

## § 772.16

### § 772.16 Liquidation.

When the Agency determines that continued servicing will not accomplish the objectives of the loan and the delinquency or financial distress cannot be cured by the options in § 772.13, or the loan is in non-monetary default, the borrower will be encouraged to dispose of the Agency security voluntarily through sale or transfer and assumption in accordance with this part. If such a transfer or voluntary sale is not carried out, the loan will be liquidated according to 7 CFR part 1955, subpart A. For AMP loans, appeal rights under 7 CFR part 11 are provided in the notice of acceleration. For IMP loans, appeal rights must be exhausted before acceleration, and the notice of acceleration is not appealable.

### § 772.17 Equal opportunity and non-discrimination requirements.

With respect to any aspect of a credit transaction, the Agency will comply with the requirements of the Equal Credit Opportunity Act as implemented in 7 CFR 1910.2, and the Department's civil rights policy in 7 CFR part 15d.

### § 772.18 Exception authority.

Exceptions to any requirement in this subpart can be approved in individual cases by the Administrator if application of any requirement or failure to take action would adversely affect the Government's financial interest. Any exception must be consistent with the authorizing statute and other applicable laws.

## PART 773—SPECIAL APPLE LOAN PROGRAM

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### § 773.1 Introduction.

This part contains the terms and conditions for loans made under the Special Apple Loan Program. These regulations are applicable to applicants, borrowers, and other parties involved in making, servicing, and liquidating these loans. The program objective is to assist producers of apples suffering from economic loss as a result of low apple prices.

### § 773.2 Definitions.

As used in this part, the following definitions apply:

*Agency* is the Farm Service Agency, its employees, and any successor agency.

*Apple producer* is a farmer in the United States or its territories that produced apples, on not less than 10 acres, for sale in 1999 or 2000.

*Applicant* is the individual or business entity applying for the loan.

*Business entity* is a corporation, partnership, joint operation, trust, limited liability company, or cooperative.

*Cash flow budget* is a projection listing all anticipated cash inflows (including all farm income, nonfarm income and all loan advances) and all cash outflows (including all farm and nonfarm debt service and other expenses) to be incurred by the borrower during the period of the budget. A cash flow budget may be completed either for a 12 month period, a typical production cycle or the life of the loan, as appropriate.

*Domestically owned enterprise* is an entity organized in the United States under the law of the state or states in which the entity operates and a majority of the entity is owned by members meeting the citizenship test.

*False information* is information provided by an applicant, borrower, or other source to the Agency which information is known by the provider to be incorrect, and was given to the Agency in order to obtain benefits for

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which the applicant or borrower would not otherwise have been eligible.

*Feasible plan* is a plan that demonstrates that the loan will be repaid as agreed, as determined by the Agency.

*Security* is real or personal property pledged as collateral to assure repayment of a loan in the event there is a default on the loan.

*USPAP* is Uniform Standards of Professional Appraisal Practice.

### § 773.3 Appeals.

A loan applicant or borrower may request an appeal or review of an adverse decision made by the Agency in accordance with 7 CFR part 11.

### §§ 773.4–773.5 [Reserved]

### § 773.6 Eligibility requirements.

Loan applicants must meet all of the following requirements to be eligible for a Special Apple Program Loan:

(a) The loan applicant must be an apple producer;

(b) The loan applicant must be a citizen of the United States or an alien lawfully admitted to the United States for permanent residence under the Immigration and Nationalization Act. For a business entity applicant, the majority of the business entity must be owned by members meeting the citizenship test or, other entities that are domestically owned. Aliens must provide the appropriate Immigration and Naturalization Service forms to document their permanent residency;

(c) The loan applicant and anyone who will execute the promissory note must possess the legal capacity to enter into contracts, including debt instruments;

(d) At loan closing the loan applicant and anyone who will execute the promissory note must not be delinquent on any Federal debt, other than a debt under the Internal Revenue Code of 1986;

(e) At loan closing the loan applicant and anyone who will execute the promissory note must not have any outstanding unpaid judgments obtained by the United States in any court. Such judgments do not include those filed as a result of action in the United States Tax Courts;

(f) The loan applicant, in past or present dealings with the Agency, must not have provided the Agency with false information; and

(g) The individual or business entity loan applicant and all entity members must have acceptable credit history demonstrated by debt repayment. A history of failure to repay past debts as they came due (including debts to the Internal Revenue Service) when the ability to repay was within their control will demonstrate unacceptable credit history. Unacceptable credit history will not include isolated instances of late payments which do not represent a pattern and were clearly beyond the applicant's control or lack of credit history.

### § 773.7 Loan uses.

Loan funds may be used for any of the following purposes related to the production or marketing of apples:

(a) Payment of costs associated with reorganizing a farm to improve its profitability;

(b) Payment of annual farm operating expenses;

(c) Purchase of farm equipment or fixtures;

(d) Acquiring, enlarging, or leasing a farm;

(e) Making capital improvements to a farm;

(f) Refinancing indebtedness;

(g) Purchase of cooperative stock for credit, production, processing or marketing purposes; or

(h) Payment of loan closing costs.

### § 773.8 Limitations.

(a) The maximum loan amount any individual or business entity may receive under the Special Apple Loan Program is limited to \$500,000.

(b) The maximum loan is further limited to \$300 per acre of apple trees in production in 1999 or 2000, whichever is greater.

(c) Loan funds may not be used to pay expenses incurred for lobbying or related activities.

(d) Loans may not be made for any purpose which contributes to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity.