

1 Department of Agriculture

2

3 Adopted Permanent Rules Relating to RFA Value-Added Agricultural
4 Product Loans

5

6 Rules as Adopted

7 VALUE-ADDED AGRICULTURAL PRODUCT LOAN PROGRAM

8 1656.0011 APPLICABILITY AND PURPOSE.

9 Subpart 1. **Applicability.** This chapter establishes the
10 criteria and procedures to be used by the RFA in the
11 administration of the value-added agricultural product loan
12 program authorized by Minnesota Statutes, section 41B.046.

13 Subp. 2. **Purpose.** The purpose of the value-added
14 agricultural product loan program is to foster and maintain a
15 diverse agricultural industry that is economically profitable by
16 providing affordable credit to help farmers finance the purchase
17 of stock in a cooperative proposing to directly or indirectly
18 build or purchase and operate an agricultural product processing
19 facility.

20 1656.0021 DEFINITIONS.

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

23 Subp. 2. **Agricultural commodity.** "Agricultural commodity"
24 has the meaning given in Minnesota Statutes, section 17.90.

25 Subp. 3. **Agricultural energy resources.** "Agricultural
26 energy resources" has the meaning given in Minnesota Statutes,
27 section 41B.046, subdivision 1.

28 Subp. 4. **Agricultural product processing facility.**
29 "Agricultural product processing facility" has the meaning given
30 in Minnesota Statutes, section 41B.046, subdivision 1.

31 Subp. 5. **Applicant.** "Applicant" means a potential
32 borrower who submits an application to the RFA through an
33 eligible lender.

34 Subp. 6. **Application.** "Application" means the application
35 for a stock loan in the form provided by the RFA.

1 Subp. 7. **Assets.** "Assets" means property, real or
2 personal, tangible or intangible, and all contract rights of
3 value that constitute assets, including cash crops or feed on
4 hand, livestock held for sale, breeding stock, marketable bonds
5 and securities, securities not readily marketable, accounts
6 receivable, notes receivable, cash invested in growing crops,
7 cash value of life insurance, machinery and equipment, cars and
8 trucks, farm and other real estate including life estates and
9 personal residence, and the value of a beneficial interest in
10 trusts.

11 Subp. 8. **Borrower.** "Borrower" means the person or persons
12 liable on a stock loan made under this program. A borrower may
13 also be a domestic family farm corporation as defined in
14 Minnesota Statutes, section 500.24.

15 Subp. 9. **Executive director.** "Executive director" means
16 the executive director of the RFA or any other officer
17 authorized to act on behalf of the RFA board or its executive
18 director.

19 Subp. 10. **Farm-generated wind energy production facility.**
20 "Farm-generated wind energy production facility" has the meaning
21 given in Minnesota Statutes, section 41B.046, subdivision 1.

22 Subp. 11. **Liabilities.** "Liabilities" means the debts or
23 other obligations for which an applicant is responsible
24 including accounts payable, notes or other indebtedness owed to
25 any source, taxes, rent, amount owed on real estate contracts or
26 mortgages, judgments, and accrued interest payable.

27 Subp. 12. **Net worth.** "Net worth" means the total value of
28 an applicant's assets and the assets of the applicant's spouse
29 and dependents, less the liabilities of the same parties.

30 Subp. 13. **Note and loan agreement.** "Note and loan
31 agreement" means the form provided by the RFA that is signed by
32 a borrower evidencing the terms of the stock loan and the
33 borrower's obligation to repay the loan.

34 Subp. 14. **Participation agreement.** "Participation
35 agreement" means the document entered into between the RFA and
36 an approved lender that establishes the relationship between the

1 parties and the terms and conditions of stock loans to be
2 offered to the RFA for participation under the value-added stock
3 loan participation program.

4 Subp. 15. RFA. "RFA" means the Rural Finance Authority
5 established by Minnesota Statutes, sections 41B.01 to 41B.23.

6 Subp. 16. RFA participation. "RFA participation" means
7 the RFA's undivided interest in the principal of a stock loan,
8 all rights and interests in the loan documents, all payments
9 arising under the loan, the stock securing the loan, and any
10 other collateral pledged to secure the loan.

11 Subp. 17. Stock loan or loan. "Stock loan" or "loan"
12 means a loan secured by the stock purchased, a personal note
13 executed by the borrower, and whatever other security is
14 required by the lender or the RFA, made by an eligible lender to
15 an eligible borrower, offered to the RFA for participation, and
16 in which the RFA has purchased a participation.

17 Subp. 18. Unit of stock. "Unit of stock" means the
18 minimum number of shares of common stock an applicant must
19 purchase to become a member of a cooperative proposing to
20 directly or indirectly build or purchase and operate an
21 agricultural product processing facility.

22 Subp. 19. Value-added agricultural product. "Value-added
23 agricultural product" has the meaning given in Minnesota
24 Statutes, section 41B.046, subdivision 1.

25 Subp. 20. Value-added stock loan participation program;
26 value-added agricultural product loan program; or program.
27 "Value-added stock loan participation program," "value-added
28 agricultural product loan program," or "program" means the
29 program authorized and created by Minnesota Statutes, section
30 41B.046.

31 1656.0031 BORROWER ELIGIBILITY.

32 To be eligible for assistance through a loan participation
33 under the value-added stock loan participation program, an
34 applicant must:

35 A. be a resident of Minnesota or a domestic family

1 farm corporation as defined in Minnesota Statutes, section
2 500.24, subdivision 2;

3 B. be a grower of the agricultural product which is
4 to be processed by an agricultural product processing facility;

5 C. demonstrate an ability to repay the loan;

6 D. have a total net worth not to exceed the total net
7 worth established for the basic beginning farmer participation
8 program, which is available by calling the RFA office for a
9 current quote; and

10 E. have not previously participated in the
11 value-added stock loan participation program.

12 1656.0041 LENDER ELIGIBILITY.

13 Subpart 1. **Statutory eligibility.** A bank, credit union,
14 or savings association chartered by the state or federal
15 government, a subdivision of the Farm Credit System (Agri Bank),
16 the Federal Deposit Insurance Corporation, or an insurance
17 company, fund, or other financial institution doing business as
18 an agricultural lender within the state may apply to the RFA for
19 certification as an approved lender.

20 Subp. 2. **Approval.** Upon a lender's demonstration of its
21 ability to originate and service agricultural loans, the RFA
22 shall designate it as an approved lender for purposes of RFA
23 programs.

24 Subp. 3. **Participation agreement.** Before offering stock
25 loans to the RFA for participation, each approved lender must
26 enter into an RFA master participation agreement. The agreement
27 shall specify the relationship between the parties and the terms
28 and conditions of stock loans to be made by the lender under the
29 value-added stock loan participation program and offered to the
30 RFA for participation.

31 1656.0051 APPLICATION PROCESS AND OFFER OF PARTICIPATION.

32 Subpart 1. **Request for a value-added stock loan**
33 **participation.** A lender and an applicant must jointly complete
34 and sign an application and prepare all supporting documents
35 identified in the application. Financial statements must be

1 dated within 120 days of the application.

2 Subp. 2. Lender determination. The lender shall review
3 the proposal and determine the creditworthiness of the applicant
4 and the value of the collateral to be used to secure the loan.
5 If the lender agrees to make a stock loan to the applicant, the
6 lender and the applicant shall jointly prepare the application
7 and the required loan documents.

8 Subp. 3. Offer. The lender, as the originator of the
9 stock loan, shall present the application and loan documents to
10 the RFA. Presentation of the documents constitutes an offer to
11 sell a participation interest in the loan.

12 ~~Subp. 4. Fee. The nonrefundable application fee as~~
13 ~~established in Minnesota Statutes, section 41B.046, subdivision~~
14 ~~5, paragraph (e), must be submitted with each application.~~

15 Subp. 5. 4. Loan participation. The maximum RFA
16 participation is 45 percent of the loan principal or \$24,000,
17 whichever is less. The interest rate on the loan participation
18 must be 4.0 percent or one-half of the lender's effective rate
19 (APR), rounded down to the nearest one-tenth of one percent, at
20 the time of loan closing, whichever rate is lower. This rate
21 shall remain the fixed rate for the duration of the loan
22 participation.

23 Subp. 6. 5. Terms of loan. The maximum term of the loan
24 is eight years. Loan payments of interest only are permitted
25 for up to two years, with a fully amortized repayment schedule
26 of interest and principal calculated for the remaining years.
27 The loan may not have a balloon. The lender may, for its
28 portion of the loan, use a variable interest rate correlated to
29 a specific index.

30 Subp. 7. 6. Misrepresentation in application. If a change
31 occurs in the information provided by the lender to the RFA
32 prior to the closing of a loan, the lender shall immediately
33 update and correct that information. Misrepresentation in the
34 application or failure to update any required information is
35 grounds to reject an application, revoke a notice of approval,
36 or refuse to close the loan.

1 1656.0061 RFA REVIEW, NOTICE, AND APPEAL.

2 Subpart 1. RFA review. The RFA shall accept or reject an
3 application within 30 business days after its receipt. If the
4 documentation is not sufficient to make a determination, the RFA
5 may request additional information to establish creditworthiness
6 and eligibility of the applicant.

7 Subp. 2. RFA acceptance. The RFA shall accept an
8 application if:

9 A. the applicant meets all eligibility criteria;

10 B. the applicant demonstrates an ability to repay the
11 stock loan and other obligations based on the financial
12 information submitted with the application;

13 C. the loan is for the purchase of new issue stock
14 purchased directly from the issuing cooperative whose facilities
15 are or will be located in Minnesota;

16 D. no more than 95 percent of the purchase price of
17 the first unit of stock purchased, 80 percent of the second
18 unit, or any portion thereof, and 50 percent of any additional
19 units, or any portion thereof, purchased will be financed under
20 this program. The number of stock units is cumulative
21 irrespective of the number of cooperatives in which the
22 applicant is purchasing stock; and

23 E. the RFA has sufficient funds available to purchase
24 a participation in the loan.

25 Subp. 3. RFA notice. The RFA shall promptly notify the
26 lender in writing whether or not an application is accepted. If
27 the application is not accepted, the notice must state the
28 reasons.

29 Subp. 4. Administrative appeal. If an application is
30 rejected, either the lender or the applicant may petition for
31 administration reconsideration. The petition must be in writing
32 and must be sent within 30 days of the date of the RFA notice.
33 The petition must state the grounds for the appeal, and may
34 include additional relevant information. Within 15 working days
35 of receiving the petition, the executive director shall send a

1 written response to the petitioner upholding or reversing the
2 original decision and giving the reasons for the decision.

3 Subp. 5. **Formal appeal.** After administrative appeal, a
4 petitioner may appeal the executive director's decision directly
5 to the RFA board by written notice to the executive director
6 within 15 days of receiving the executive director's
7 reconsideration decision. The decision of the board is final.

8 1656.0071 LOAN CLOSING, PURCHASE OF PARTICIPATION, AND LOAN
9 MANAGEMENT.

10 Subpart 1. **Closing.** Upon receiving notification of RFA
11 acceptance, the lender shall close the stock loan. The lender
12 must record needed security instruments and cross-reference all
13 documents relating to the loan, including the RFA note and loan
14 agreement. The lender must notify the RFA that the loan is
15 closed and the required security instruments are recorded and
16 submit the original RFA application and copies of the recorded
17 documents to the RFA.

18 Subp. 2. **Payment.** Within ten business days of receipt of
19 written notice under subpart 1 that the stock loan is closed and
20 recorded, the RFA shall initiate payment to the lender for the
21 RFA's participation interest in the loan.

22 Subp. 3. **Participation certificate.** Within five working
23 days after the receipt of RFA funds and participation
24 certificate, the lender shall complete and return the
25 certificate as provided by the RFA witnessing the RFA's
26 undivided pro rata interest in the stock loan.

