

1 Department of Agriculture

2

3 Adopted Permanent Rules Relating to RFA Livestock Expansion Loan

4 Program

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6 Rules as Adopted

7 LIVESTOCK EXPANSION LOAN PROGRAM

8 1655.0011 APPLICABILITY AND PURPOSE.

9 Subpart 1. **Applicability.** This chapter establishes the  
10 criteria and procedures to be used by the RFA in administering  
11 the Livestock Expansion Loan Program authorized by Minnesota  
12 Statutes, section 41B.045.

13 Subp. 2. **Purpose.** The purpose of the RFA Livestock  
14 Expansion Loan Program and for the issuance of bonds to finance  
15 the program is to promote livestock in the state and encourage  
16 the adoption of efficient, state of the art production  
17 facilities and practices. This is accomplished by participating  
18 in loans made to applicants who meet the eligibility  
19 requirements in this chapter. The repayment of the loans must  
20 be secured by mortgage liens on real property.

21 1655.0021 DEFINITIONS.

22 Subpart 1. **Scope.** The definitions in this part apply to  
23 this chapter.

24 Subp. 2. **Applicant.** "Applicant" means a potential  
25 borrower who submits an application to the RFA through an  
26 eligible lender.

27 Subp. 3. **Application.** "Application" means the application  
28 for a loan participation under the Livestock Expansion Loan  
29 Program in the form provided by the RFA.

30 Subp. 4. **Assets.** "Assets" means property, real or  
31 personal, tangible or intangible, and all valuable contract  
32 rights, including cash crops or feed on hand, livestock held for  
33 sale, breeding stock, marketable bonds and securities,  
34 securities not readily marketable, accounts receivable, notes  
35 receivable, cash invested in growing crops, cash value of life

1 insurance, machinery and equipment, cars, trucks, farm and other  
2 real estate including life estates and personal residence, and  
3 the value of a beneficial interest in trusts.

4 Subp. 5. Borrower. "Borrower" means the person or persons  
5 liable on a mortgage loan made under the program. "Borrower"  
6 includes a domestic family farm corporation as defined in  
7 Minnesota Statutes, section 500.24.

8 Subp. 6. Collateral. "Collateral" means all assets  
9 pledged as security for a borrower's obligation under a mortgage  
10 loan made under the program, including assets, guarantees,  
11 money, letters of credit, assignment of collateral, or pledge  
12 for a loan on which the lender has a security interest or lien.

13 Subp. 7. Executive director. "Executive director" means  
14 the executive director of the RFA or another officer authorized  
15 to act on behalf of the RFA board or its executive director.

16 Subp. 8. Fixture. "Fixture" means an article in the  
17 nature of personal property that has been affixed or annexed to  
18 real estate so that it is regarded as a part of the real  
19 estate. A thing is "affixed or annexed to real estate" when it  
20 is attached to it by roots, embedded in it, permanently resting  
21 upon it, or permanently attached to it, as by means of cement,  
22 plaster, nails, bolts, or screws.

23 Subp. 9. Liabilities. "Liabilities" means debts or other  
24 obligations for which an applicant is responsible, including  
25 accounts payable, notes or other indebtedness owed, taxes, rent,  
26 amounts owed on real estate contracts or mortgages, judgments,  
27 and accrued interest payable.

28 Subp. 10. Livestock expansion. "Livestock expansion" has  
29 the meaning given in Minnesota Statutes, section 41B.02,  
30 subdivision 10a.

31 Subp. 11. Livestock Expansion Loan Program or program.  
32 "Livestock Expansion Loan Program" or "program" means the  
33 program authorized and created by Minnesota Statutes, section  
34 41B.045.

35 Subp. 12. Livestock operation. "Livestock operation"  
36 means the use of land or land improvements and personal property

1 for the production of livestock as defined in Minnesota  
2 Statutes, section 17A.03, subdivision 5, dairy products, and  
3 poultry or poultry products. "Livestock operation" also  
4 includes:

5           A. the use of wetlands, pasture, forest land,  
6 wildlife, and homestead and other real property associated with  
7 the agricultural use of land; and

8           B. the practices and facilities needed to conserve  
9 soil and water, protect human and animal health, have a safe and  
10 efficient operation, and meet local, state, and federal laws and  
11 regulations relating to the operation.

12           Subp. 13. Mortgage loan or loan. "Mortgage loan" or "loan"  
13 means a loan participation under the program that is secured by  
14 a first mortgage on real property.

15           Subp. 14. Net worth. "Net worth" means the total value of  
16 an applicant's assets and the assets of the applicant's spouse  
17 and dependents, less the liabilities of the same parties.

18           Subp. 15. Real estate or real property. "Real estate" or  
19 "real property" means land and anything permanently affixed to  
20 the land, such as buildings, fences, and those things attached  
21 to the buildings, such as light fixtures, plumbing and heating  
22 fixtures, and other items that would be personal property if not  
23 attached.

24           Subp. 16. RFA. "RFA" means the Rural Finance Authority  
25 established by Minnesota Statutes, section 41B.025.

26 1655.0031 BORROWER ELIGIBILITY.

27           To be eligible for assistance under the Livestock Expansion  
28 Loan Program, an applicant must meet the criteria in items A to  
29 F.

30           A. All of the applicants must be residents of the  
31 state of Minnesota or a domestic family farm corporation as  
32 defined in Minnesota Statutes, section 500.24.

33           B. At least one of the applicants must be the  
34 principal operator of the livestock operation upon which the  
35 livestock expansion will be located.

1 C. At least one of the applicants must be actively  
2 engaged in a livestock operation.

3 D. The applicants must have the ability to repay the  
4 loan.

5 E. The applicants' net worth may not exceed \$400,000.

6 F. The applicants must not be current or previous  
7 participants in the RFA Restructure II Program.

8 1655.0041 DEMONSTRATION PROGRAM; RESTRICTIONS.

9 For fiscal years 1996 and 1997, all loans must comply with  
10 the restrictions in items A and B.

11 A. To the extent that herd health will not be  
12 jeopardized, livestock operations receiving assistance from the  
13 RFA must be available for tours within the first two years after  
14 completion of the expansion.

15 B. All livestock expansion loans must be for  
16 expansions that include up-to-date and efficient systems.  
17 Projects must be reviewed by a University of Minnesota extension  
18 livestock specialist prior to approval by the RFA.

19 1655.0051 LENDER ELIGIBILITY.

20 Subpart 1. Statutory eligibility. Any bank, credit union,  
21 or savings association chartered by the state or federal  
22 government, a subdivision of the farm credit system (Agri Bank),  
23 the Federal Deposit Insurance Corporation, or any insurance  
24 company, fund, or other financial institution doing business as  
25 an agricultural lender within the state may apply to the RFA for  
26 certification as an approved lender.

27 Subp. 2. Approval. If a lender demonstrates its ability  
28 to originate and service agricultural real estate loans, the RFA  
29 shall designate the lender as an approved lender for purposes of  
30 RFA programs.

31 Subp. 3. Participation agreement. Before offering  
32 mortgage loans to the RFA for participation, each approved  
33 lender must enter into an RFA master participation agreement  
34 specifying the relationship between the parties and the terms  
35 and conditions of mortgage loans to be made by the lender under

1 the Livestock Expansion Loan Program and offered to the RFA for  
2 participation.

3 1655.0061 APPLICATION PROCESS AND OFFER OF PARTICIPATION.

4 Subpart 1. Request for livestock expansion loan  
5 participation. A lender and an applicant must jointly complete  
6 and sign an application and prepare all supporting documents  
7 identified in the application.

8 Subp. 2. Acquisition or construction. The applicant shall  
9 not begin acquisition or construction of any part of the  
10 livestock expansion before RFA approval of the application.  
11 Once the application has been approved, upon notice to the  
12 lender of RFA approval, the applicant may move forward with  
13 acquisition or construction of the livestock expansion  
14 collateral requirements.

15 Subp. 3. Collateral requirements. The RFA may participate  
16 only in loans that do not exceed 80 percent of the appraised  
17 value of the real estate offered for collateral. Additional  
18 collateral may be required based on the depreciability and  
19 saleability of the collateral and creditworthiness of the  
20 applicant.

21 Subp. 4. Lender determination. The lender shall complete  
22 the initial review of the proposal and determine the  
23 creditworthiness of the applicant and the value of the  
24 collateral to be used to secure the loan. If the lender agrees  
25 to make a mortgage loan to the applicant, the lender and the  
26 applicant shall jointly prepare the application and the required  
27 loan documents.

28 Subp. 5. Offer. The lender, as the originator of the  
29 mortgage loan, shall present a completed application and loan  
30 documents to the RFA. Presentation of the documents constitutes  
31 an offer to sell a participation interest in the loan.

32 Subp. 6. Fees. A nonrefundable application fee as  
33 established by Minnesota Statutes, section 41B.045, subdivision  
34 4, must be submitted with each application. The loan  
35 origination fee established by Minnesota Statutes, section

1 41B.045, subdivision 4, must be submitted by the applicant at  
2 the closing of the loan. The loan origination fee and other  
3 loan closing expenses may be financed with proceeds of the loan.

4 Subp. 7. **Terms and conditions of loan.** The maximum term  
5 of a loan participation is ten years. The maximum participation  
6 is 45 percent of the loan principal or \$250,000, whichever is  
7 less. The loan may have a balloon payment.

8 Subp. 8. **Misrepresentation in application.** If a change  
9 occurs in the information provided by the lender to the RFA  
10 prior to the closing of a loan, the lender shall immediately  
11 update and correct that information. Misrepresentation in the  
12 application or failure to update any required information is  
13 grounds to reject an application, revoke a notice of approval,  
14 or refuse to close the loan.

15 1655.0071 RFA REVIEW, NOTICE, APPEAL.

16 Subpart 1. **RFA review.** The RFA shall accept or reject all  
17 applications within 60 days after their receipt. If the  
18 documentation is not sufficient to make a determination, the RFA  
19 may request additional information to establish the  
20 creditworthiness and eligibility of an applicant.

21 Subp. 2. **RFA acceptance.** The RFA shall accept  
22 applications based upon whether:

- 23 A. the applicant meets all eligibility criteria;  
24 B. the applicant demonstrates an ability to repay the  
25 the mortgage loan and other obligations;  
26 C. the proposed livestock expansion meets  
27 specifications set by statute and rule;  
28 D. none of the loan proceeds are being used to  
29 refinance existing debt; and  
30 E. the RFA has sufficient funds available to purchase  
31 a participation in the loan.

32 Subp. 3. **RFA notice.** The RFA shall notify the lender in  
33 writing whether or not an application is accepted. If the  
34 application is not accepted, the notice must state the reasons.

35 Subp. 4. **Administrative appeal.** If an application is



1 rejected, either the lender or the applicant may petition for  
2 administration reconsideration by the RFA. The petition must be  
3 in writing and must be sent within 30 days of the date of the  
4 RFA notice. The petition must state the grounds for the appeal,  
5 and may include additional relevant information. Within 15  
6 working days of receiving the petition, the executive director  
7 shall send a written response to the petitioner upholding or  
8 reversing the original decision and giving the reasons for the  
9 decision.

10 Subp. 5. **Formal appeal.** After administrative appeal, a  
11 petitioner may appeal the executive director's decision directly  
12 to the RFA board by written notice to the director within 15  
13 days of receiving the director's reconsideration decision. The  
14 decision of the board is final.

15 1655.0081 LOAN CLOSING, PURCHASE OF PARTICIPATION, AND LOAN  
16 MANAGEMENT.

