



This document is scheduled to be published in the Federal Register on 10/21/2016 and available online at <https://federalregister.gov/d/2016-25492>, and on FDsys.gov

Billing Code 3410-05-P

DEPARTMENT OF AGRICULTURE

Farm Service Agency

7 CFR Parts 761 and 762

RIN 0560-AI34

EZ Guarantee Program and Micro Lender Program (MLP) Status

AGENCY: Farm Service Agency, USDA.

ACTION: Final rule.

SUMMARY: The Farm Service Agency (FSA) is amending the guaranteed Farm Loan Programs (FLP) regulations to implement an EZ Guarantee Program and establish an additional lender status. The EZ Guarantee Program will help lenders reduce costs of underwriting and servicing loans to help meet the unique financing needs of small farm operations. The intended effects of the rule are to make guaranteed loan programs more widely available and attractive to small farm operations and the lenders who work with those farm operations through a more flexible underwriting analysis process, reduced application requirements, and faster FSA approval. In addition, FSA is amending the regulations to make a technical correction related to chattel appraisal appeals related to both guaranteed and direct loans.

DATES: Effective Date: **[Insert date of publication in the FEDERAL REGISTER]**.

Comment Dates: We will consider comments on the Paperwork Reduction Act that we receive by: **[Insert date 60 days after publication in the FEDERAL REGISTER]**.

We will consider comments on the regulatory changes that we receive by: **[Insert date 90 days after publication in the FEDERAL REGISTER]**.

ADDRESSES: We invite you to submit comments on this rule. In your comment, specify RIN 0560-AI34, and include the volume, date, and page number of this issue of the Federal Register. You may submit comments by either of the following methods:

- Federal Rulemaking Portal: Go to <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Mail: Director, Loan Making Division, FLP, FSA, US Department of Agriculture, 1400 Independence Avenue SW, Stop 0522, Washington, DC 20250-0522.

Comments will be available for viewing online at <http://www.regulations.gov>. In addition, comments will be available for public inspection at the above address during business hours from 8 a.m. to 5 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Randi Sheffer; telephone: (202) 205-0682. Persons with disabilities or who require alternative means for communications should contact the USDA Target Center at (202) 720-2600 (voice).

SUPPLEMENTARY INFORMATION:

Background

FSA makes and services a variety of direct and guaranteed loans to the nation's farmers and ranchers who are unable to obtain private commercial credit at reasonable rates and terms. FSA also provides direct loan customers with credit counseling and supervision to enhance their opportunity for success. FSA direct and guaranteed loan applicants are often beginning farmers and socially disadvantaged farmers who do not qualify for conventional loans because of insufficient net worth or established farmers

who have suffered financial setbacks due to natural disasters or economic downturns. FSA tailors direct and guaranteed loans to a customer's needs and may be used to buy farmland and to finance agricultural production.

The Consolidated Farm and Rural Development Act of 1972 (CONACT, Pub. L. 92-419), as amended, authorizes FSA's Guaranteed Farm Loan Programs.

EZ Guarantee Program

FSA is amending its FLP regulations to add an EZ Guarantee Program to further assist the financing needs of small farm operations. Section 333A(g)(1)(A) of the CONACT states that FSA will provide lenders with a short, simplified application for loans which are \$125,000 or less (see 7 USC 1983a(g)(1)(A)). The EZ Guarantee Program process will be the same as the Guaranteed Loan Program, except there is a new, self-contained application specifically formatted for EZ Guarantee loans. FSA may request additional information for the application when necessary to clarify a response on the application before making an approval decision.

FSA is adding a definition of an EZ Guarantee loan in 7 CFR 761.2. The EZ Guarantee Program will provide alternatives for application and financial underwriting process for Operating Loan (OL) and Farm Ownership loan (FO) purposes. All other FLP rules will remain unchanged and the funding sources for these EZ Guarantee loans will continue to be through FSA's guaranteed OL and FO annual appropriations.

All lenders who meet FSA eligibility criteria (see 7 CFR 762.105, 762.106, and 762.107) will be eligible to originate EZ Guarantee loans. As discussed below, the rule adds MLP Status in addition to Standard Eligible Lender (SEL), Certified Lender

Program (CLP), and Preferred Lender Program (PLP) status. SELs, CLPs, and PLPs may originate EZ Guarantee loans up to \$100,000. Because of their limited experience in making agricultural loans, MLPs will be limited to loans up to \$50,000. The streamlined application and new underwriting process will reduce the burden for all of the FSA lender types. Beyond that, we expect that this new EZ Guarantee Program may be of particular interest to and used primarily by small commercial lenders desiring to build their agriculture portfolio and by nontraditional lenders who typically work with small farm operations.

EZ Guarantee loans will be subject to the same eligibility, security, and environmental requirements, as any other guaranteed OL or FO. Loan purposes, interest rate requirements, loan terms, appraisal requirements, and percent guarantee, and guarantee fees will also remain the same. Therefore, §§ 762.120 through 762.124 and 762.126 through 762.127 are not being revised.

Because small loans present less credit risk, and lenders are less inclined to finance small loans, FSA is revising § 762.110 to reflect a new, all-inclusive application form to be used only for EZ Guarantee loans. Unlike other guaranteed applications, lenders will not need to submit supporting information to FSA; therefore, the approval process will require significantly less time. In addition, the application format is different from the application forms now being used by FSA guaranteed lenders. The EZ Guarantee application will include a series of questions that pertain to eligibility, loan repayment prospects, collateral, and environmental review, which if appropriate, will allow for an accelerated FSA approval. An application not qualifying for the accelerated FSA approval will not necessarily be rejected, but instead will require additional

information. This rule also makes additional changes to § 762.110 for clarity, but the rules for regular guaranteed applications remain the same.

As part of streamlining the application process, FSA is revising § 762.125 to use a more streamlined underwriting process for EZ Guarantee loans. Because of the limited income derived from a small loan, commercial lenders typically perform very limited financial analysis at loan origination. With the EZ Guarantee Program, the lender may analyze the loan in the same manner they would analyze a nonguaranteed loan of the same size and type, saving them time and money. Many lenders are now using historical averages, industry standards, or scorecard lending rather than projecting cash flow budgets to determine feasibility. Scorecard lending is an underwriting method where lenders use a variety of financial ratios and other information to predict the level of credit risk a particular applicant presents. Lenders will be required to analyze an EZ Guarantee application and determine that the applicant demonstrated reasonable prospects for repayment using normal, industry accepted methods and criteria. As part of the lender's information added to the application, the lender will describe the method and standards used on the EZ Guarantee application.

The lender's standards need to meet the following requirements:

1. The lender must perform the same financial analysis and apply the same underwriting standards for an EZ Guarantee loan as they would for a nonguaranteed loan of the same size and type.
2. The lender must determine that the EZ Guarantee applicant demonstrates reasonable prospects to repay the requested loan. This determination must be arrived at using the lender's typical underwriting criteria and methods,

such as a cash flow projection, a scorecard underwriting model, historical income and expenses, or other repayment capacity indicator.

3. The lender will describe the methods and criteria used to determine the applicant's prospects for repayment on the EZ Guarantee application form.

FSA anticipates changes in accepted lending practices, portfolio performance, and economic conditions will create a need to update the EZ Guarantee underwriting criteria; therefore, § 762.125(d) specifies that the standards will be updated for future changes through an FSA announcement posted on the FSA website (www.fsa.usda.gov). That will allow for timely updating of the standards as needs change.

Since lenders will continue to analyze and document EZ Guarantee loans using the same methods and standards they use for nonguaranteed loans, FSA anticipates little to no change in default rates resulting from the limited underwriting analysis.

