

## Office of the Secretary of Labor

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[72 FR 37099, July 9, 2007]

## **PART 75—DEPARTMENT OF LABOR REVIEW AND CERTIFICATION PROCEDURES FOR RURAL INDUSTRIALIZATION LOAN AND GRANT PROGRAMS UNDER THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT OF 1972**

### Sec.

75.1 Introduction.

75.11 Standards for the review of applications.

AUTHORITY: Sec. 118, Pub. L. 92-419, 86 Stat. 663 (7 U.S.C. 1932).

### **§ 75.1 Introduction.**

(a) Section 118 of the Consolidated Farm and Rural Development Act authorizes the Rural Development Administration (RDA) of the U.S. Department of Agriculture (USDA) to make or guarantee loans to finance industrial and business activities in rural areas (broadly defined to include any place with a population of less than 50,000), 7 U.S.C. 1932(d). The Act also permits RDA to make grants to public bodies for measures designed to facilitate the development of private business enterprises and for pollution control and abatement projects.

(b) As a prior condition for the approval of such loans, guarantees and grants, the Act further specifies that the Secretary of Labor must certify to the Secretary of Agriculture within 30 days after referral, that the loan or grant is not calculated to or likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant and is not calculated to or likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities, to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing

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competitive enterprises in the area. Responsibility within the Department of Labor (DOL) for the review and certification process has been assigned to the Employment and Training Administration (ETA).

(c) The following procedures have been established by the Department of Labor in consultation with the USDA for the issuance of labor certifications under this program. These procedures are designed to insure the orderly and expeditious review of the applications by the Department of Labor (DOL) within 30 days after they have been received from the USDA. It is anticipated that the procedure will permit completion of all cases within the 30-day legal maximum processing period permitted under the law.

[40 FR 4394, Jan. 29, 1975, as amended at 72 FR 37103, July 9, 2007]

### § 75.11 Standards for the review of applications.

(a) *Applications to be routinely approved without field review.* The following types of applications will be routinely approved and certified by the Employment and Training Administration (ETA), provided that the required information is submitted by the applicant:

(1) *Loans which involve the change of ownership from one person or group to another or the refinancing of an existing loan.* Provided, That such loans will not result in any transfer from one area to another of any employment or business activity provided by operations of the applicant and are not calculated to or likely to result in an increase in the production of goods, materials, or commodities, or the availability of services, or facilities, to employ the efficient capacity of existing competitive commercial or industrial enterprise. In transmitting such applications to ETA, RDA will include:

(i) A letter of transmittal stating the name and location of the applicant and the amount of the loan, and certifying that the loan is either for the purpose of financing the sale of the business or for the purpose of refinancing a loan and is not calculated to or likely to result in the transfer or expansion of employment or operations:

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(ii) Three copies of Form RD 449-22, Certification of Non-Relocation; and

(iii) Three copies of Form RD 449-23, Data Information Sheet. ETA will issue an affirmative certification on such applications, without further review, within 10 working days.

(2) *Loans of less than \$100,000 where the loan proceeds are expected to result in the employment of not more than five workers.* In such instances, the RDA transmittal letter will call attention to the fact that the application involved falls within this category. This should be supported by data in the revised Forms RD 449-22 and 449-23 to be forwarded in triplicate to the DOL. For loan applications in this category, the RDA will also attach a certification signed by the State RDA director indicating that he has reviewed the loan application and certifying that such a loan is not calculated to or likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant and is not calculated to or likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities, when there is not sufficient demand for such goods, materials, commodities, services, or facilities in the area, to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area. Unless there is other evidence to indicate an adverse effect on unemployment or competitive business enterprises, ETA will accept this certificate and accompanying forms as the basis for an affirmative certification without further review and will so certify within 10 working days after receipt.

(3) *Grants where there are no known current or future occupants.* In the case of such applications, e.g., a county's proposal to build an industrial park, RDA will send a transmittal letter to ETA stating the name and location of the applicant, and the amount and purpose of the grant, and certifying that there are no known current or future occupations. RDA will also forward with the letter a resolution or other statement from the local governing