

Farm Service Agency, USDA

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an agreement is reached, the debt will not be referred to a credit reporting agency.

(4) The debtor's right to review of this action in accordance with paragraph (i) of this section.

(d) The debtor shall be notified, in writing at the debtor's last known address, when FSA has reported any delinquent debt to a credit reporting agency.

(e)(1) FSA shall notify each credit reporting agency to which an original disclosure of delinquent debt information was made of any substantial change in the condition or amount of the claim.

(2) FSA shall promptly verify or correct, as appropriate, information about the debt on request of a credit reporting agency. The records of the debtor shall reflect any correction resulting from such request.

(f) Information reported to a credit reporting agency on delinquent debts shall be derived from the system of records maintained by FSA.

(g) FSA shall limit delinquent debt information disclosed to credit reporting agencies to:

(1) The name, address, taxpayer identification number, and other information necessary to establish the identity of the debtor;

(2) The amount, status, and history of the claim; and

(3) The program under which the claim arose.

(h) Reasonable action shall be taken to locate a debtor for whom FSA does not have a current address before reporting delinquent debt information to a credit reporting agency.

(i)(1) Before disclosing delinquent debt information to a credit reporting agency, FSA shall, upon request of the debtor, provide for a review of the debt in accordance with § 792.12. This review shall only consider defenses or arguments which were not available or could not have been available at any previous appeal proceeding permitted under § 792.12.

(2) Upon receipt of a request for review within 30 days from the date of notice to the debtor of intent to refer delinquent debt information to a credit reporting agency, FSA shall suspend its schedule for disclosure to a credit

reporting agency until a final decision regarding the appropriateness of disclosure to a credit reporting agency is made.

(3) Upon completion of the review, the reviewing official shall transmit to the debtor a written notification of the decision. If appropriate, the debtor shall be notified of the scheduled date on or after which the debt will be referred to the credit reporting agency. The debtor will also be notified of any changes from the initial notification in the information to be disclosed.

(j)(1) In accordance with guidelines established by the Administrator, FSA, the responsible claims official shall report to credit reporting agencies delinquent debt information specified in paragraph (g) of this section.

(2) The agreements entered into by USDA and credit reporting agencies shall provide the necessary assurances to FSA that the credit reporting agencies to which information will be provided are in compliance with the provisions of all the laws and regulations of the United States relating to providing credit information.

(3) FSA shall not report delinquent debt information to credit reporting agencies when: (i) The debtor has entered a repayment agreement covering the debt with FSA, and such agreement is still valid; or

(ii) FSA has suspended its schedule for disclosure of delinquent debt information pursuant to paragraph (i)(2) of this section.

(k) Disclosures made under this section shall be in accordance with the requirements of the Privacy Act, as amended (5 U.S.C. 552a).

(l) The provisions of paragraphs (a) through (k) of this section apply to commercial debts owed by farm producers and all personal debts. All commercial debts owed by debtors other than farm producers may be reported to credit reporting agencies without following the provisions of paragraphs (a) through (k) of this section.

§ 792.18 Referral of debts to Department of Justice.

(a) Debts that exceed \$100,000.00 exclusive of interest, penalties, and administrative charges, or such higher amount as may be prescribed, shall be

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referred to the Department of Justice before they can be discharged.

(b) Debts which cannot be compromised or on which collection action cannot be suspended or terminated, may be referred to the Department of Justice for collection action. Claims of less than \$600.00 exclusive of interest, penalties, and administrative costs will not be referred to the Department of Justice unless:

(1) Referral is important to a significant enforcement policy, or

(2) The debtor not only has the clear ability to pay the claim, but the Government can effectively enforce payment, having due regard for the exemptions available to the debtor under State and Federal law and the judicial remedies available to the Government.

§ 792.19 Referral of delinquent debts to IRS for tax refund offset.

FSA may refer legally enforceable delinquent debts to IRS to be offset against tax refunds due to debtors under 26 U.S.C. 6402, in accordance with the provisions of 31 U.S.C. 3720A and Treasury Department regulations.

§ 792.20 Reporting discharged debts to IRS.

(a) In accordance with IRS regulations, FSA may report to IRS as discharged debts on IRS Form 1099-G the amounts specified in paragraph (b) of this section.

(b) The following discharged debts may be reported to IRS: (1) The amount of a debt discharged under a compromise agreement between FSA and the debtor, except for compromises made due to doubt about the Government's ability to prove its case in court for the full amount of the debt.

(2) The amount of a debt discharged by the running of the statutory period of limitation for collecting the debt by administrative offset specified in 31 U.S.C. 3716.

§ 792.21 Referral of debts to private collection agencies.

If FSA's collection efforts have been unsuccessful after 90 days from the date of delinquency, the head of the agency or his designee may enter into a contract with any person or organization, under such terms and conditions

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as the head of the agency or his designee considers appropriate for collection services to recover debts owed to FSA.

§ 792.22 Collection and compromise.

The Administrator, FSA, or his designee may compromise any claim of the Government of not more than \$100,000.00 exclusive of interest, penalties, and administrative charges, or such higher amount as may be prescribed, that has not been referred to another executive or legislative agency for further collection action.

PART 795—PAYMENT LIMITATION

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AUTHORITY: Sec. 1001 of the Food Security Act of 1985, as amended, 99 Stat. 1444, as amended, 7 U.S.C. 1308; Pub. L. 99-500 and Pub. L. 99-591.

SOURCE: 43 FR 9784, Mar. 10, 1978, unless otherwise noted.

GENERAL

§ 795.1 [Reserved]

§ 795.2 Applicability.

(a) The provisions of this part are applicable to payments when so provided by the individual program regulations