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DEPARTMENT OF AGRICULTURE

Farm Service Agency

7 CFR Parts 761, 762, 763, 764, and 765

RIN 0560–AI25

Farm Loan Programs; Entity Eligibility

AGENCY: Farm Service Agency, USDA.

ACTION: Interim final rule.

SUMMARY: The Farm Service Agency (FSA) is amending the Farm Loan Programs (FLP) regulations for loan making and servicing on eligibility conditions for certain legal entities, allowing additional flexibility for loan applicants to meet the required farming experience, and increasing the maximum total indebtedness on Microloans (ML) to $50,000. The changes implement provisions of the Agricultural Act of 2014 (2014 Farm Bill). The changes will help increase the number of entities eligible to participate in certain FLP loans and adjust to better reflect the changes in the way farms are owned and operated by legal entities. The changes will allow FSA to extend credit and servicing to family farm operations that may have been ineligible under existing regulations.

DATES: *Effective date:* November 7, 2014.

Comment date: We will consider comments that we receive by: December 8, 2014.

ADDRESSES: We invite you to submit comments on this rule. In your comment, please specify RIN 0560–AI25 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 eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Director, Loan Making Division, the Farm Loan Program (FLP), FSA, U.S. 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: Steven K. Ford; telephone: (202) 304–7932. Persons with disabilities or who require alternative means for communications (Braille, large print, audiotape, etc.) 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 farmers who are temporarily unable to obtain private commercial credit. FSA also provides direct loan customers with credit counseling and supervision to enhance their opportunity for success. FSA 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 loans are tailored to a customer's needs and may be used to buy farmland and to finance agricultural production.

As discussed below, this rule amends the FLP regulations for loan making and servicing on eligibility conditions for certain legal entities, allowing additional flexibility for loan applicants to meet the required farming experience, and increasing the maximum total indebtedness on ML to $50,000.

FSA is implementing the amendments included in this rule in keeping with the related provisions in the 2014 Farm Bill (Pub. L. 113–79).

Eligible Entities

Sections 5001, 5002, 5101, and 5201 of the 2014 Farm Bill amend eligibility criteria in the Consolidated Farm and Rural Development Act (CONACT, 7 U.S.C. 1981–2008r) for various FSA loans allowing FSA to include other legal entities the Secretary considers appropriate. (See CONACT sections 302(a) (7 U.S.C. 1922(a)), 304(c) (7 U.S.C. 1924(c)), 311(a) (7 U.S.C. 1941(a), and 321(a) (7 U.S.C. 1961(a).) Prior to the 2014 Farm Bill, FSA could only lend to those legal entity types specifically mentioned in the CONACT. In many situations, FSA had to require a family farm to modify its operating structure in order to qualify for an FLP loan. Otherwise, FSA determined that the loan applicant was ineligible for the FLP loans.

FSA supports farmers structuring their operations to take advantage of financial planning techniques that entity arrangements have to offer. Therefore, to implement the 2014 Farm Bill amendments to the CONACT mentioned above, FSA is amending the definition of an entity in 7 CFR 761.2 to include a type of organization, as determined by the Secretary, authorized to conduct business in the state in which it operates. There are two types of organizations that continue to be ineligible—estates and nonprofit organizations.

FSA will not include estates as an eligible entity since they are designed to be temporary in nature, and not an ongoing business entity. Nonprofit organizations also will not be considered an eligible entity since they are inconsistent with FSA's mission to establish and improve family farm operations and assist them in becoming profitable and self-sufficient so they may qualify for commercial credit.

All other existing rules regarding operating a family farm, availability of other credit, and individual liability for debt will continue to apply.

Definition of ''Farm'' and ''Family Farm''

For clarity, FSA is amending the definition of ''family farm'' in 7 CFR 761.2 to specify that ''family farm'' refers to the farm business operation, not real estate. This clarification reflects FSA's long-standing interpretation and application of the term ''family farm'' as the business operation and ''farm'' as the farm real estate. Minor amendments are included in §§ 762.120, 763.5, and 764.152 to clarify that the term ''family farm'' refers to the business operation and the word ''farm'' refers to real estate.

