

order the return of cargo that has been moved from the port of first arrival without APHIS inspection. Currently, in such situations, APHIS inspectors must request that the U.S. Customs Service act on their behalf and order the cargo to be returned to the port for inspection. This proposed rule would increase the efficiency of both APHIS and the Customs Service by simplifying the current system.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This proposed rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 330

Customs duties and inspection, Imports, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, we propose to amend 7 CFR part 330 as follows:

PART 330—FEDERAL PLANT PEST REGULATIONS; GENERAL; PLANT PESTS; SOIL, STONE, AND QUARRY PRODUCTS; GARBAGE

1. The authority citation for part 330 would continue to read as follows:

Authority: 7 U.S.C. 450, 2260, 7711, 7712, 7714, 7718, 7731, 7734, 7751, and 7754; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 136, and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331 and 4332; 7 CFR 2.22, 2.80, and 371.3.

§ 330.100 [Amended]

2. Section 330.100 would be amended as follows:

a. In the definition of *Customs*, by removing the words “Bureau of Customs” and adding the words “U.S. Customs Service” in their place.

b. In the definition of *Inspector*, by adding the words “Animal and Plant Health Inspection Service,” before the

word “U.S.” and by adding a comma after the word “Agriculture”.

3. In § 330.104, the second and third sentences would be revised to read as follows:

§ 330.104 Ports of entry.

* * * Such ports shall be selected by the Deputy Administrator from ports named in 19 CFR 101.3 as “ports of entry” for the purpose of enforcing the customs laws or named in 19 CFR 122.13 as “international airports,” or airports at which permission to land aircraft has been granted by the Commissioner of Customs in accordance with 19 CFR 122.14. Except as otherwise provided by administrative instructions, or by permits issued in accordance with this part, the ports of entry shall be those named in 19 CFR 101.3 and 122.13. * * *

4. In § 330.105, paragraph (a) would be amended by adding a new sentence after the second sentence following the paragraph heading to read as follows and, in the last sentence, by removing the words “the Collector of”.

§ 330.105 Inspection.

(a) *Inspection of foreign arrivals.*
* * * If any means of conveyance, product, or article subject to inspection under this section is released before the inspector has had the opportunity to inspect it, the inspector may require the owner, shipper, broker or his or her agent to return the means of conveyance, product, or article to the port of first arrival or, if mutually convenient, another location as specified by APHIS for inspection.

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Done in Washington, DC, this 14th day of June 2002.

Peter Fernandez,

Acting Administrator, Animal and Plant Health Inspection Service.

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DEPARTMENT OF AGRICULTURE

Rural Housing Service

Rural Business-Cooperative Service

Rural Utilities Service

Farm Service Agency

7 CFR Part 1951

RIN 0560-AG56

Prompt Disaster Set-Aside Consideration and Primary Loan Servicing Facilitation

AGENCY: Farm Service Agency, USDA.

ACTION: Proposed rule.

SUMMARY: Farm Service Agency (FSA) is proposing to amend its regulations for the Disaster Set-Aside (DSA) program to provide the disaster set-aside more quickly to those who can benefit most from the program. The proposed changes also will reduce the Government's risk associated with the delay in debt collection by adding security requirements.

DATES: Comments on the proposed rule and the information collection requirements of this rule must be submitted by August 19, 2002, to be assured of consideration.

ADDRESSES: Submit written comments to Director, Farm Loan Programs, Loan Servicing and Property Management Division, United States Department of Agriculture, Farm Service Agency, 1250 Maryland Ave., SW., Washington, DC 20024-0523. Comments will be available for public inspection weekdays from 8 a.m. to 4:15 p.m., Eastern Standard Time, at the above address.