FSA will service EZ Guarantee loans as it currently services guaranteed OLs and FOs with exceptions for term loans performing according to the promissory notes and loan agreements. The lender will be responsible for servicing the entire loan in a reasonable and prudent manner, protecting and accounting for collateral; and the lender will also remain as the mortgagee or secured party of record. The lender will be responsible for servicing its guaranteed loans as it services any other loan in its portfolio and complying with all FLP requirements in 7 CFR 762.140 through 762.149. The reporting requirements will be the current reporting requirements in 7 CFR 761.141 including semi-annual status and default status reporting.

FSA is revising 7 CFR 762.140 for more limited analysis of borrowers with EZ Guarantee loans. If the loan is performing as intended, an annual analysis may not be

required. All delinquent servicing lender responsibilities in 7 CFR 762.143 will remain the same.

Guaranteed MLP

FSA will administer MLP to increase collaboration with nontraditional lenders and assist small farm operations typically in underserved areas. The additional MLP Status will also enable nontraditional lenders to participate in the EZ Guarantee Program. Also, establishing a stronger working relationship with nontraditional lenders will be beneficial because they share a common goal with FSA to assist producers in underserved areas, including credit deserts such as Indian Country.

Minor reference changes in the rules are being made in §§ 761.2, 762.101, and 762.128. In § 761.2, an abbreviation of “Micro Lender Program” is being added. In § 762.101, “Micro Lender” is being added to the lender classification. In § 762.128, “MLP” is being added to the list of lenders who must comply with the environmental requirements.

Also, this rule adds § 762.107 to implement MLP including the creation of an additional MLP Status for nontraditional lenders and commercial lenders who are not eligible for or do not want Standard Eligible Lender (SEL), Certified Lender Program (CLP), or Preferred Lender Program (PLP) status. To request MLP Status, a lender will submit an application form to any FSA office. The application form will collect information from the lender, such as loan portfolio characteristics (delinquency and default rates), source(s) of loan funding, and certifications by the lender.

FSA will evaluate the MLP Status application using the criteria in 7 CFR 762.107(b).

FSA regulations require guaranteed lenders to be subject to credit examination and supervision by an acceptable State or Federal regulatory agency (see 7 CFR 762.105(b)). This requirement has prevented many nontraditional lenders from qualifying to receive FSA Guarantees on loans made to their customers. MLP Status will allow nontraditional lenders to participate in FSA's EZ Guarantee Program by permitting this examination and supervision to be performed by other types of regulatory agencies. In the new § 762.107(b)(3), FSA requires lenders to be subject to appropriate oversight to participate in the FSA Guaranteed Program as micro lenders. Nontraditional lenders such as Community Development Financial Institutions (CDFIs) are supervised and regulated, but not to the same degree that agencies like the Office of the Comptroller of the Currency or other banking authorities regulate commercial banks. The following types of organizations have currently been determined to meet these standards:

1. A lender meeting the examination and supervision requirement in § 762.105(b).
2. CDFI. CDFIs that have been awarded funds and are under the supervision of the CDFIs Program described in 12 CFR part 1805.
3. Rural Rehabilitation Corporation (RRC). RRCs that have entered into an agreement establishing an ongoing reporting and credit supervision relationship with FSA.

Traditional lenders, such as banks or credit unions, that are currently not eligible to obtain SEL, CLP or PLP status, would be eligible to apply for MLP status.

Additionally nontraditional lenders that are certified by the U.S. Department of the Treasury - such as CDFIs - or that are subject to credit examination and supervision by

FSA's Deputy Administrator for FLP (DAFLP) – such as RRCs - would be eligible to apply for MLP Status because:

1. FSA has experience in working with CDFIs and RRCs. In addition, CDFIs and RRCs typically make loans to small farms and underserved farmers, and are expected to be one of the primary users of the new EZ Guarantee Program; and
2. At this time, FSA does not have sufficient knowledge or expertise regarding other types of nontraditional lenders. Further research, including the potential need for guarantees by other types of nontraditional lenders is required before allowing these lenders to participate in the EZ Guarantee Program.