Eligibility of Certain Operating-Only Entities

Section 5001(a) of the 2014 Farm Bill amends section 302(a)(2) of the

CONACT (7 U.S.C. 1922(a)(2)) to allow an operating entity to meet the owner-operator requirements and thereby qualify for a direct or guaranteed Farm Ownership (FO) loan, provided the individuals that are the owners of the farm (real estate) own at least 50 percent of the family farm (operating entity). The 2014 Farm Bill specifies ''more than 50 percent'' and also permits the Secretary to determine another appropriate percentage of ownership. Frequently, two-person entities are established using equal (50/50) ownership shares. Therefore, FSA determined that the appropriate percentage of ownership is ''at least 50 percent.''

To qualify for an FO loan, a loan applicant must be or become an owner and operator of a family farm. Prior to this rule, borrowers were required to own the farm real estate in the same legal manner as they operated the farm. This practice has become less common. Many family farm operations may own the farm real estate under a separate legal entity, which facilitates estate planning and the transfer of farm assets between generations. In many situations, the individuals that own the farm real estate and those operating the family farm business are identical even though multiple entities are involved. FSA is amending 7 CFR 762.120 and 764.152 to allow an applicant that is an entity and that does not own a farm (real estate) to qualify for an FO loan if the individuals who own the farm own at least 50 percent of the family farm (operating entity).

Similarly, 7 CFR 763.5 is being amended for the Land Contract Guarantee Program to reflect the eligibility of certain operating-only entities meeting the at least 50 percent ownership requirement.

These changes allow existing operations to maintain their operating structure, and allow new FLP borrowers to structure their operations in a manner that works best for them. These amendments will allow FSA to extend credit to family farm operations that may have been ineligible under existing regulations.

This rule also includes minor amendments to existing language in 7 CFR 762.120 and 7 CFR 762.152 addressing the treatment of entity applicants who are related or not related by blood or marriage. The authority for this change is in section 302(a)(1) of the CONACT (7 U.S.C. 1922). This change was needed to make the Direct Loan and Guaranteed Loan program regulations consistent.

In 7 CFR 761.2, FSA is clarifying the definition of ''operator'' to specify that operating-only entities may be considered owner-operators when the individuals that own the farm real estate own at least 50 percent of the family farm (operating entity).

Eligibility of Certain Embedded Entities

Sections 5001, 5101, and 5201 of the 2014 Farm Bill amend FLP eligibility criteria to allow an applicant that is owned by another entity or entities (''embedded entities''), to qualify for direct or guaranteed FO, direct or guaranteed Operating Loans (OL), or Emergency Loans (EM) provided that the individuals that own the family farm own at least 75 percent of each embedded entity.

Previously, FSA required all entity applicants to be owned by individuals and not other entities. This requirement was established to help direct FLP loan funds to family farms as intended and avoid larger, more complex operations. However, over time this rule has become a barrier for many family farm operations. It has become an increasingly common business practice to separate certain segments of family farm operations for liability and financial planning reasons. Many operations are structured this way to facilitate the entry and exit of family members as operations grow and age.

Therefore, this rule adds a definition of ''embedded entity'' and ''entity member'' to 7 CFR 761.2, which will apply to all FLP loans. These changes will allow entity applicants to be eligible even if members of the entity applicant are entities themselves. ''Entity member'' will mean all individuals and all embedded entities, as well the individual members of the embedded entities, having an ownership interest in the assets of the entity.

In addition, FSA is modifying 7 CFR 762.120, 763.5, and 764.101 to allow multiple levels of entity ownership, provided at least 75 percent of each embedded entity is owned by individuals actively managing or operating the family farm. Adding the limitation that the individuals making up the at least 75 percent ownership must be actively managing or operating the family farm is an essential requirement, and is consistent with FSA's mission to assist family farm operations. The requirement for at least 75 percent of the owners to be active operators or managers separates out those who are simply investors when applying the 75 percent test.

