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§ 1941.24 [Reserved]

§ 1941.25 Appraisals.

(a) Except as provided in paragraph (a)(5) of this section, real estate appraisals will be completed by an FmHA or its successor agency under Public Law 103–354 employee, or a contractor authorized to make farm appraisals. Chattel and real estate appraisals will be made on Forms FmHA 440–21, ''Appraisal of Chattel Property,'' FmHA 1922–1, ''Appraisal Report—Farm Tract,'' and FmHA 1922–11, ''Appraisal for Mineral Rights,'' respectively, to determine market value and borrower equity in the following instances:

(1) When an initial loan is made, a chattel appraisal is required on all chattel property owned by the applicant, and on chattel property to be acquired when the item can be specifically identified.

(2) When a subsequent loan is made, a chattel appraisal is required when:

(i) Refinancing chattel debt.

(ii) The existing chattel appraisal is more than 2 years old.

(3) A real estate appraisal is not required when real estate is taken as additional security, as defined in § 1941.4 of this subpart. However, the County Supervisor will document in the running record the estimated market value of the additional security and the basis for the estimate.

(4) A real estate appraisal is required when real estate is taken as primary security, as defined in § 1941.4 of this subpart.

(5) Other real estate appraisals completed by other State-certified general appraisers may be used providing such appraisals meet the ethics, competency, departure provisions, etc., and Sections I and II of the Uniform Standards of Professional Appraisal Practices, and contain a mineral rights appraisal as set out in paragraph (a) of this section. Prior to acceptance, the appraisal must have an acceptable desk review (technical) completed by an FmHA or its successor agency under Public Law 103–354 designated review appraiser.

(6) A new real estate appraisal is not required if the latest appraisal report available is not over 1 year old, unless the approval official requests a new appraisal, or unless significant changes in the market value of real estate have occurred in the area within the 1-year period.

(b) *Real estate appraiser qualifications.* The contractor, when he/she is not the appraiser, is responsible for substantiating the appraiser's qualifications. The contractor will obtain FmHA or its successor agency under Public Law 103–354's concurrence that the appraiser has the necessary qualifications and experience before the contractor will utilize the appraiser in any appraisal work. The contractor/appraiser completing the report must be State-certified general.

[53 FR 35684, Sept. 14, 1988, as amended at 57 FR 18676, Apr. 30, 1992; 58 FR 26680, May 5, 1993; 58 FR 48286, Sept. 15, 1993; 59 FR 16772, Apr. 8, 1994; 59 FR 25800, May 18, 1994]

§§ 1941.26—1941.28 [Reserved]

§ 1941.29 Relationship between FmHA or its successor agency under Public Law 103–354 loans, direct and guaranteed.

(a) An eligible emergency loan (EM) applicant's total credit needs will be satisfied under the EM loan authorities, to the extent possible, before OL loan assistance is considered.

(b) A direct OL loan may be made to a guaranteed loan borrower provided:

(1) The outstanding direct and guaranteed OL principal balance owed by the loan applicant does not exceed $400,000 at loan closing.

(2) The outstanding combined direct and guaranteed OL principal balance owed by the loan applicant, or owed by anyone who will sign the note as co-signer evidencing personal liability, will not exceed the authorized guaranteed OL loan limit providing the portion representing the direct OL indebtedness does not exceed the direct loan limit. The deciding factors are the type of entity and the personal liability of the entity members. Individuals, who are members or stockholders of a cooperative or corporation that is indebted for a $200,000 direct and $200,000 guaranteed OL loan, can each borrow a $200,000 direct and $200,000 guaranteed OL loan, or any combination of direct or guaranteed OL loan funds that does

not cause them to exceed the individual direct or guaranteed OL loan limits, provided they conduct separate farming operations as individuals and they have not signed as individuals giving personal liability for the entity OL debt. Likewise, such entities whose members or stockholders are individually indebted for the maximum direct or guaranteed OL loan limit, may borrow the maximum direct or guaranteed OL loan limits, providing none of the members or stockholders are required to pledge personal liability for the entity debt. Partners or joint operators of a partnership or joint operation, which is indebted for a $200,000 direct and a $200,000 guaranteed OL loan, cannot borrow additional OL funds as individuals in a separate operation because they are each personally liable for the total entity debt. Likewise, such entities, consisting of individuals who are indebted for the maximum direct or guaranteed OL loan limits, are not eligible for OL loan assistance.

(3) Chattel and/or real estate security must be separate and identifiable from the security pledge to FmHA or its successor agency under Public Law 103–354 for a guaranteed loan. Different lien positions on real estate are considered separate and identifiable security.

(c) An direct OL loan may be made to refinance a guaranteed OL loan when the following conditions are met:

(1) The circumstances resulting in the need to refinance were beyond the borrower's control.

(2) Refinancing is in the best interest of the Government and the borrower.

(3) The guaranteed OL loan must be completely paid off at the time the direct OL loan is closed.

(d) New applicants and borrowers indebted to FmHA or its successor agency under Public Law 103–354 and/or an FmHA or its successor agency under Public Law 103–354 guaranteed lender(s) for an EE loan may be considered for an OL loan(s) provided their total outstanding principal indebtedness to FmHA or its successor agency under Public Law 103–354 and/or the FmHA or its successor agency under Public Law 103–354 guaranteed lender(s) for the EE loan and any FO, SW, RL, and/or OL loans will not exceed $650,000.

[53 FR 36240, Sept. 19, 1988, as amended at 55 FR 21527, May 25, 1990; 58 FR 44747, Aug. 25, 1993]

§§ 1941.30–1941.31 [Reserved]

§ 1941.32 Catastrophic Risk Protection (CAT) insurance requirement.

Applicants must comply with the CAT insurance requirement no later than loan closing by either:

(1) Obtaining at least the CAT level of coverage, if available, for each crop of economic significance as defined by the Federal Crop Insurance Corporation, or,

(2) By waiving eligibility of emergency crop loss assistance in connection with the uninsured crop. FSA emergency (EM) loss loan assistance is not considered emergency crop loss assistance for the purpose of the crop insurance waiver on the uninsured crop.

[62 FR 9355, Mar. 3, 1997]

§ 1941.33 Loan approval or disapproval.

(a) *Loan approval authority*. Initial and subsequent loans may be approved as authorized by subpart A of part 1901 of this chapter, provided the total direct operating loan principal balance at loan closing does not exceed $200,000.

(b) *Loan approval action*. (1) The loan approval official must approve or disapprove applications within the deadlines set out in § 1910.4 of subpart A of part 1910 of this chapter. The loan approval official is responsible for reviewing the docket to determine whether the proposed loan complies with established policies and all pertinent regulations. When reviewing the docket and before approving the loan, the loan approval official will determine that:

(i) The Agency has certified the applicant eligible,

(ii) Funds are requested for authorized purposes,

(iii) The proposed loan is based on a feasible plan, or meets the requirements set forth in § 1941.14(a)(5) of this chapter for annual production loans to delinquent borrowers. Planning forms other than Form FmHA or its successor agency under Public Law 103–354