FSA expects to allow future expansion of the MLP Status to include other types of nontraditional lenders once further research is conducted; therefore, § 762.107(b)(3) specifies that FSA will announce future modifications to acceptable oversight on the FSA website. This will allow FSA to include other lenders as our experience with MLP Status grows.

In addition to the oversight and portfolio performance criteria, FSA also will require the lender to demonstrate experience in making the types of loans they will be requesting FSA to guarantee and the resources to properly make and service these loans, which is very similar to what FSA requires of its other lenders. MLPs lending capabilities may be demonstrated by their experience making and servicing other loans rather than just agricultural loans, as with other FSA guaranteed lenders.

As an objective measure of the capability to make and service loans, FSA is establishing minimum volume and maximum loss rates. These rates will be based on the lender's entire portfolio. In 7 CFR 762.107(b)(3), FSA requires lenders to demonstrate significant positive experience in making and servicing loans. The experience must be that:

1. The lender has originated 20 or more business loans of \$50,000 or less;
and
2. The lender's losses on all business loans of \$50,000 or less made over the past 7 years do not exceed 3 percent.

Again, to allow for timely modification of these rates as circumstances change, FSA may modify these rates by posting rates on the FSA website.

Once approved, MLP Status will be valid for 5 years unless revoked by FSA. This is consistent with the timeframe of FSA's CLP and PLP lender status. FSA will also reconsider MLP Status in the event a lender's ownership changes, as is currently done with CLP and PLP lenders.

An MLP Status lender will be bound by all existing terms specified in FSA's Lender's Agreement. It will have the same reporting requirements and be subject to periodic lender review. Unlike FSA's other guaranteed lenders, however, MLP lenders typically have limited experience with agricultural loans and therefore will only be able to underwrite loans up to \$50,000 under the EZ Guarantee Program.

Technical Correction for Chattel Appraisal Appeals

FSA is amending the regulations in 7 CFR 761.7(e)(2) to make a technical correction related to chattel appraisal appeals in connection with both guaranteed and direct loans. In the FSA final rule published on November 28, 2013, (78 FR 65523-65541), changes made relative to chattel appraisal appeals specified that the borrower needs to provide an independent appraisal. However, it was the intent of FSA that the borrower provide an independent appraisal review by a person that possesses sufficient experience or training to establish market value of chattel property based on public sales of the same or similar property in the market area, rather than an entirely new appraisal. Therefore, this rule is correcting that error in 7 CFR 761.7(e)(2).

Notice and Comment

In general, the Administrative Procedure Act (5 U.S.C. 553) requires that a notice of proposed rulemaking be published in the Federal Register and interested persons be given an opportunity to participate in the rulemaking through submission of written data, views, or arguments with or without opportunity for oral presentation, except that when the rule involves a matter relating to public property, loans, grants, benefits, or contracts section 553 does not apply. This rule involved matters relating to loans and is therefore being published as a final rule without the prior opportunity for comments. Although FSA is not required to provide the opportunity for comments on this rule, we are requesting public comments for 90 days to request public input on the changes.

Effective Date

The Administrative Procedure Act (APA, 5 U.S.C. 553) provides generally that before rules are issued by Government agencies, the rule is required to be published in the Federal Register, and the required publication of a substantive rule is to be not less than 30 days before its effective date. However, as noted above, one of the exceptions is that section 553 does not apply to rulemaking that involves a matter relating to loans. Therefore, because this rule relates to loans, the 30-day effective period requirement in section 553 does not apply. This final rule is effective when published in the Federal Register. Most FLP guaranteed loans are established at the beginning of the calendar year; therefore, implementing this rule quickly will benefit beginning and small farms starting in 2016, instead of having to wait for 2017.