27 Subp. 4. **Loan management.** The lender shall manage the
28 loan, including the RFA participation interest, with the degree
29 of care and diligence usually maintained by agricultural
30 lenders. The lender shall have custody and control of all loan
31 documents, except the original application which shall be
32 retained by the RFA. The lender shall manage, administer, and
33 enforce the loan documents in its own name and also on behalf of
34 itself and the RFA, including, without limitation, the right to
35 accelerate a stock loan on default and to foreclose or otherwise

1 enforce remedies against the borrower.

2 Subp. 5. Lender notification. The lender shall promptly
3 notify the RFA of occurrences that substantially affect the
4 security, collection, or enforcement of any stock loan.

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

7 A. making or consenting to a release, substitution,
8 or exchange of collateral that reduces the aggregate value of
9 the collateral;

10 B. waiving a claim against the borrower or a
11 guarantor, surety, or obligor in connection with the
12 indebtedness; or

13 C. modifying or waiving a term of the notes or
14 related instruments evidencing or securing the stock loan.

15 1656.0081 PARTICIPATION REPURCHASE.

16 A. A lender is under no obligation to repurchase any
17 RFA participation interest in a stock loan except as provided in
18 this part.

19 B. A lender may, at its option and upon written
20 approval by the RFA, repurchase an RFA participation interest at
21 any time.

22 C. A lender must repurchase the RFA participation
23 interest whenever the stock loan is paid in full or refinanced.

24 D. A lender must repurchase the RFA participation
25 interest if the lender has made misrepresentations or fails to
26 perform its obligations under the participation agreement, has
27 received written notice from the RFA, and has not corrected the
28 representation or performance under the notice.

29 E. A repurchase must be for the outstanding and
30 unpaid principal balance of the RFA participation plus accrued
31 interest and any penalties or costs incurred by the RFA to
32 secure repurchase.

33 1656.0091 REVIEW OF LOAN AND COLLATERAL.

34 Subpart 1. Inspection. At any time during the term of a
35 stock loan, the RFA or the state legislative auditor may inspect

1 the books, records, documents, and accounting practices of the
2 lender relative to the loan to determine compliance with the
3 terms and conditions of the loan and the participation
4 agreement. Inspections must be during the lender's normal
5 business hours. The lender must allow the RFA to copy any
6 documents relating to the stock loan and the RFA participation.

7 Subp. 2. Collateral. The lender and the RFA may
8 physically inspect the collateral securing the stock loan upon
9 notice to the borrower. An inspection must be conducted at a
10 reasonable time.

11 1656.0095 STOCK IN CERTAIN LIVESTOCK PROCESSING FACILITIES
12 ELIGIBLE.

13 An applicant may be eligible for a loan participation under
14 this part if:

15 A. the facility is owned and operated by a
16 cooperative organized under Minnesota Statutes, chapter 308A.
17 For purposes of this part, "owned and operated" includes a
18 contractual arrangement with another entity to provide
19 management and operations services for a facility owned by the
20 cooperative; and

21 B. its agricultural product processing facility is
22 located in Minnesota and operated primarily for the processing
23 of livestock.

24 1656.0100 STOCK IN FARM-GENERATED WIND ENERGY PRODUCTION
25 FACILITIES ELIGIBLE.

26 An applicant is eligible for a loan participation under
27 this part if:

28 A. the facility is owned and operated by a
29 cooperative organized under Minnesota Statutes, chapter 308A.
30 For purposes of this part, "owned and operated" includes a
31 contractual arrangement with another entity to provide
32 management and operations services for a facility owned by the
33 cooperative;

34 B. all shares and membership in the cooperative are
35 held by natural persons or estates, at least 51 percent of whom

1 reside in a county or contiguous to a county where
2 farm-generated wind energy production facilities of the
3 cooperative are located; and

4 C. its farm-generated wind energy production
5 facilities are located entirely on agricultural property in
6 Minnesota principally used for farming as defined in Minnesota
7 Statutes, section 500.24, subdivision 2, paragraph (a), owned by
8 the shareholders of the cooperative, with no more than two
9 megawatts of nameplate capacity located on any one shareholder's
10 agricultural property.

11 REPEALER. Minnesota Rules, parts 1656.0010; 1656.0020;
12 1656.0030; 1656.0040; 1656.0050; 1656.0060; 1656.0070; and
13 1656.0080, are repealed.