FOR FURTHER INFORMATION CONTACT:

Michael Cumpton, Farm Loan Programs, Loan Servicing and Property Management Division, United States Department of Agriculture, Farm Service Agency, STOP 0523, 1400 Independence Avenue, S.W., Washington, DC 20250-0523, telephone (202) 690-4014; electronic mail: mike_cumpton@wdc.fsa.usda.gov.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be not significant and has not been reviewed by the Office of Management and Budget.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601-602), the undersigned has determined and

certified by signature of this document that this rule will not have a significant economic impact on a substantial number of small entities because new provisions included in this rule will not impact small entities to a greater extent than large entities. Therefore, a regulatory flexibility analysis was not performed.

Environmental Evaluation

It is the determination of FSA that this action is not a major Federal action significantly affecting the environment. Therefore, in accordance with the National Environmental Policy Act of 1969 and 7 CFR part 1940, subpart G, an Environmental Impact Statement is not required.

Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988, Civil Justice Reform. In accordance with this Executive order: (1) All State and local laws and regulations that are in conflict with this rule will be preempted; (2) except as specifically stated in this rule, no retroactive effect will be given to this rule; and (3) administrative proceedings in accordance with 7 CFR part 11 must be exhausted before seeking judicial review.

Executive Order 12372

Executive Order 12372 requires intergovernmental consultation with State and local officials to coordinate Federal assistance and development projects. In accordance with the notice related to 7 CFR part 3015, subpart V, published June 24, 1983 (48 FR 29115), the programs within this rule are excluded from the scope of this Executive Order.

The Unfunded Mandates Reform Act of 1995

This rule contains no Federal mandates, as defined under title II of the UMRA, for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Executive Order 13132

The policies contained in this rule do not have any substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Nor does this rule impose substantial direct compliance costs on State and local governments. Therefore, consultation with the States is not required.

Paperwork Reduction Act

In accordance with section 3507(j) of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the information collection and recordkeeping requirements included in the proposed rule have been submitted for approval to OMB.

Title: 7 CFR part 1951—T—Disaster Set-Aside Program.

OMB Control Number: 0560-0164.

Expiration Date: January 31, 2003.

Abstract: The DSA program is designed to assist borrowers in financial distress who operated a farm or ranch in a political subdivision, typically a county, that was declared or designated a disaster area. DSA allows eligible borrowers who are unable to make payments to quickly eliminate their immediate financial stress. Under this program, FSA Farm Loan Program (FLP) borrowers can receive immediate financial relief by moving one annual installment for each loan to the end of the loan term. The installment set-aside will be the one due immediately after the disaster. FSA will collect information on the borrower's asset values, expenses and income.

Type of Request: Revision and Extension of a Currently Approved Information.

Collection Estimate of Burden: Public reporting burden for this collection of information is estimated to average 2.26 hours per DSA request.

Respondents: Farms, businesses and individuals.

Estimated Total Burden Hours: 4,938.

Comments are solicited on the proposed information collection and recordkeeping to assist FSA to: (a) Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) evaluate the accuracy of FSA's estimate of burden including the validity of the methodology and assumptions used; (c) enhance the quality, utility and clarity of the information to be collected; and (d) 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. Comments regarding this information collection should be sent to David Spillman, Branch Chief, Direct Loan Servicing, Farm Loan Programs, Farm Service Agency, United States Department of Agriculture, STOP 0523, 1400 Independence Avenue, SW,

Washington, DC 20250-0523.

Comments regarding paperwork burden will be summarized and included in the request for OMB approval of the information collection. All comments will also become a matter of public record.

Federal Assistance Programs

These changes affect the following FSA programs as listed in the Catalog of Federal Domestic Assistance:

10.404—Emergency Loans

10.406—Farm Operating Loans

10.407—Farm Ownership Loans

Discussion of the Proposed Rule

The DSA program was first made available to the Agency's FLP borrowers beginning October 21, 1994, because of the heavy flooding in the Midwest and extreme drought in the South. Since that time, approximately 27,500 borrowers have received DSA assistance. The overall popularity of the program can be attributed to the relatively small amount of paperwork required in applying for and processing DSA requests.