Furthermore, existing rules governing the family farm and test for credit will remain in place to further ensure FLP funds are targeted to family farms otherwise unable to obtain credit. This approach meets FSA's mission to provide credit to family farm operators rather than larger farming operations with many investors.

FSA is modifying 7 CFR 762.130 and 764.402 to require debt instruments for Direct and Guaranteed loans be executed to show evidence for liability of any embedded entity, as well as the applicant and all individuals in all entities. The change is needed to protect the government's interest and ensure collectability of the debt.

FSA is modifying 7 CFR 763.7 and 764.51 to change the requirements from requiring ''current personal financial statements from each member of the entity'' to remove the word ''personal'' and to require ''current financial statements from each member of the entity.'' These changes are being made as a conforming change resulting from the allowance of embedded entities.

Finally, FSA is making conforming changes in 7 CFR part 765 to address the transfer or assumption to other entities. In § 765.401, the requirement to assume personal liability for the loan was required for the entity and each member—it is being changed to the entity and each entity member. In § 765.402, several conforming changes are being made to reflect entity members instead of just members (which previously was assumed to be individual members), and to expand the types of entities to include other legal business organizations as determined by the Secretary.

Direct Farm Ownership Experience Requirement

Section 5001(b) of the 2014 Farm Bill amends provisions for direct FO loans, allowing the Secretary additional flexibility to establish requirements for a loan applicant to meet the test that they have participated in the operation of a farm for at least 3 years.

Previously, an applicant for a direct FO had to have participated in the operations of a farm for at least 3 years. The rule was established to encourage a responsible path toward starting and growing a farming operation. However, this 3-year requirement has proven to be overly restrictive and incompatible with the current mode of entry for many beginning farmers. Section 5001(b) of the 2014 Farm Bill allows applicants to demonstrate previous experience by having participated in the business operations of a farm or ranch for not less than 3 years or having other acceptable experience for a period of time as determined by the Secretary.

Many of today's beginning farmers do not have farm backgrounds, but come to the industry through a variety of

avenues such as post-secondary education, farm apprenticeship, veteran training, and extension programs. The 3-year requirement provides a reasonable foundation for successful farm ownership, but ignores certain training and experiences that can be just as valuable, and in some cases more valuable than limited farm business operations experiences. A formal farming apprenticeship, operation or management of a non-farm business, leadership or management experience while serving in any branch of the military, advanced education in an agricultural field, and significant experience in a farm-related agricultural career are examples of experiences that can provide some of the knowledge, skills, and abilities essential for successful farm ownership. FSA concluded that while some actual farm operational experience remains essential, it is reasonable to consider other work, business, or education as contributing toward a portion of the 3 year requirement. Therefore, FSA is modifying both the definition of ''participated in the business operations of a farm'' in 7 CFR 761.2 and the requirement in 7 CFR 764.152 to acknowledge the value of these other experiences.

ML Changes

FSA revised the direct OL regulations to implement the ML Program to better serve the unique operating needs of small family farm operations through a rule published in the **Federal Register** on January 17, 2013 (78 FR 3828–3836). The purpose of the ML Program is to make the OL program more widely available and useful to small operators through reduced application requirements, faster application processing, and added flexibility in meeting the managerial ability eligibility requirement. The ML Program was implemented with the requirement that both the loan amount and the applicant's total FSA OL indebtedness, at the time of loan closing, would not exceed $35,000. Section 5106 of the 2014 Farm Bill allows the Secretary to set the maximum for the total principal indebtedness outstanding at any one time for ML made to any one borrower at $50,000. The regular OL application process will be used for OL requests and applicant indebtedness that exceed the maximum amount.

