

*Executive Order 13132*

Executive Order 13132 requires Federal agencies to consider the impact of their regulatory actions on State and local governments. Where such actions have federalism implications, agencies are directed to provide a statement for inclusion in the preamble to the regulations describing the agency's considerations in terms of the three categories called for under section (6)(b)(2)(B) of Executive Order 13132. The Food and Nutrition Service has determined that this final rule does not have Federalism implications under Executive Order 13132. This rule makes changes that are required by Pub. L. 107-171, and became effective on May 13, 2002. The Department does not have discretion in how State agencies implement this provision. The provision, as set forth in this final rule, is reproduced verbatim from the legislation.

*Executive Order 12372*

The Special Supplemental Nutrition Program for Women, Infants and Children (WIC) Program is listed in the Catalog of Federal Domestic Assistance under 10.557. For the reasons set forth in the final rule in 7 CFR part 3015, subpart V and related notice (48 FR 29115), this program is included from the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

*Public Law 104-4*

Unfunded Mandate Reform Act of 1995 (UMRA) Title II of UMRA establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, FNS generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, or tribal governments in the aggregate, or to the private sector, of \$100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires FNS to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objectives of the rule. This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, and tribal governments or the private sector of \$100 million or more in any one year. This rule is,

therefore, not subject to the requirements of sections 202 and 205 of the UMRA.

*Civil Rights Impact Analysis*

FNS has reviewed this final rule in accordance with the Department Regulation 4300-4, "Civil Rights Impact Analysis," to identify and address any major civil rights impacts this rule might have on minorities, women, and persons with disabilities. FNS has no discretion in implementing this change in income eligibility assessment. All data available to FNS indicate that protected individuals have the same opportunity to participate in the WIC Program as non-protected individuals. FNS specifically prohibits the State and local government agencies that administer the WIC Program from engaging in actions that discriminate based on race, color, national origin, sex, age or handicap. Regulations at 7 CFR 246.8 specifically state that "Department of Agriculture regulations on non-discrimination (7 CFR parts 15, 15a and 15b), and FNS instructions ensure that no person shall on the grounds of race, color, national origin, age, sex, or handicap, be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination under the Program." Discrimination in any aspect of program administration is prohibited by these regulations, Department of Agriculture regulations on non-discrimination (7 CFR parts 15, 15a, and 15b), the Age Discrimination Act of 1975 (Pub. L. 94-135), the Rehabilitation Act of 1973 (Pub. L. 93-112, section 504), and title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d). Enforcement action may be brought under any applicable Federal law. Title VI complaints shall be processed in accord with 7 CFR part 15. Where State agencies have options, and they choose to implement a certain provision, they must implement it in such a way that it complies with the regulations at 7 CFR 246.8.

*Public Participation*

This action is being finalized without prior notice or public comment under authority of 5 U.S.C. 553(b)(3)(A) and (B). This final rule implements a non-discretionary legislative provision in the Farm Security and Rural Investment Act of 2002, Pub. L. 107-171, by providing WIC State agencies the option to exclude payments to military personnel for privatized housing, whether on- or off-base, when determining income eligibility for the WIC Program. Thus, the Department has determined in accordance with 5 U.S.C. 553(b) that notice of proposed rulemaking and

opportunity for public comments is unnecessary and contrary to the public interest.

The provisions became effective May 13, 2002. Therefore, we are making this rule effective retroactively to May 13, 2002.

**List of Subjects in 7 CFR Part 246**

Food assistance programs, Food donations, Grant programs—Social programs, Indians, Infants and children, Maternal and child health, Nutrition education, Public assistance programs, WIC, Women.

Accordingly, 7 CFR Part 246 is amended as follows:

**PART 246—SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS AND CHILDREN**

1. The authority citation for part 246 continues to read as follows:

**Authority:** 42 U.S.C. 1786.

2. In § 246.7, revise paragraph (d)(2)(iv)(A)(1) to read as follows:

**§ 246.7 Certification of participants.**

- \* \* \* \* \*
- (d) \* \* \*
- (2) \* \* \*
- (iv) \* \* \*
- (A) \* \* \*

(1) Basic allowance for housing received by military services personnel residing off military installations or in privatized housing, whether on- or off-base; and

\* \* \* \* \*

Dated: October 21, 2002.