Executive Order 12866 and 13563

Executive Order 12866, “Regulatory Planning and Review,” and Executive Order 13563, “Improving Regulation and Regulatory Review,” direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

The Office of Management and Budget (OMB) designated this rule as not significant under Executive Order 12866 and, therefore, OMB was not required to review this final rule.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), generally requires an agency to prepare a regulatory flexibility analysis of any rule whenever an agency is required by APA or any other law to publish a proposed rule, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This rule is not subject to the Regulatory Flexibility Act because it is exempt from notice and comment rulemaking requirements of the APA and no other law requires that a proposed rule be published for this rulemaking initiative.

Environmental Review

The environmental impacts of this rule have been considered in a manner consistent with the provisions of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321-4347), the regulations of the Council on Environmental Quality (40 CFR parts 1500-1508), and the FSA regulations for compliance with NEPA (7 CFR part 799). Through this rule, FSA is establishing the EZ Guarantee Program to provide a guarantee for OLs and FOs up to \$100,000, which are expected to be most used by beginning farmers and farmers with small farms (farms with annual gross agricultural products sales from \$1,000 to \$99,999) with less traditional farm operations who are not typically FSA Guaranteed loan customers. FSA is implementing the MLP Status to allow nontraditional lenders to participate in the EZ Guarantee Program, which is an administrative change. FSA is revising the existing FLP regulations to make those

changes, but it is not changing the environmental review requirements that apply. The environmental responsibilities for each prospective applicant will not change from the current process followed for all FLP actions (7 CFR 799). Each EZ Guarantee Program action will be reviewed under the existing process to ensure it will not have a significant impact on the quality of the human environment either individually or cumulatively. Therefore, FSA will not prepare a programmatic environmental assessment or environmental impact statement on this rule.

Executive Order 12372

Executive Order 12372, “Intergovernmental Review of Federal Programs,” requires consultation with State and local officials that would be directly affected by proposed Federal financial assistance. The objectives of the Executive Order are to foster an intergovernmental partnership and a strengthened Federalism, by relying on State and local processes for State and local government coordination and review of proposed Federal Financial assistance and direct Federal development. For reasons specified in the final rule related notice regarding 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), the programs and activities within this rule are excluded from the scope of Executive Order 12372.

Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988, “Civil Justice Reform.” This rule will not preempt State or local laws, regulations, or policies unless they represent an irreconcilable conflict with this rule. The rule does not have

retroactive effect. Before any judicial action may be brought regarding the provisions of this rule, the administrative appeal provisions of 7 CFR parts 11 and 780 are to be exhausted.

Executive Order 13132

This rule has been reviewed under Executive Order 13132, “Federalism.” The policies contained in this rule do not have any substantial direct effect on States, on the relationship between the Federal government and the States, or the distribution of power and responsibilities among the various levels of government, except as required by law. Nor will this rule impose substantial direct compliance costs on State and local governments. Therefore, consultation with the States is not required.

Executive Order 13175

This rule has been reviewed in accordance with the requirements of Executive Order 13175, “Consultation and Coordination with Indian Tribal Governments.” Executive Order 13175 requires Federal agencies to consult and coordinate with tribes on a government-to-government basis on policies that have tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and Indian tribes or on the distribution of power and responsibilities between the Federal government and Indian tribes.

FSA has assessed the impact of this rule on Indian tribes and determined that this rule does not, to our knowledge, have tribal implications that require tribal consultation

under Executive Order 13175. If a Tribe requests consultation, FSA will work with the USDA Office of Tribal Relations to ensure meaningful consultation is provided.

Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA, Pub. L. 104-4) requires Federal agencies to assess the effects of their regulatory actions on State, local, or Tribal governments or the private sector. Agencies generally must prepare a written statement, including a cost benefit analysis, for proposed and final rules with Federal mandates that may result in expenditures of \$100 million or more in any 1 year for State, local, or Tribal governments, in the aggregate, or to the private sector. UMRA generally requires agencies to consider alternatives and adopt the more cost effective or least burdensome alternative that achieves the objectives of the rule. This rule contains no Federal mandates, as defined in Title II of UMRA, for State, local, or Tribal governments, or private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995, the following new information collection request that supports the EZ Guarantee Program was submitted to OMB for emergency approval and is also being submitted to OMB for the 3-year approval. FSA is requesting comments from interested individuals and organizations on the information collection activities related to the EZ Guarantee application process as

described in this rule. FSA is currently modifying the loan application process in order to provide loans to eligible borrowers through the EZ Guarantee process.