A random review of the case files of borrowers who have received a DSA indicates that this program is sometimes being utilized to set-aside payments which are scheduled one to two years from the time of the actual disaster. This rule limits the amount set-aside to the amount that the borrower is unable to pay the Agency from the production and marketing period in which the disaster occurred. Payments to other creditors are not considered. This will ensure that the amount of debt that is set-aside is minimized, and the resulting balloon payment and interest accrual are minimized. In addition, cases have been noted in which income that could have been used to pay the FSA debts was instead released for the purchase of capital items. DSA has also been used on accounts which would seem to have required primary loan servicing. Most of these delinquent accounts are more properly served by rescheduling and reamortizing the existing debt. This allows all future payments to be adjusted to an amount the operation can be expected to pay, instead of simply deferring a delinquent payment and leaving all remaining payments due as scheduled.

The proposed rule also removes references to second set-asides and set-asides due to low commodity prices since there is no longer authority for DSA to be utilized in this manner. This change will clarify the actions the Agency may take during designated disasters.

Since this program is not required by statute, the Agency must ensure that it

does not hinder the statutory primary loan servicing requirements which are codified in 7 CFR part 1951, subpart S. To ensure the future viability of farming operations, save borrower equity and reduce Government losses, FSA proposes to amend eligibility requirements for DSA to require that:

(1) DSA applications must be made prior to the borrower becoming delinquent on the loans;

(2) DSA is not authorized if the borrower has submitted an application for primary loan servicing; and

(3) Only primary loan servicing, will be considered after a borrower becomes 90 days past due.

These changes will ensure that a borrower with serious financial difficulties (already delinquent on loans to the Government) will receive notice of the full benefits of loan restructure as required by section 331D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981d). Timeframes for both the borrower and the Agency have been shortened to ensure that adequate time exists for application submission, processing and completion within these time frames.

The proposed rule enhances consistency with primary loan servicing requirements at 7 CFR 1951.906 and 7 CFR 1951.909(c) by ensuring that borrowers obtaining a disaster set-aside have acted in good faith in complying with agreements made with the Government and are unable to pay the debt for reasons which are beyond their control.

The proposed rule also eliminates the set-aside of cost recoverable items. These costs, such as property taxes, are the borrower's responsibility but have been paid by the Government. Non-payment of such costs is a violation of the terms of the Promissory Note and places the account in nonmonetary default, requiring the account to be serviced in accordance with 7 CFR 1951.907(d). This provision requires the sending of primary loan servicing notices. If the borrower applies for such servicing, however, the borrower will be ineligible for disaster set-aside. The borrower is expected to cure any non-monetary default to be eligible for disaster set-aside.

Additional security requirements to ensure the availability of collateral throughout the term of the loan are also proposed if the borrower is not current at the time of the set-aside. This is consistent with the requirements of 7 CFR 1951.910(b) and, since payments can be set aside for the full term of the loan (which could be up to 40 years on a real estate loan or 15 years on a chattel loan), it is essential that the Government

take all measures possible to ensure the continued availability of security during the entire term of the loan.

Currently, 7 CFR 1951.954(a) requires that a cash flow projection be developed for the coming year which shows that all debts and expenses can be paid. This proposed rule specifies documentation needed for development of a cash flow (five years of financial and production history) as part of a complete application under § 1951.953 to insure that the § 1951.954 requirement is met.

List of Subjects in 7 CFR Part 1951

Accounting, Credit, Disaster assistance, Loan programs-agriculture, Loan programs-housing and community development, Low and moderate income housing.

Accordingly, 7 CFR part 1951 is proposed to be amended as follows:

PART 1951—SERVICING AND COLLECTIONS

1. The authority citation for part 1951 is revised to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1932 Note; 7 U.S.C. 1989; 31 U.S.C. 3716; 42 U.S.C. 1480.

Subpart T—Disaster Set-Aside Program

2. Amend § 1951.951 by revising the second sentence to read as follows:

§ 1951.951 Purpose.

* * * The DSA program is available to Farm Loan Program (FLP) borrowers, as defined in subpart S of this part, who suffered losses as a result of a natural disaster. * * *

3. Revise § 1951.952 to read as follows:

§ 1951.952 General.