**Roberto Salazar,**  
*Administrator, Food and Nutrition Service.*  
 [FR Doc. 02-27667 Filed 10-30-02; 8:45 am]  
**BILLING CODE 3410-30-P**

**DEPARTMENT OF AGRICULTURE**

**Farm Service Agency**

**7 CFR 718**

**RIN 0560-AG80**

**Equitable Relief From Ineligibility**

**AGENCIES:** Farm Service Agency, Commodity Credit Corporation, USDA.  
**ACTION:** Final rule.

**SUMMARY:** This rule implements provisions of section 1613 of the Farm Security and Rural Investment Act of 2002 (the 2002 Act) relating to relief to participants in certain cases for certain Farm Service Agency and Commodity Credit Corporation programs. The relief applies to cases where the applicant for

relief took action to the applicant's detriment based on bad information from departmental officials. Also, it covers where the applicant simply, but in good faith, failed to fully comply with program requirements. The rule also addresses changes in the so-called "90-day finality rule" that applies to some of the same programs. The rule is intended to implement a statutory requirement that the Agencies provide relief to producers who took action to their detriment based on bad information from officials.

**EFFECTIVE DATE:** October 30, 2002.

**FOR FURTHER INFORMATION CONTACT:** Dan McGlynn, Production, Emergencies and Compliance Division, United States Department of Agriculture (USDA), Stop 0517, 1400 Independence Ave, SW., Washington, DC 20250-0517. Phone: (202) 720-3463. E-mail: [Dan\\_McGlynn@wdc.usda.gov](mailto:Dan_McGlynn@wdc.usda.gov). Persons with disabilities who require alternative means for communication (Braille, large print, audio tape, etc.) should contact the USDA Target Center at (202) 720-2600 (voice and TDD).

**SUPPLEMENTARY INFORMATION:**

**Notice and Comment**

Section 1601(c) of the 2002 Act requires that the regulations needed to implement Title I of the 2002 Act are to be promulgated without regard to the notice and comment provisions of 5 U.S.C. 553 or the Statement of Policy of the Secretary of Agriculture effective July 24, 1971, (36 FR 13804) relating to notices of proposed rulemaking and public participation in rulemaking. These regulations are thus issued as final.

**Executive Order 12866**

This final rule has been determined to be not significant under Executive Order 12866 and has not been reviewed by the Office of Management and Budget (OMB).

**Federal Assistance Programs**

This rule has a potential impact on all programs listed in the Catalog of Federal Domestic Assistance in the Agency Program Index under the Department of Agriculture, Farm Service Agency and Natural Resources Conservation Service. Other assistance programs are also impacted.

**Regulatory Flexibility Act**

The Regulatory Flexibility Act is not applicable to this rule because neither the Secretary of Agriculture nor CCC are required by 5 U.S.C. 553 or any other law to publish a notice of proposed rulemaking for the subject matter of this rule.

**Environmental Assessment**

The environmental impacts of this rule have been considered in accordance with the provisions of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, the regulations of the Council on Environmental Quality (40 CFR parts 1500-1508), and FSA's regulations for compliance with NEPA, 7 CFR part 799. FSA has concluded that this rule is categorically excluded from further environmental review and documentation as evidenced by the completion of an environmental evaluation. No extraordinary circumstances or other unforeseeable factors exist which would require preparation of an environmental assessment or environmental impact statement. A copy of the environmental evaluation is available for inspection and review upon request.

**Executive Order 12778**

The final rule has been reviewed in accordance with Executive Order 12778. This final rule preempts State laws that are inconsistent with its provisions. Before a judicial action may be brought concerning this rule, all administrative remedies must be exhausted.

