

correct for any other reason documented in the casefile. * * *

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(e) *Disposition of case review.* * * *

(1) *Cases reported as not complete.*
* * *

(2) *Cases not subject to review.*

Negative cases which are not subject to review, if they have not been eliminated in the sampling process, shall be eliminated in the review process. In addition to cases listed in § 275.11(f)(2), these shall include:

(i) A household which was dropped as a result of a correction for oversampling;

(ii) A household which was listed incorrectly in the negative frame.

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9. In § 275.23:

a. paragraph (c)(4) is amended by adding the word “, suspension,” between the words “denial” and “or”;

b. paragraph (e)(6)(i) is amended by removing everything but the first sentence;

c. paragraph (e)(6)(iii) is revised.

d. the introductory text of paragraph (e)(8)(iii) is amended by removing the word “all” and adding in its place the words “98 percent”.

e. paragraph (e)(9) is revised.

The revisions read as follows:

§ 275.23 Determination of State agency program performance.

* * * * *

(e) *State agencies' liabilities for payment error rates.* * * *

(6) * * *

(iii) Whenever a State is assessed for an excessive payment error rate, the State shall have the right to request an appeal in accordance with procedures set forth in part 283 of this chapter. While FNS may determine a State to be liable for dollar loss under the provisions of this section and the negligence provisions of § 276.3 of this chapter for the same period of time, FNS shall not bill a State for the same dollar loss under both provisions. If FNS finds a State liable for dollar loss under both the QC liability system and the negligence provisions, FNS shall adjust the billings to ensure that two claims are not made against the State for the same dollar loss.

* * * * *

(9) *FNS Timeframes.* FNS shall determine and announce the national average payment error rate for the fiscal year within 30 days following the completion of the case review process and all arbitrations of State agency-Federal difference cases for that fiscal year, and at the same time FNS shall notify all State agencies of their

individual payment error rates and payment error rate liabilities, if any. The case review process and the arbitration of all difference cases shall be completed not later than 180 days after the end of the fiscal year. FNS shall initiate collection action on each claim for such liabilities before the end of the fiscal year following the reporting period in which the claim arose unless an administrative appeal relating to the claim is pending. Such appeals include requests for good cause waivers and administrative and judicial appeals pursuant to Section 14 of the Food Stamp Act. While the amount of a State's liability may be recovered through offsets to their letter of credit as identified in § 277.16(c) of this chapter, FNS shall also have the option of billing a State directly or using other claims collection mechanisms authorized under the Federal Claims Collection Act, depending upon the amount of the State's liability. FNS is not bound by the timeframes referenced in this subparagraph in cases where a State fails to submit QC data expeditiously to FNS and FNS determines that, as a result, it is unable to calculate a State's payment error rate and payment error rate liability within the prescribed timeframe.

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Dated: July 12, 1999.

Shirley R. Watkins,

Under Secretary for Food, Nutrition and Consumer Services.

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DEPARTMENT OF AGRICULTURE

Farm Service Agency

7 CFR Part 762

Rural Housing Service

Rural Business—Cooperative Service

Rural Utilities Service

Farm Service Agency

7 CFR Part 1980

RIN 0560-AF38

Implementation of Preferred Lender Program and Streamlining of Guaranteed Farm Loan Programs Loan Regulations; Correction

AGENCIES: Rural Housing Service, Rural Business—Cooperative Service, Rural Utilities Service, and Farm Service Agency, USDA.

ACTION: Correction to final regulations.

SUMMARY: This document corrects the amendatory language contained in the final rule published February 12, 1999, (64 FR 7358) establishing the regulations that govern the Farm Service Agency (FSA) guaranteed farm loan program. These corrections are necessary to change some erroneous references, clarify some provisions, and correct sections that conflict with statute or other program requirements. The effect will be to ensure the original intent of each provision is stated and implemented correctly. This correction will apply retroactively to those loans approved since the effective date of the final rule.

DATES: Effective on July 16, 1999.

FOR FURTHER INFORMATION CONTACT: Phillip Elder (202) 690-4012; Electronic mail: phillip_elder@wdc.fsa.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The final rule being corrected by this publication was promulgated under 7 CFR part 762 to replace the regulations under 7 CFR part 1980, subparts A and B, as they pertain to the guaranteed farm loan programs of FSA, to update and streamline program requirements, and to implement a preferred lender program.

Need for Correction

As published, the final rule (64 FR 7358-7403) contains several technical errors which may prove misleading and cause unintentional results if not clarified.

Discussion of Changes

The corrections being made are described as follows:

(1) Section 762.122(a)(1) states, “The total outstanding combined Direct and Guaranteed FO and OL principal balance cannot exceed \$700,000 and,”. This conflicts with the combined direct and guaranteed loan maximum of \$900,000 provided by paragraph (a)(4) of § 762.122. Paragraph (a)(1) should read, “The total outstanding combined guaranteed FO and OL principal balance cannot exceed \$700,000 and,”. This change is consistent with the intended policy for loan limits as discussed in the preamble of the final rule. Paragraph (a)(4) also needs to be amended to refer to “principal balance” rather than “balance” for consistency and clarity.

(2) Section 762.122(c)(1) states, “No guaranteed OL shall be made to any loan applicant after the 15th year that a loan applicant, or any individual signing the promissory note, first received direct or guaranteed OL.” Since the 15 year limit is based on the

number of years of actual loan assistance the borrower has received and not the year in which the borrower "first" received loan assistance, this section should state, "No guaranteed OL shall be made to any loan applicant after the 15th year that a loan applicant, or any individual signing the promissory note, received a direct or guaranteed OL." This change is consistent with former Agency policy under 7 CFR § 1980.175. No policy change was intended in the final rule.