During the rulemaking process that implemented the ML Program, there were suggestions to set the ML maximum at a higher level or lower level than the proposed $35,000. FSA agreed to review the success of the ML Program and reevaluate the loan amounts periodically. The average ML obligated during the first year of implementation is $19,800. ML made at the $35,000 maximum amount account for nearly 25 percent of all direct OLs currently made since the ML Program began. Therefore, this rule is amending the maximum amount for MLs to $50,000.

Notice and Comment

In general, the Administrative Procedure Act (APA, 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 when the rule involves a matter relating to public property, loans, grants, benefits, or contracts (5 U.S.C. 553(a)(2)). Although FSA could use the APA exemption and publish this rule as a final rule without the opportunity for public comment, FSA is implementing the regulatory changes through an interim rule to provide an opportunity for public comment while also implementing the rule without unnecessary delay to benefit FSA customers with the additional flexibility provided by the changes.

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 significant under Executive Order 12866, ''Regulatory Planning and Review,'' and, therefore, OMB has reviewed this rule. The estimated costs and benefits of this rule are summarized below. The full cost benefit analysis is available on regulations.gov.

Clarity of the Regulation

Executive Order 12866, as supplemented by Executive Order 13563, requires each agency to write all rules in plain language. In addition to your substantive comments on this rule, we invite your comments on how to make the rule easier to understand. For example:

- Are the requirements in the rule clearly stated? Are the scope and intent of the rule clear?
- Does the rule contain technical language or jargon that is not clear?
- Is the material logically organized?
- Would changing the grouping or order of sections or adding headings make the rule easier to understand?
- Could we improve clarity by adding tables, lists, or diagrams?
- Would more, but shorter, sections be better? Are there specific sections that are too long or confusing?
- What else could we do to make the rule easier to understand?

Cost Benefit Analysis Summary

Legal entities (partnerships, LLCs, etc.) comprised 13.3 percent of all farms (2012 Census of Agriculture). While the number of entities has remained relatively stable over the past 20 years, the complexity of their business structures has increased. One example is farm land ownership. Given high land prices and huge capital requirements, many farm operations lack the financial resources to purchase full ownership of farmland tracts that they operate and consequently, some have turned to alternative business structures where farmland is owned by an entity. Prior to the implementation of this rule, family farms using such strategies to acquire farmland may have found themselves ineligible for FSA credit programs. This is because the regulations prior to this rule change required the farm real estate to be owned by the same legal structure as the farm operation. This rule change will permit a family farm entity to receive an FO loan as long as the family farm entity resulting after the loan is closed is at least 50-percent owned by the owners of the farm real estate, provided all other loan eligibility requirements are satisfied.

Embedded entities—where the members of an entity are entities themselves—provide another example of increasingly complex business structures. Though not widespread, a noteworthy number of family farm operations organized as legal entities are owned partly or wholly by one or more embedded entities. The FSA Direct Attribution Reporting data base indicates that, in 2013, about 11 percent of all entities receiving payments had an embedded entity. Such entities would have been ineligible for FSA farm loans because regulations stipulated that an entity owned by one or more other entities was ineligible for an FSA farm loan. The changes implemented in this

rule would allow such entities to be eligible for FSA loans as long as each embedded entity is at least 75-percent owned by embedded entity members actively involved in managing or operating the family farm, and provided that all other eligibility requirements are satisfied.

Many new family farm entrants are neither raised on a farm nor have specific experience operating a farm business, but may have the experience or the knowledge necessary to manage a farm business. Prior to implementation of this rule, an FO applicant was required to have participated in the management of a farm business for at least 3 years. Changes implemented by this rule allow other non-traditional avenues, such as post-secondary education, farm apprenticeship, leadership or management experience while serving in any branch of the military, or extension programs to count toward the 3 year experience requirement.

In 2012, FSA implemented the microloan program to provide greater flexibility in serving the needs of small and beginning farm businesses. This rule increases the maximum microloan size (and maximum direct operating loan indebtedness for borrowers receiving such loans) from $35,000 to $50,000.