After OMB approval of the information collection request, FSA will merge this new information collection request with FSA's approved information collection of the OMB control number 0560-0155.

Title: EZ Guarantee Program.

OMB Control Number: 0560-New.

Type of Request: New Collection.

Abstract: This information collection is required to support the regulation in 7 CFR part 762, "Guaranteed Farm Loans," which establishes the requirements for most of FSA's guaranteed loan programs and the changes in the rule that add the EZ Guarantee application process, as well as the application for lenders to receive MLP Status. The information collection established in this rule is necessary for FSA to evaluate the applicant's request and determine if eligibility, loan repayment, and security requirements can be met. The application includes information from the borrower and the lender; in general, the lender submits the application to FSA electronically. In addition, the information collection from lenders seeking MLP Status is necessary to ensure they meet the necessary regulatory standards to make and service agricultural loans.

The formulas used to calculate the total burden hours is estimated average time per response hours times total annual burden hours.

The estimated Public Burden for the EZ Guarantee and MLP Status are:

Estimate of Burden: Public reporting for this collection of information is estimated to average 0.46899 hours. The travel time, which is included in the total annual burden, is estimated to be 1 hour per respondent.

Type of Respondents: Individuals or households, businesses or other for profit, and farms.

Estimated Number of Respondents: 6,280.

Estimated Average Number of Responses per Respondent: 1.3.

Estimated Total Annual Number of Responses: 8,160.

Estimated Total Annual Burden on Respondents: 3,827 hours.

We are requesting comments on all aspects of this information collection and to help us:

1. Evaluate whether the collection of information is necessary for the proper performance of the FSA functions, including whether the information will have practical utility;
2. Evaluate the accuracy of FSA's estimate of burden including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this document, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the submission for OMB approval.

E-Government Act Compliance

FSA is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services and other purposes.

Federal Assistance Programs

The title and number of the Federal assistance programs, as found in the Catalog of Federal Domestic Assistance, to which this interim rule would apply are:

10.406 Farm Operating Loans;

10.407 Farm Ownership Loans.

List of Subjects

7 CFR Part 761

Accounting, Loan programs-agriculture, Rural areas.

7 CFR Part 762

Agriculture, Banks, Banking, Credit, Loan Programs – agriculture.

For the reasons discussed above, FSA amends 7 CFR parts 761 and 762 as follows:

PART 761 – FARM LOAN PROGRAM; GENERAL PROGRAM ADMINISTRATION

1. The authority citation for part 761 continues to read as follows:

Authority: 5 U.S.C. 301 and 7 U.S.C. 1989.

Subpart A – General Provisions

2. Amend § 761.2 as follows:

- a. In paragraph (a), add the abbreviation for “MLP” in alphabetical order; and
- b. In paragraph (b), add the definition of “EZ Guarantee” in alphabetical order.

The addition and revision read as follows:

§ 761.2 Abbreviations and definitions.

* * * * *

(a) * * *

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MLP Micro Lender Program.

* * * * *

(b) * * *

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EZ Guarantee means a type of OL or FO of \$100,000 or less made using a simplified loan application. As part of the simplified application process, EZ Guarantees are processed using a streamlined underwriting method to determine financial feasibility.

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§ 761.7 [Amended]

3. Amend § 761.7(e)(2) by removing the words “independent appraisal” in both places and add the words “independent appraisal review” in their place.

PART 762 – GUARANTEED FARM LOANS

4. The authority citation for part 762 continues to read as follows:

Authority: 5 U.S.C. 301 and 7 U.S.C. 1989.

5. Amend § 762.101(c) as follows:

a. In paragraph (c)(2), remove the punctuation and word “, or” and add a semicolon in their place;

b. In paragraph (c)(3), remove the period and add the punctuation and word “; or” in its place; and

c. Add paragraph (c)(4).

