

**§ 772.13**

amount of additional time to apply for refinancing.

(2) Borrowers with AMP loans will be considered for graduation at least every two years or more frequently if the Agency determines that the borrower's financial condition has significantly improved.

**§ 772.13 Delinquent account servicing.**

(a) *AMP loans.* If the borrower does not make arrangements to cure the default after notice by the Agency and is not eligible for reamortization in accordance with § 772.14, the Agency will liquidate the account according to § 772.16.

(b) *IMP loans.* Delinquent IMP borrowers will be serviced according to 7 CFR part 1951, subpart S, and parts 3 and 1951, subpart C, concerning internal agency offset and referral to the Department of Treasury Offset Program and Treasury Cross-Servicing (or successor regulations).

**§ 772.14 Reamortization of AMP loans.**

The Agency may approve reamortization of AMP loans provided:

(a) There is no extension of the final maturity date of the loan;

(b) No intervening lien exists on the security for the loan which would jeopardize the Government's security position;

(c) If the account is delinquent, it cannot be brought current within one year and the borrower has presented a cash flow budget which demonstrates the ability to meet the proposed new payment schedule; and

(d) If the account is current, the borrower will be unable to meet the annual loan payments due to circumstances beyond the borrower's control.

**§ 772.15 Protective advances.**

(a) The Agency may approve, without regard to any loan or total indebtedness limitation, vouchers to pay costs, including insurance and real estate taxes, to preserve and protect the security, the lien, or the priority of the lien securing the debt owed to the Agency if the debt instrument provides that the Agency may voucher the account to protect its lien or security.

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(b) The Agency may pay protective advances only when it determines it to be in the Government's best financial interest.

(c) Protective advances are immediately due and payable.

**§ 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 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;