Combined, the three provisions in this rule are expected to enable FSA to benefit 2,210 farm businesses through direct and guaranteed loan programs. Changes to entity eligibility requirements are expected to enable FSA to serve an additional 660 entities. Changes in the farm business experience eligibility requirement are expected to impact 650 beginning farmers who will be able to benefit from FSA credit programs earlier than under the prior regulations. In the context of the entire direct and guaranteed loan portfolio, the additional 1,310 farm businesses impacted by revised entity eligibility and farm business experience requirements should increase demand, though the overall impacts should be marginal. And finally, changes to the ML program will only affect new or existing borrowers with total direct operating loan indebtedness between $35,000 and $50,000, and are estimated at 900 borrowers of which 100 are forecast to be new borrowers.

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 as noted above, this rulemaking is exempt from the notice and comment rulemaking requirements of 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 1940, subpart G). All changes included in the rule are required by the 2014 Farm Bill, with some minor discretionary decisions on the implementation methods. FSA concluded that this rule will not have a significant impact on the quality of the human environment either individually or cumulatively and, therefore, is categorically excluded and not subject to environmental assessments or environmental impact statements in accordance with 7 CFR 1940.310(e)(3).

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 set forth 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 under 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 will not have retroactive effect. Before any judicial action may be brought regarding the application of 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 on the distribution of power and responsibilities among the various levels of government, except as required by law. Nor does 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 where changes, additions, and modifications identified in this rule are not expressly mandated by the 2014 Farm Bill.

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, and Tribal governments, or the private sector. Agencies generally must prepare a written statement, including a cost benefit analysis, for proposed and final rule with Federal mandates that may result in expenditures of $100 million or more in any 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, and Tribal governments, or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

SBREFA

This rule is not a major rule under SBREFA (Pub. L. 104–121). Therefore, FSA is not required to delay the effective date for 60 days from the date of publication to allow for Congressional review. Accordingly, this rule is effective on the date of publication in the **Federal Register**.

Federal Assistance Programs

The title and number of the Federal Assistance Programs, as found in the Catalog of Federal Domestic Assistance, to which this rule applies are:

10.099 Conservation Loans;
10.404 Emergency Loans;
10.406 Farm Operating Loans; and
10.407 Farm Ownership Loans.

Paperwork Reduction Act

The regulatory changes in this rule do not require changes to the information collection requests currently approved by OMB control numbers of 0560–0155, 0560–0233, 0560–0236, 0560–0237, 0560–0238, and 0560–0230.

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.

List of Subjects

7 CFR Part 761

Accounting, Loan programs—agriculture, Rural areas.

7 CFR Part 762

Agriculture, Banks, Banking, Credit, Loan programs—agriculture.

7 CFR Part 763

Agriculture, Banks, Banking, Credit, Loan programs—agriculture.

7 CFR Part 764

Agriculture, Credit, Loan programs—agriculture.

7 CFR Part 765

Agriculture, Agricultural commodities, Credit, Livestock, Loan programs—agriculture.

For the reasons discussed above, FSA amends 7 CFR chapter VII 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(b) as follows.
■ a. Add the definitions of ''Embedded entity'' and ''Entity member'' in alphabetical order;
■ b. Revise the definition of ''Entity'';
■ c. In the definition of ''Established farmer,'' revise the introductory text and paragraphs (4) and (5) and add paragraph (6);
■ d. In the definition of ''Family farm'' in the introductory text, remove the word ''farm'' and add with the word ''business operation'' in its place;
■ e. In the definition of ''Operator'' add a sentence at the end; and
■ f. In the definition of ''Participated in the business operations of a farm'' in paragraph (3), add the parenthetical phrase ''(which can include a farm-related apprenticeship, internship, or similar educational program with applied work experience)'' immediately following the words ''worked on a farm''.

The additions and revisions read as follows:

§ 761.2 Abbreviations and definitions.

* * * * *

(b) * * *

Embedded entity means an entity that has a direct or indirect interest, as a stockholder, member, beneficiary, or otherwise, in another entity.