The addition reads as follows:

§ 762.101 Introduction.

* * * * *

(c) * * *

(4) Micro Lender under § 762.107.

* * * * *

§ 762.105 [Amended]

6. In § 762.105(d)(2) remove “CLP or PLP” and add “CLP, PLP, or MLP” in its place.

7. Add § 762.107 to read as follows:

§ 762.107 Micro Lender Program.

(a) General. The lenders must submit the following items:

(1) To request MLP Status, a lender must submit an application form to any local FSA office.

(2) The lender must provide any additional information requested by the Agency to process an MLP request, if the lender continues with the approval process.

(3) MLP lender authorities are limited to originating and servicing EZ Guarantee loans.

(b) MLP criteria. An MLP lender must satisfy the following requirements to obtain MLP Status:

(1) Have experience in making and servicing business loans.

(2) Have the staff and resources to properly and efficiently discharge its loan making and loan servicing responsibilities that may include use of Agency approved agents.

(3) Be subject to oversight as established and announced by the Agency on the FSA website (www.fsa.usda.gov).

(4) Have a loss rate not in excess of the maximum MLP loss rate established and announced by the Agency on the FSA website (www.fsa.usda.gov).

(5) Have made the minimum number of loans as established and announced by the Agency on the FSA website (www.fsa.usda.gov).

(6) Not be debarred or suspended from participation in Government contracts or programs or be delinquent on a Government debt. This includes the lender's officers and agents.

(c) Renewal of MLP Status. MLP Status will expire within a period not to exceed 5 years from the date the lender's agreement is executed, unless a new lender's agreement is executed.

(1) Renewal of MLP Status is not automatic. A lender must submit a new application for renewal.

(2) MLP Status will be renewed if the applicable eligibility criteria under this section are met, and no cause exists for denying renewal under paragraph (d)(1) of this section.

(d) Revocation of MLP Status. The Agency may revoke the lender's MLP Status at any time during the 5 year term for cause as specified in paragraph (d)(1) of this section.

(1) Any of the following instances constitutes cause for revoking or not renewing MLP Status:

(i) Violation of the terms of the lender's agreement;

(ii) Failure to maintain MLP eligibility criteria;

(iii) Knowingly submitting false or misleading information to the Agency;

(iv) Deficiencies that indicate an inability to process or service Agency guaranteed farm loan programs loans in accordance with this subpart;

(v) Failure to correct cited deficiencies in loan documents upon notification by the Agency;

(vi) Failure to submit status reports in a timely manner; or

(vii) Failure to comply with the reimbursement requirements of § 762.144(c)(7) and (c)(8).

(2) A lender that has lost MLP Status may reapply for MLP Status once the problem that caused the MLP Status to be revoked has been resolved.

8. Amend § 762.110 as follows:

- a. Redesignate paragraphs (a) through (h) as paragraphs (c) through (j);
- b. Add new paragraphs (a) and (b);
- c. Revise newly redesignated paragraphs (c), (d) introductory text, and (f);
- d. In newly redesignated paragraph (e) introductory text, remove the references “(a)” and (b)” and add the references “(c)” and (d)” in their place;
- e. Remove newly redesignated paragraphs (e)(3) and (4);
- f. Further redesignate newly redesignated paragraph (e)(5) as paragraph (e)(3).
- g. In newly redesignated paragraph (g)(1), remove the last sentence; and
- h. In newly redesignated paragraph (g)(4), remove “CLP and PLP” and add the word “All” in their place.

The additions and revisions read follows:

§ 762.110 Loan application.

(a) General. This paragraph (a) specifies the general requirements for guaranteed loan applications:

(1) Lenders must perform at least the same level of evaluation and documentation for a guaranteed loan that the lender typically performs for non-guaranteed loans of a similar type and amount.