17 Subpart 1. **Closing.** Upon receiving notification of RFA  
18 acceptance, the lender shall close the mortgage loan. The  
19 lender must record and cross-reference all documents relating to  
20 the loan, including the RFA note and loan agreement. The lender  
21 must notify the RFA that the loan is closed and recorded by  
22 signing part 9 and submitting the original RFA application, and  
23 include copies of the recorded documents and final title opinion  
24 to the RFA.

25 Subp. 2. **Payment.** Within ten business days of receipt of  
26 written notice under subpart 1 that the mortgage loan is closed  
27 and recorded and receipt of all required documents, the RFA  
28 shall initiate payment to the lender for the RFA's participation  
29 interest in the loan.

30 Subp. 3. **Participation certificate.** Within five working  
31 days after the receipt of finally collected funds, the lender  
32 shall complete and return a participation certificate as  
33 provided by the RFA witnessing the RFA's undivided pro rata  
34 interest in the livestock expansion mortgage loan.

35 Subp. 4. **Loan management.** The lender shall manage the

1 loan, including the RFA participation interest, with the degree  
2 of care and diligence usually maintained by agricultural real  
3 estate lenders. The lender shall have custody and control of  
4 all loan documents except the original application, which must  
5 be kept by the RFA. The lender shall manage, administer, and  
6 enforce the loan documents in its own name and also on behalf of  
7 itself and the RFA, including, without limitation, the right to  
8 accelerate a mortgage loan on default and to foreclose or  
9 otherwise enforce remedies against the borrower.

10 Subp. 5. Lender notification. The lender shall promptly  
11 notify the RFA of occurrences that substantially affect the  
12 security, collection, or enforcement of any mortgage loan.

13 Subp. 6. Prior written consent. The lender shall obtain  
14 the prior written consent of the borrower and the RFA before:

15 A. making or consenting to a release, substitution,  
16 or exchange of collateral that reduces the aggregate value of  
17 the collateral;

18 B. waiving a claim against the borrower or a  
19 guarantor, surety, or obligor in connection with the  
20 indebtedness; or

21 C. modifying or waiving a term of the notes or  
22 related instruments evidencing or securing the first mortgage  
23 loan.

24 1655.0091 PARTICIPATION REPURCHASE.

25 A lender is under no obligation to repurchase an RFA  
26 participation interest in a livestock expansion mortgage loan  
27 except as provided in this part. A lender may, at its option  
28 and upon written approval by the RFA, repurchase an RFA  
29 participation interest at any time. A lender must repurchase  
30 the RFA participation interest whenever the first mortgage loan  
31 is paid in full or refinanced. A lender must repurchase the RFA  
32 participation interest if the lender:

33 A. has made misrepresentations or is aware that the  
34 applicant has made them or fails to perform its obligations  
35 under the participation agreement;



1 B. has received written notice from the RFA; and

2 C. has not corrected the representation or

3 performance under the notice.

4 A repurchase under this part must be for the outstanding

5 and unpaid principal balance of the RFA participation plus

6 accrued interest and any penalties or costs incurred by the RFA

7 to secure repurchase.

8 1655.0101 REVIEW OF LOAN AND COLLATERAL.

9 Subpart 1. Inspection. At any time during the term of a  
10 livestock expansion mortgage loan, the RFA or the state

11 legislative auditor may inspect the books, records, documents,

12 and accounting practices of the lender relative to the loan to

13 determine compliance with the terms and conditions of the loan

14 and the participation agreement. Inspections must be during the

15 lender's normal business hours. The lender must allow the RFA

16 to copy any documents relating to the mortgage loan and the RFA

17 participation.

18 Subp. 2. Collateral. The lender and the RFA may

19 physically inspect the collateral securing the mortgage loan

20 upon notice to the borrower. Inspections must be conducted at

21 reasonable times.

22 REPEALER: Minnesota Rules, parts 1655.0010; 1655.0020;

23 1655.0030; 1655.0040; 1655.0050; 1655.0060; 1655.0070;

24 1655.0080; 1655.0090; and 1655.0100, are repealed.