(3) Section 762.145(e)(7), in the last sentence provides that an interest assistance agreement will be canceled if a writedown is approved. This provision was unintentionally retained from the previous regulation and will be deleted. Cancellation of the interest assistance agreement in the case of a writedown is not necessary due to changes in the way the subsidy is calculated under § 762.150. This cancellation requirement conflicts directly with the second to last sentence of § 762.150(g)(3) which states that the interest assistance agreement will not be canceled if a debt writedown is approved.

(4) Section 762.150(e)(2) provides requirements for the continuation of interest assistance subsidy for the next year and states, "The loan will be eligible for the continuation of interest assistance if a feasible plan, including interest assistance, can be projected for the plan period." As written, this sentence provides a minimum threshold for continuation without providing policy for subsidy on multiple loans. Thus, this provision implies that subsidy may be approved on multiple loans even if a positive cash flow is achieved with subsidy applied to only one loan. This error may cause subsidy to be awarded above the amount necessary to achieve a positive cash flow and, therefore, increase the costs of the loan to the Government. Previously, the Agency required, at a minimum, a positive cash flow (with a 10-percent margin) to be eligible for continuation of the subsidy. The 10 percent margin requirement was removed. The Agency intended to prohibit subsidy when it was not required to achieve a 10 percent margin but failed to state this expressly. Under the corrected rule, the Agency will, at a maximum, continue to provide subsidy to as many loans as necessary in a multiple loan situation to achieve a positive cash flow for the plan period. Thus, the first sentence of § 762.150(e)(2) is removed and two sentences are inserted in its place to state, "The loan will be eligible for continuation of interest assistance if the cash flow budget projects a feasible plan

with interest assistance applied. However, in the case of multiple loans with interest assistance, subsidy can be applied only to as many loans as necessary to achieve a positive cash flow for the plan period."

(5) Section 762.150(g)(4) is also erroneous due to changes made in the annual review procedure for interest assistance. This paragraph limits the timing of rescheduling and deferral of loans with interest assistance to the claim date or anniversary date of the agreement. Those limits were imposed due to the effect of restructuring actions on the annual calculation of subsidy. The formula for this calculation has been simplified under this section, so this restriction is no longer necessary. Thus, the last three sentences of § 762.150(g)(4) are removed as a conforming change.

(6) The final rule published February 12, 1999, contained the following erroneous cross references to other sections within the rule that are corrected by this rule:

(A) Sections 762.106(g)(2)(ix) and 762.160(a)(2)(ii) refer to § 762.146(c)(7) but should refer to § 762.144(c)(7).

(B) Section 762.150(g)(7), in the last sentence refers to § 762.145(b)(3)(v) but should refer to § 762.143(b)(3)(v).

Correction of Publication

Accordingly, the final rule published in the **Federal Register**, FR Doc. 99-3256, (64 FR 7358) on February 12, 1999, is corrected as follows:

1. At 64 FR 7384, in the first column, § 762.106(g)(2)(ix) is corrected to read as follows:

§ 762.106 Preferred and certified lender programs.

* * * * *

(g) * * *

(2) * * *

(ix) Failure to comply with the reimbursement requirements of § 762.144(c)(7).

* * * * *

2. At 64 FR 7386, in the second column, §§ 762.122(a)(1), (a)(4), and (c)(1) are corrected to read as follows:

§ 762.122 Loan limitations.

(a) * * *

(1) The total outstanding combined guaranteed FO and OL principal balance cannot exceed \$700,000 and,

* * * * *

(4) The total combined outstanding direct and guaranteed FO and OL principal balance cannot exceed \$900,000.

* * * * *

(c) * * *

(1) No guaranteed OL shall be made to any loan applicant after the 15th year that a loan applicant, or any individual signing the promissory note, received a direct or guaranteed OL.

* * * * *

3. At 64 FR 7395, in the first column, § 762.145(e)(7) is corrected by removing the last sentence.

4. At 64 FR 7400, in the second column, § 762.150(e)(2) is corrected to read as follows:

§ 762.150 Interest assistance program.

* * * * *

(e) * * *

(2) The loan will be eligible for continuation of interest assistance if the cash flow budget projects a feasible plan with interest assistance applied. However, interest assistance can be applied only to as many loans as necessary to achieve a positive cash flow for the plan period. If the cash flow budget indicates that the borrower requires a level of interest assistance greater than 4 percent to project a feasible plan, then the Agency will deny the continuation of interest assistance. Interest assistance will be reduced to zero during that period. See § 762.102(b) for the definition of feasible plan.

5. At 64 FR 7401, in the first column, § 762.150(g)(4) is corrected by removing the last three sentences.

6. At 64 FR 7401, in the first column, the last sentence of § 762.150(g)(7) is corrected by removing "§ 762.145(b)(3)(v)" and adding "§ 762.143(b)(3)(v)" in its place.

7. At 64 FR 7401, in the second column, § 762.160(a)(2)(ii) is corrected to read as follows:

§ 762.160 Sale, assignment and participation.

(a) * * *

(2) * * *

(ii) The lender has not complied with the reimbursement requirements of § 762.144(c)(7), except when the 180 day reimbursement or liquidation requirement has been waived by the Agency.

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Signed at Washington, DC on July 7, 1999.

August Schumacher Jr.,

Under Secretary for Farm and Foreign Agricultural Services.

Jill Long Thompson,

Under Secretary for Rural Development.

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