however, the guarantee will be issued at 90 percent if:

(i) The applicant is a qualified SDA farmer; or

(ii) The applicant is a qualified beginning farmer.

(c) CLP and PLP guarantees. All guarantees issued to CLP or PLP lenders will not be less than 80 percent.

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§ 762.130 [Amended]

6. In § 762.130(a)(2)(ii) remove "75" and add "80 or 90" in its place.

PART 764—DIRECT LOAN MAKING

7. The authority citation for part 764 continues to read as follows:

Authority: 5 U.S.C. 301 and 7 U.S.C. 1989.

Subpart E—Downpayment Loan Program

8. Revise § 764.154(a)(3) to read as follows:

§764.154 Rates and terms.

(a) * * *

(3) If the FO loan is part of a joint financing arrangement and the amount of the Agency's loan does not exceed 50 percent of the total amount financed, the interest rate charged will be the greater of the following:

(i) The Agency's Direct Farm Ownership rate, available in each Agency office, minus 2 percent; or

(ii) 2.5 percent.

* * * * *

9. Revise § 764.203(b)(3) to read as follows:

§ 764.203 Limitations.

* * * * *

(b) * * *

(3) $667,000; subject to the direct FO dollar limit specified in 7 CFR 761.8(a)(1)(i).

* * * * *

Subpart G – Operating Loan Program

10. Revise § 764.252 to read as follows:

§ 764.252 Eligibility requirements.

(a) The applicant must comply with the general eligibility requirements established in § 764.101.

(b) The applicant and anyone who will sign the promissory note, except as provided in paragraph (c) of this section, must not have received debt forgiveness from the Agency on any direct or guaranteed loan.

(c) The applicant and anyone who will sign the promissory note, may receive direct OL loans to pay annual farm operating and family living expenses, provided that the applicant meets all other applicable requirements under this part, if the applicant:

(1) Received a write-down under section 353 of the Act;

(2) Is current on payments under a confirmed reorganization plan under Chapter 11, 12, or 13 of Title 11 of the United States Code; or

(3) Received debt forgiveness on not more than one occasion after April 4, 1996, resulting directly and primarily from a Presidentially-designated emergency for the county or contiguous county in which the applicant operates. Only applicants who were current on all existing direct and guaranteed FLP loans prior to the beginning date of the incidence period of a Presidentially-designated emergency and received debt forgiveness on that debt within 3 years after the designation of such emergency meet this exception.

(d) In the case of an entity applicant, the entity must be:

(1) Controlled by farmers engaged primarily and directly in farming in the United States; and

(2) Authorized to operate the farm in the State in which the farm is located.

(e) The applicant and anyone who will sign the promissory note, may close an OL in no more than 7 calendar years, either as an individual or as a member of an entity, except as provided in paragraphs (e)(1) through (4) of this section. The years may be consecutive or nonconsecutive, and there is no limit on the number of OLs closed in a year. Microloans made to a beginning farmer or a veteran farmer are not counted toward this limitation. Youth loans are not counted toward this limitation. The following exceptions apply:

(1) This limitation does not apply if the applicant and anyone who will sign the promissory note is a beginning farmer.

(2) This limitation does not apply if the applicant's land is subject to the jurisdiction of an Indian tribe, the loan is secured by one or more security instruments

subject to the jurisdiction of an Indian tribe, and commercial credit is generally not available to such farm operations.

(3) If the applicant, and anyone who will sign the promissory note, has closed direct OL loans in 4 or more previous calendar years as of April 4, 1996, the applicant is eligible to close OL loans in any 3 additional years after that date.

(4) On a case-by-case basis, may be granted a one-time waiver of OL term limits for a period of 2 years, not subject to administrative appeal, if the applicant:

(i) Has a financially viable operation;

(ii) And in the case of an entity, the members holding the majority interest, applied for commercial credit from at least two lenders and were unable to obtain a commercial loan, including an Agency-guaranteed loan; and

(iii) Has successfully completed, or will complete within one year, borrower training. Previous waivers to the borrower training requirements are not applicable under this paragraph.

11. Add § 764.254(a)(4) to read as follows:

§ 764.254 Rates and terms.

(a) * * *

(4) The Agency's Direct ML OL interest rate on an ML to a beginning farmer or veteran farmer is available in each Agency office. ML borrowers in these groups have the option of choosing the ML OL interest rate or the Direct OL interest rate in effect at the time of approval, or if lower, the rate in effect at the time of closing.

* * * * *

§ 764.302 [Amended]

12. In § 764.302, remove paragraph (d) and redesignate paragraphs (e) through (f) as paragraphs (d) through (e).

PART 765—DIRECT LOAN SERVICING—REGULAR

13. The authority citation for part 765 continues to read as follows:

Authority: 5 U.S.C. 301 and 7 U.S.C. 1989.

Subpart F—Required Use and Operation of Agency Security

14. Revise § 765.252(b)(1) to read as follows:

§ 765.252 Lease of security.

* * * * *

(b) * * *

(1) For FO loans made from December 23, 1985, to February 7, 2014, and loans other than FO loans secured by real estate and made from December 23, 1985, to November 1, 2013, the value of the mineral rights must have been included in the original appraisal in order for the Agency to obtain a security interest in any oil, gas, and other mineral associated with the real estate security.

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Signed on December 16, 2014.

Val Dolcini,
Administrator,
Farm Service Agency.

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