DSA is a program whereby borrowers who are current on all FLP loans, but unable to make the next installment coming due, may be permitted to move the scheduled annual installment for each eligible FLP loan to the end of the loan term. The intent of this program is to relieve some of the borrower's immediate financial stress caused by a natural disaster. DSA will not be used to circumvent the servicing available under subpart S of this part.

4. Revise § 1951.953 to read as follows:

§ 1951.953 Notification and request for DSA.

(a) [Reserved]

(b) *Deadline to apply.* All FLP borrowers liable for the debt must request DSA within 8 months from the date the natural disaster was designated

in accordance with 7 CFR part 1945, subpart A.

(c) *Information needed for a complete application.*

(1) A written request for DSA signed by all parties liable for the debt;

(2) Actual production, income, and expense records for the past five years, including the production and marketing period in which the natural disaster occurred; and

(3) Other information requested by the servicing official when needed to make an eligibility determination.

5. Revise § 1951.954 to read as follows:

§ 1951.954 Eligibility and loan limitation requirements.

(a) *Eligibility requirements.* The following requirements must be met to be eligible for DSA:

(1) The borrower must have:

(i) Operated a farm or ranch in a county designated a natural disaster or a contiguous county as provided in 7 CFR part 1945, subpart A, and;

(ii) Been a borrower and operated the farm or ranch at the time of the disaster period.

(2) A borrower cannot have more than one installment set aside on each loan. If all previously approved set-asides are paid in full, or cancelled through restructuring under subpart S of this part, the set-aside will no longer exist and the loan may again be considered for DSA.

(3) The borrower must have acted in good faith as defined in § 1951.906 of subpart S of this part and the borrower's inability to make the upcoming scheduled FSA payments must be for reasons which are not within the borrower's control.

(4) All non-monetary defaults must have been resolved. This means that even though the borrower has acted in good faith, the borrower may still be in default for reasons, such as, but not limited to: no longer farming; prior lienholder foreclosure; bankruptcy or under court jurisdiction; not properly maintaining chattel and real estate security; not properly accounting for the sale of security; or not carrying out any other agreement made with the Agency.

(5) The borrower must be current on all FLP loans at the time the application for DSA is complete. Borrowers paying under a debt settlement adjustment agreement in accordance with subpart B of part 1956 are not eligible.

(6) The borrower must not become 90 days past due before Exhibit A of FmHA Instruction 1951-T (available in any FSA office) is executed.

(7) As a direct result of the designated natural disaster, the borrower does not

have sufficient income available to pay all family living and operating expenses, other creditors, and FSA. This determination will be based on the borrower's actual production, income and expense records for the disaster or affected year and any other records required by the servicing official. Compensation received for losses shall be considered as well as increased expenses incurred because of the disaster.

(8) For the next business accounting year, the borrower must develop a positive cash flow projection showing that the borrower will at least be able to pay all operating expenses and taxes due during the year, essential family living expenses and meet scheduled payments on all debts, including FLP debts. The cash flow projection must be prepared in accordance with 7 CFR § 1924.56. The borrower will provide any documentation required to support the cash flow projection.

(9) After the scheduled installments are set-aside, all FLP and NP farm type loans must be current.

(10) The borrower's FLP loan has not been accelerated.

(11) The borrower does not have a loan servicing application pending under subpart S of this part.

(12) The borrower's FLP loans have not been restructured under subpart S of this part since the natural disaster occurred.

(b) *Loan limitation requirements.* (1) The loan must have been outstanding at the time of the natural disaster.

(2) The term remaining on the loan receiving DSA equals or exceeds 2 years from the due date of the installment being set-aside.

(3) The installment that may be set-aside is limited to the first scheduled annual installment due immediately after the disaster occurred.

(4) The amount of set-aside shall be limited to the amount the borrower was unable to pay FSA from the production and marketing period in which the disaster occurred. Borrowers are required to pay any portion of an installment that they are able to pay.

