§§ 767.203–767.250 [Reserved]

Subpart F—Exception Authority

§ 767.251 Agency exception authority.

On an individual case basis, the Agency may consider granting an exception to any regulatory requirement or policy of this part if:

(a) The exception is not inconsistent with the authorizing statute or other applicable law; and

(b) The Agency's financial interest would be adversely affected by acting in accordance with published regulations or policies and granting the exception would reduce or eliminate the adverse effect upon the its financial interest.

PART 768—EQUITABLE RELIEF

768.1 Providing equitable relief.
768.2 [Reserved]

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

SOURCE: 87 FR 13124, Mar. 9, 2022, unless otherwise noted.

§ 768.1 Providing equitable relief.

(a) If the Farm Service Agency (Agency or FSA) determines that a borrower is not in compliance with direct FO, OL, or EM requirements, the Agency may consider equitable relief as specified in this section:

(1) *Requirements*. After determination that a borrower is in noncompliance with loan program requirements, the Agency may provide equitable relief to a borrower if it is determined that the borrower:

(i) Acted in good faith; and

(ii) Relied on a material action, advice, or non-action from an Agency official to the detriment of the borrower's operation or the action approved by the Agency official resulted in the borrower becoming noncompliant with the loan program requirements.

(2) *Determination*. The material action, advice, or response from an Agency official under paragraph (a)(1) of this section must be documented, unless the Agency official with authority to grant equitable relief determines that documentation is not reasonably available. Notwithstanding any delegations in this chapter, only the Secretary, FSA Administrator, Deputy Administrator for Farm Loan Programs, or any other official within U.S. Department of Agriculture (USDA) specifically designated by the Secretary, may make the determination for the Agency to grant equitable relief and must document the basis for that determination.

(3) *Relief*. If the borrower meets the requirements in paragraph (a)(1) of this section, the Agency may provide to a borrower either or both of the following forms of equitable relief:

(i) The borrower may choose to keep loans at current rates or other terms received in association with the loan which was determined to be noncompliant; or

(ii) The borrower may receive other equitable relief as the Agency determines to be appropriate.

(4) *Conditions*. As a condition of receiving relief, the Agency may require the borrower to take actions to remedy the noncompliance, provided the borrower agrees those actions do not adversely affect the long-term viability of the borrower's operation.

(b) A determination or action of the Agency under this section is final and not subject to administrative appeal or judicial review.

[87 FR 13124, Mar. 9, 2022, as amended at 89 FR 65062, Aug. 8, 2024]

§ 768.2 [Reserved]

PART 769—FARM LOAN PROGRAMS RELENDING PROGRAMS

Subpart A—Highly Fractionated Indian Land Loan Program

Sec.

769.101 Purpose.
769.102 Abbreviations and definitions.
769.103 Eligibility requirements of the intermediary lender.
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769.108 Security requirements for HFIL loans and ultimate recipients.
769.109 Intermediary lender's application.
769.110 Letter of conditions.
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