* * * * *

Entity means a corporation, partnership, joint operation, cooperative, limited liability company, trust, or other legal business organization, as determined by the Agency, that is authorized to conduct business in the state in which the organization operates. Organizations operating as non-profit entities under Internal Revenue Code 501 (26 U.S.C. 501) and estates are not considered eligible entities for Farm Loan Programs purposes.

Entity member means all individuals and all embedded entities, as well as the individual members of the embedded entities, having an ownership interest in the assets of the entity.

* * * * *

Established farmer means a farmer who operates the farm (in the case of an entity, its members as a group) who meets all of the following conditions:

* * * * *

(4) In the case of an entity, is primarily engaged in farming and has over 50 percent of its gross income from all sources from its farming operation based on the operation's projected cash flow for the next crop year or the next 12-month period, as mutually determined;

(5) Is not an integrated livestock, poultry, or fish processor who operates primarily and directly as a commercial business through contracts or business arrangements with farmers, except a grower under contract with an integrator or processor may be considered an established farmer, provided the farming operation is not managed by an outside full-time manager or management service and Agency loans will be based on the applicant's share of the agricultural production as specified in the contract; and

(6) Does not employ a full time farm manager.

* * * * *

Operator. * * * Operating-only entities may be considered owner-operators when the individuals who own the farm real estate own at least 50 percent of the family farm operation.

* * * * *

PART 762—GUARANTEED FARM LOANS

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

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

■ 4. Amend § 762.120 as follows:
■ a. Revise paragraphs (j)(1) and (j)(2)(i) through (iii);
■ b. Add paragraphs (j)(3) and (4); and
■ c. Revise paragraphs (k)(4) and (1)(3).

The additions and revisions read as follows.

§ 762.120 Applicant eligibility.

* * * * *

(j) * * *

(1) The individual must be the operator of not larger than a family farm and the owner of a farm after the loan is closed. Ownership of the family farm operation or the farm real estate may be held either directly in the individual's name or indirectly through interest in a legal entity.

(2) * * *

(i) An ownership entity must be authorized to own a farm in the state or states in which the farm is located. An operating entity must be authorized to operate a farm in the state or states in which the farm is located; and

(ii) If the entity members holding a majority interest are related by marriage

or blood, at least one member of the entity must operate the family farm and at least one member of the entity or the entity must own the farm; or

(iii) If the entity members holding a majority interest are not related by marriage or blood, the entity members holding a majority interest must operate the family farm and the entity members holding a majority interest or the entity must own the farm.

(3) If the entity is an operator-only entity, the individuals that own the farm (real estate) must own at least 50 percent of the family farm (operating entity).

(4) All ownership may be held either directly in the individual's name or indirectly through interest in a legal entity.

(k) * * *

(4) If the applicant has one or more embedded entities, at least 75 percent of the individual ownership interests of each embedded entity must be owned by members actively involved in managing or operating the family farm.

(l) * * *

(3) If the applicant has one or more embedded entities, at least 75 percent of the individual ownership interests of each embedded entity must be owned by members actively involved in managing or operating the family farm; and

* * * * *

■ 5. Revise § 762.130(e)(4) to read as follows:

§ 762.130 Loan approval and issuing the guarantee.

* * * * *

(e) * * *

(4) The note is executed by the individual liable for the loan. For entity applicants, the promissory note will be executed to evidence the liability of the entity, any embedded entities, and the individual liability of all entity members. Individual liability can be waived by the Agency for members holding less than 10 percent ownership in the entity if the collectability of the loan will not be impaired; and

* * * * *

PART 763—LAND CONTRACT GUARANTEE PROGRAM

■ 6. The authority citation for part 763 continues to read as follows:

Authority: 5 U.S.C. 501 and 7 U.S.C. 1989.

■ 7. Amend § 763.5(b) as follows:

■ a. Revise paragraphs (b)(2) introductory text and (b)(2)(ii) and (iii);

■ b. In paragraphs (b)(2)(iv)(A) and (b)(2)(v)(A), add the word ''family'' immediately before the word ''farm'';

■ c. Add paragraphs (b)(2)(vi) and (vii); and

■ d. Revise paragraph (b)(3).