(5) The amount set-aside will be the unpaid balance remaining on the installment at the time the borrower signs Exhibit A of FmHA Instruction 1951-T (available in any FSA office.) This amount will include the unpaid interest and any principal that would be credited to the account as if the installment were paid on the due date taking into consideration any payments applied to principal and interest since the due date. Recoverable cost items may not be set aside and the account must be serviced in accordance with

§ 1951.907(d). The amount set aside will accrue interest from the time of the set-aside and will be due with the final installment.

6. Amend § 1951.957 as follows:

a. Revise paragraphs (a), (b)(4), and (b)(7); and

b. Remove paragraph (c).

§ 1951.957 Eligibility determination and processing.

(a) *Eligibility determination.* (1) Upon receipt of a complete DSA application, the Agency official will determine if the borrower meets the requirements set forth in § 1951.954. Approval shall be contingent upon the borrower's continuing eligibility through the signing of Exhibit A of FmHA Instruction 1951-T (available in any FSA office).

(2) The borrower has up to 30 days to sign Exhibit A of FmHA Instruction 1951-T (available in any FSA office) for each loan installment set-aside approved. The Agency may provide for a longer period of time not to exceed 30 additional days under extenuating circumstances, such as where the Agency's approval is contingent upon the borrower paying a portion of the FLP payments from proceeds that may not be available until after the initial 30 day period.

(b) * * *

(4) If the borrower is not current on all FLP loans when Exhibit A of FmHA Instruction 1951-T (available in any FSA office) is executed, the borrower, and all obligors in the case of an entity, must execute and provide to the Agency a best lien obtainable on all of their assets except:

(i) When taking a lien on such property will prevent the borrower from obtaining credit from other sources;

(ii) When the property could have significant environmental problems or costs;

(iii) When the Agency cannot obtain a valid lien;

(iv) When the property is the borrower's personal residence and appurtenances and:

(A) They are located on a separate parcel, and

(B) The real estate that serves as collateral for the Agency loan plus crops and chattels are valued at greater than or equal to 150 percent of the unpaid balance due on the loan;

(v) When the property is subsistence livestock, cash, special collateral accounts the borrower uses for the farming operation, retirement accounts, personal vehicles necessary for family living, household goods, or small

equipment such as hand tools and lawn mowers; or

* * * * *

(7) Payments applied to the amount set-aside will be applied first to interest and then to principal.

§ 1951.1000 [Removed and Reserved]

7. Remove and reserve § 1951.1000.

Signed in Washington, DC, on May 31, 2002.

J.B. Penn,

Under Secretary for Farm and Foreign Agricultural Services.

[FR Doc. 02-15506 Filed 6-19-02; 8:45 am]

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FEDERAL HOUSING FINANCE BOARD

12 CFR Part 951

[No. 2002-26]

RIN 3069-AB15

Affordable Housing Program Amendments

AGENCY: Federal Housing Finance Board.

ACTION: Proposed rule.

SUMMARY: The Federal Housing Finance Board (Finance Board) is proposing to amend its regulation governing the operation of the Affordable Housing Program (AHP) to authorize a Federal Home Loan Bank (Bank) to set aside annually an additional amount, up to the greater of \$1.5 million or 10 percent of the Bank's annual required AHP contribution, to assist low-or moderate-income, first-time homebuyers under the Bank's homeownership set-aside program. This increased discretionary funding authority would supplement the Banks' current discretionary authority to fund homeownership set-aside programs subject to the \$3.0 million or 25 percent allocation cap. Under the Banks' AHP contribution requirement for 2002, this increased funding authority would enable the twelve Banks to provide an additional \$24.0 million to assist 2,400 to 4,800 additional low-or moderate-income, first-time homebuyers. This additional set-aside funding authority would complement national housing policy initiatives to broaden first-time homeownership, especially among minority and immigrant households and households living in rural areas and on Native American tribal lands.

DATES: The Finance Board will accept written comments on the proposed rule that are received on or before August 19, 2002.