(2) The application thresholds in this section apply to any single loan, or package of loans submitted for consideration at any one time. A lender must not split a loan into

two or more parts in order to fall below the threshold in order to avoid additional documentation.

(3) The Agency may require lenders with a lender loss rate in excess of the rate for CLP lenders to assemble additional documentation specified in paragraph (d) of this section.

(b) EZ Guarantee loans. MLP lenders may submit an EZ Guarantee application for loans up to \$50,000. All other lenders may submit EZ Guarantee applications for loans up to \$100,000. Lenders must submit:

(1) An EZ Guarantee application form.

(2) If the loan fails to pass the underwriting criteria for EZ Guarantee approval in § 762.125(d), or the responses in the application are insufficient for the Agency to make a loan decision, the lender must provide additional information as requested by the Agency.

(c) Loans up to \$125,000. Lenders must submit the following items for loans up to \$125,000 (other than EZ Guarantees):

(1) The application form;

(2) Loan narrative, including a plan for servicing the loan;

(3) Balance sheet;

(4) Cash flow budget; and

(5) Credit report.

(d) Loans over \$125,000. A complete application for loans over \$125,000 will require items specified in paragraph (c) of this section, plus the following items:

* * * * *

(f) CL Guarantees. In addition to the other requirements in this section, the following items apply when a lender is requesting a CL guarantee:

(1) Lenders must submit a copy of the conservation plan or Forest Stewardship Management Plan;

(2) Lenders must submit plans to transition to organic or sustainable agriculture when the funds requested will be used to facilitate the transition and the lender is requesting consideration for priority funding;

(3) When CL guarantee applicants meet all the following criteria, the cash flow budget requirement in this section will be waived:

(i) Be current on all payments to all creditors including the Agency (if currently an Agency borrower);

(ii) Debt to asset ratio is 40 percent or less;

(iii) Balance sheet indicates a net worth of 3 times the requested loan amount or greater; and

(iv) FICO credit score is at least 700; for entity applicants, the FICO credit score of the majority of the individual members of the entity must be at least 700.

* * * * *

9. Amend § 762.125 as follows:

a. Revise paragraphs (a) introductory text and (b) introductory text; and

b. Add paragraph (d).

The revisions and addition read as follows:

§ 762.125 Financial feasibility.

(a) General. Except for streamlined CL guarantees (see § 762.110(f)), the following requirements must be met:

* * * * *

(b) Estimating production. Except for streamlined CL guarantees (see § 762.110(f)), the following requirements must be met:

* * * * *

(d) EZ Guarantee feasibility. Notwithstanding any other provision of this section:

(1) The Agency will evaluate EZ Guarantee application financial feasibility using criteria determined and announced by the Agency on the FSA website (www.fsa.usda.gov).

(2) EZ Guarantee applications that satisfy the criteria will be determined to meet the financial feasibility standards in this section.

(3) EZ Guarantee applications that do not satisfy the criteria will require further documentation as determined by the Agency and announced on the FSA website (www.fsa.usda.gov).

§ 762.128 [Amended]

10. Amend § 762.128(a) by removing “CLP and PLP” and adding “CLP, PLP, and MLP” in its place.

11. Amend § 762.140 by revising the introductory text of paragraph (b)(5) and adding paragraph (b)(5)(v) to read as follows:

§ 762.140 General servicing responsibilities.

* * * * *

(b) * * *

(5) Performing an annual analysis of the borrower’s financial condition to determine the borrower’s progress for all term loans with aggregate balances greater than \$100,000 and all line of credit loans. The annual analysis will include:

* * * * *

(v) For borrowers with an outstanding loan balance for existing term loans of \$100,000 or less, the need for an annual analysis will be determined by the Agency for SEL, CLP, and MLP lenders. The annual analysis for PLP lenders will be in accordance with requirements in lender’s credit management system (CMS).

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Val Dolcini,
Administrator,
Farm Service Agency.

[FR Doc. 2016-25492 Filed: 10/20/2016 8:45 am; Publication Date: 10/21/2016]