The revisions and additions read as follows.

§ 763.5 Eligibility.

* * * * *

(b) * * *

(2) Is the owner and operator of a family farm after the Contract is completed. Ownership of the family farm operation or the farm real estate may be held either directly in the individual's name or indirectly through interest in a legal entity. In the case of an entity buyer:

* * * * *

(ii) If the applicant has one or more embedded entities, at least 75 percent of the individual ownership interests of each embedded entity must be owned by members actively involved in managing or operating the family farm.

(iii) An ownership entity must be authorized to own a farm in the state or states in which the farm is located. An operating entity must be authorized to operate a farm in the state or states in which the farm is located.

* * * * *

(vi) If the entity is an operator-only entity, the individuals that own the farm (real estate) must own at least 50 percent of the family farm (operating entity).

(vii) All ownership may be held either directly in the individual's name or indirectly through interest in a legal entity.

(3) Must have participated in the business operations of a farm or ranch for at least 3 years out of the last 10 years prior to the date the application is submitted. Of those 3 years, 1 year can be substituted with the following experience:

(i) Postsecondary education in agriculture business, horticulture, animal science, agronomy, or other agricultural related fields,

(ii) Significant business management experience, or

(iii) Leadership or management experience while serving in any branch of the military.

* * * * *

§ 763.7 [Amended]

■ 9. In § 763.7(b)(3)(ii), remove the word ''personal''.

PART 764—DIRECT LOAN MAKING

■ 10. The authority citation for part 764 continues to read as follows:

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

§ 764.51 [Amended]

■ 11. Amend § 764.51 as follows:

■ a. In paragraph (b)(2)(ii) remove the word ''personal'';

■ b. In paragraph (c)(1)(ii), remove ''$35,000'' both times it appears and add ''$50,000'' in its place.

■ 12. Revise § 764.101(1) to read as follows:

§ 764.101 General eligibility requirements.

* * * * *

(1) *Entity composition.* If the applicant has one or more embedded entities, at least 75 percent of the individual ownnership interests of each embedded entity must be owned by members actively involved in managing or operating the family farm.

■ 13. Amend § 764.152 as follows:

■ a. Revise paragraphs (c) introductory text and (c)(2) and (3);

■ b. Add paragraph (c)(4); and

■ c. In paragraph (d), add a sentence at the end; and

■ d. Add paragraphs (d)(1) through (3).

The revisions and additions read as follows.

§ 764.152 Eligibility requirements

* * * * *

(c) Must be the owner-operator of the farm financed with Agency funds after the loan is closed. Ownership of the family farm operation and farm real estate may be held either directly in the individual's name or indirectly through interest in a legal entity. In the case of an entity:

* * * * *

(2) An ownership entity must be authorized to own a farm in the state or states in which the farm is located. An operating entity must be authorized to operate a farm in the state or states in which the farm is located.

(3) If the entity members holding majority interest are:

(i) Related by blood or marriage, at least one member of the entity must operate the family farm and at least one member of the entity or the entity must own the farm; or,

(ii) Not related by blood or marriage, the entity members holding a majority interest must operate the family farm and the entity members holding a majority interest or the entity must own the farm.

(4) If the entity is an operator only entity, the individuals that own the farm (real estate) must own at least 50 percent of the family farm (operating entity).

(d) * * * One of these three years can be substituted with the following experience:

(1) Postsecondary education in agriculture business, horticulture,

animal science, agronomy, or other agricultural related fields,

(2) Significant business management experience, or

(3) Leadership or management experience while serving in any branch of the military.

* * * * *

■ 14. Revise § 764.402(a)(2) to read as follows:

§ 764.402 Loan closing.

* * * * *

(a) * * *

(2) For entity applicants, the promissory note will be executed to evidence the liability of the entity, any embedded entities, and the individual liability of all entity members.

