

Farm Service Agency, USDA

§ 773.9

judgments do not include those filed as a result of action in the United States Tax Courts;

(f) The loan applicant, in past or present dealings with the Agency, must not have provided the Agency with false information; and

(g) The individual or business entity loan applicant and all entity members must have acceptable credit history demonstrated by debt repayment. A history of failure to repay past debts as they came due (including debts to the Internal Revenue Service) when the ability to repay was within their control will demonstrate unacceptable credit history. Unacceptable credit history will not include isolated instances of late payments which do not represent a pattern and were clearly beyond the applicant's control or lack of credit history.

§ 773.7 Loan uses.

Loan funds may be used for any of the following purposes related to the production or marketing of apples:

(a) Payment of costs associated with reorganizing a farm to improve its profitability;

(b) Payment of annual farm operating expenses;

(c) Purchase of farm equipment or fixtures;

(d) Acquiring, enlarging, or leasing a farm;

(e) Making capital improvements to a farm;

(f) Refinancing indebtedness;

(g) Purchase of cooperative stock for credit, production, processing or marketing purposes; or

(h) Payment of loan closing costs.

§ 773.8 Limitations.

(a) The maximum loan amount any individual or business entity may receive under the Special Apple Loan Program is limited to \$500,000.

(b) The maximum loan is further limited to \$300 per acre of apple trees in production in 1999 or 2000, whichever is greater.

(c) Loan funds may not be used to pay expenses incurred for lobbying or related activities.

(d) Loans may not be made for any purpose which contributes to excessive erosion of highly erodible land or to

the conversion of wetlands to produce an agricultural commodity.

§ 773.9 Environmental compliance.

(a) Except as otherwise specified in this section, prior to approval of any loan, an environmental evaluation will be completed by the Agency to determine if the proposed action will have any adverse impacts on the human environment and cultural resources. Loan applicants will provide all information necessary for the Agency to make its evaluation.

(b) The following loan actions were reviewed for the purpose of compliance with the National Environmental Policy Act (NEPA), 40 CFR parts 1500 through 1508, and determined not to have a significant impact on the quality of the human environment, either individually or cumulatively. Therefore the following loan actions are categorically excluded from the requirements of an environmental evaluation:

(1) Payment of legal costs associated with reorganizing a farm to improve its profitability as long as there will be no changes in the land's use or character;

(2) Purchase of farm equipment which will not be affixed to a permanent mount or position;

(3) Acquiring or leasing a farm;

(4) Refinancing an indebtedness not greater than \$30,000;

(5) Purchase of stock in a credit association or in a cooperative which deals with the production, processing or marketing of apples; and

(6) Payment of loan closing costs.

(c) The loan actions listed in paragraph (b) of this section were also reviewed in accordance with section 106 of the National Historic Preservation Act (NHPA). It was determined that these loan actions are non-undertakings with no potential to affect or alter historic properties and therefore, will not require consultation with the State Historic Preservation Officer, Tribal Historic Preservation Officer, or other interested parties.

(d) If adverse environmental impacts, either direct or indirect, are identified, the Agency will complete an environmental assessment in accordance with the Council on Environmental

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Quality's Regulations for Implementing the Procedural Provisions of NEPA to the extent required by law.

(e) In order to minimize the financial risk associated with contamination of real property from hazardous waste and other environmental concerns, the Agency will complete an environmental risk evaluation of the environmental risks to the real estate collateral posed by the presence of hazardous substances and other environmental concerns.

(1) The Agency will not accept real estate as collateral which has significant environmental risks.

(2) If the real estate offered as collateral contains significant environmental risks, the Agency will provide the applicant with the option of properly correcting or removing the risk, or offering other non-contaminated property as collateral.

§ 773.10 Other Federal, State, and local requirements.

Borrowers are required to comply with all applicable:

- (a) Federal, State, or local laws;
- (b) Regulatory commission rules; and
- (c) Regulations which are presently in existence, or which may be later adopted including, but not limited to, those governing the following:

(1) Borrowing money, pledging security, and raising revenues for repayment of debt;

(2) Accounting and financial reporting; and

(3) Protection of the environment.

§§ 773.11–773.17 [Reserved]

§ 773.18 Loan application.

(a) A complete application will consist of the following:

(1) A completed Agency application form;

(2) If the applicant is a business entity, any legal documents evidencing the organization and any State recognition of the entity;

(3) Documentation of compliance with the Agency's environmental regulations contained in 7 CFR part 1940, subpart G;

(4) A balance sheet on the applicant;

(5) The farm's operating plan, including the projected cash flow budget re-

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flecting production, income, expenses, and loan repayment plan;

(6) The last 3 years of production and income and expense information;

(7) Payment to the Agency for ordering a credit report; and

(8) Any additional information required by the Agency to determine the eligibility of the applicant, the feasibility of the operation, or the adequacy and availability of security.

(b) Except as required in § 773.19(e), the Agency will waive requirements for a complete application, listed in paragraphs (a)(5) and (a)(6) of this section, for requests of \$30,000 or less.

§ 773.19 Interest rate, terms, security requirements, and repayment.

(a) *Interest rate.* The interest rate will be fixed for the term of the loan. The rate will be established by the Agency and available in each Agency Office, based upon the cost of Government borrowing for loans of similar maturities.

(b) *Terms.* The loan term will be for up to 3 years, based upon the useful life of the security offered.

(c) *Security requirements.* The Agency will take a lien on the following security, if available, as necessary to adequately secure the loan:

(1) Real estate;

(2) Chattels;

(3) Crops;

(4) Other assets owned by the applicant; and

(5) Assets owned and pledged by a third party.

(d) *Documentation of security value.* (1) For loans that are for \$30,000 or less, collateral value will be based on the best available, verifiable information.

(2) For loans of greater than \$30,000 where the applicant's balance sheet shows a net worth of three times the loan amount or greater, collateral value will be based on tax assessment of real estate and depreciation schedules of chattels, as applicable, less any existing liens.

(3) For loans of greater than \$30,000 where the applicant's balance sheet shows a net worth of less than three times the loan amount, collateral value will be based on an appraisal. Such appraisals must be obtained by