* * * * *

PART 765—DIRECT LOAN SERVICING—REGULAR

■ 15. The authority citation for part 765 continues to read as follows:

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

Subpart I—Transfer of Security and Assumption of Debt

§ 765.401 [Amended]

■ 16. Amend § 765.401(a)(2), second sentence, by adding the word ''entity'' immediately before the word ''member''.

■ 17. Amend § 765.402(e) as follows:

■ a. In paragraph (e)(1) remove the words ''that is'' and add the words ''in which the entity members are'' in their place;

■ b. In paragraph (e)(2) remove the words ''original members'' and add the words ''original entity members'' in their place;

■ c. Revise paragraphs (e)(3) introductory text and (e)(3)(i);

■ d. In paragraph (e)(3)(ii), second sentence, add the word ''entity'' immediately before the word ''members''.

The revisions read as follows.

§ 765.402 Transfer of security and loan assumption on same rates and terms.

* * * * *

(e) * * *

(3) A corporation, limited liability company, cooperative, or other legal business organization, the transferee must:

(i) Have been a corporate stockholder, cooperative member or other member of a legal business organization, when the Agency made the original loan or will be an entity comprised solely of entity members who were entity members when the entity received the loan; and

* * * * *

Signed on September 30, 2014.

Val Dolcini,

Administrator, Farm Service Agency.

[FR Doc. 2014–24046 Filed 10–7–14; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2014–0214]

RIN 1625–AA11

Regulated Navigation Area; South Bristol Gut Bridge Replacement, South Bristol, ME

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a regulated navigation area (RNA) on the navigable waters of The Gut in South Bristol, ME in support of bridge construction. This regulated navigation area allows the Coast Guard to enforce speed and wake restrictions and prohibit all vessel traffic through the regulated navigation area during bridge replacement operations, both planned and unforeseen, which could pose an imminent hazard to persons and vessels operating in the area. This rule is necessary to provide for the safety of life on the navigable waters during bridge structural repair operations.

DATES: This rule is effective without actual notice from October 8, 2014 until April 30, 2017. For the purposes of enforcement, actual notice will be used from the date the rule was signed, September 19, 2014, until October 8, 2014.

ADDRESSES: Documents mentioned in this preamble as being available in the docket, are part of docket [USCG–2014–0214]. To view documents mentioned in this preamble, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box, and click ''SEARCH.'' Click on ''OPEN DOCKET FOLDER'' on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call Chief Craig D. Lapiejko, Waterways Management at Coast Guard First District, at (617) 223–8385 or email at *Craig.D.Lapiejko@uscg.mil;* or Lieutenant Junior Grade David B. Bourbeau, Waterways Management Division Chief at Coast Guard Sector Northern New England, at (207) 347–5015 or email at *David.T.Bourbeau@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, at (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR **Federal Register**

A. Regulatory History and Information

On January 24, 2014, Sector Northern New England received notice of a proposed replacement of The Gut Bridge in South Bristol, ME between Rutherford Island and Bristol Neck. A Bridge Permit was awarded to Maine Department of Transportation (MEDOT) on April 15, 2014 to begin in accordance with Plans dated September 24, 2013.

MEDOT held seven public meetings between June 2009 and August 2013 and mariners have expressed no significant concerns.

On November 8, 2013, Public Notice 1–132 was disseminated by the First Coast Guard District. This notice included the official plans being submitted for approval of a bridge permit and solicited comments from the public. Twenty-five comments were received. All comments were in support of burying the existing overhead electrical cables rather than allowing them to remain in place above the water. There were no comments received in opposition of the proposed construction project or potential closures to the channel.

On July 25, 2014, the Coast Guard published a notice of proposed rulemaking (NPRM) regarding the creation of this regulated navigation area. No comments were received during the public comment period of the NPRM.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effectiveness of this rule would be impracticable and contrary to the public interest as immediate action is needed to protect the boating public from the hazards associated with a dangerous construction site. The Coast Guard finds it impractical and unnecessary to move the start of construction to