**Executive Order 12372**

This program is not subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

**Unfunded Mandates**

The provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) do not apply to this rule because neither the Secretary of Agriculture nor CCC are required by 5 U.S.C. 553 or any other law to publish a notice of proposed rulemaking for the subject matter of this rule. Also, the rule imposes no mandates as defined in UMRA.

**Small Business Regulatory Enforcement Fairness Act of 1996**

Section 1601(c) of the 2002 Act requires that the regulations necessary to implement Title I of the 2002 Act must be issued within 90 days of enactment and that such regulations shall be issued without regard to the notice and comment provisions of 5 U.S.C. 553. Section 1601(c) also requires that the Secretary use the authority in section 808 of the Small Business Regulatory Enforcement Fairness Act of 1996, Pub. L. 104-121 (SBREFA), which allows an agency to forgo SBREFA's

usual 60-day Congressional Review delay of the effective date of a major regulation if the agency finds that there is a good cause to do so. Accordingly, this rule is effective upon the date of filing for public inspection by the Office of the Federal Register.

**Paperwork Reduction Act**

Section 1601(c) of the 2002 Act requires that these regulations be promulgated and the programs administered without regard to the Paperwork Reduction Act. This means that the information to be collected from the public to implement these programs and the burden, in time and money, the collection of the information would have on the public does not have to be approved by the Office of Management and Budget or be subject to the normal requirement for a 60-day public comment period.

**Government Paperwork Elimination Act**

FSA is committed to compliance with the Government Paperwork Elimination Act, and continued pursuit of providing all services electronically when practicable. This rule involves no request for a program eligibility determination, payment of benefits, agreements, or contracts that readily lend themselves to electronic access, submission, receipt, or approval. Thus, the Government Paperwork Elimination Act does not apply.

**Background**

Section 1613 of the Farm Security and Rural Investment Act of 2002 (2002 Act) addresses relief where bad departmental advice or information is given or where a participating producer of an "agricultural commodity" fails to comply fully with program requirements but otherwise acts in good faith. Section 1613 provides that, under that section, "agricultural commodity" means any agricultural commodity, food, feed, fiber, or livestock that is subject to a "covered program." A "covered program" is defined as (1) a program administered by the Secretary of Agriculture (Secretary) under which price or income support, or production or market loss assistance, is provided to producers of "agricultural commodities;" and (2) a conservation program administered by the Secretary. But, the section specifies, "covered programs" do not include (1) an agricultural credit program carried out under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 *et seq.*); or (2) the crop insurance program carried out under the Federal Crop Insurance Act (7 U.S.C. 1501 *et seq.*).

Using those definitions, the law provides that the Secretary may provide relief to any participant that is determined to be not in compliance with the requirements of a covered program, and therefore ineligible for a loan, payment, or other benefit under the covered program, but only if the participant (1) acting in good faith, relied on the action or advice of the Secretary, or an authorized representative, to the detriment of the participant; or (2) failed to comply fully with the requirements of the covered program, but made a good faith effort to do so. In these cases, the statute specifies, the Secretary may authorize a participant in a covered program to (1) retain loans, payments, or other benefits received under the covered program; (2) continue to receive loans, payments, and other benefits under the covered program; (3) continue to participate, in whole or in part, under any contract executed under the covered program; (4) in a conservation program, re-enroll all or part of the land covered by the program; and (5) receive such other equitable relief as they determine appropriate. Section 1613 also specifies that the Secretary may condition the approval of relief under this section on the participant agreeing to remedy their failure to meet the program requirement.

Also, the law provides for special autonomy for State Directors of the Department's Farm Service Agency and State Conservationists of the Department's Natural Resources and Conservation Service in granting equitable relief. In general, section 1613 provides that the State Director and the State Conservationist, in the case of programs administered by their respective offices, may grant relief to a participant (subject to certain limitations) if (1) the amount of loans, payments, and benefits for which relief will be provided to the participant under this special authority is less than \$20,000; (2) the total amount of loans, payments, and benefits for which relief has been previously provided to the participant under this special authority is not more than \$5,000; and (3) the total amount of loans, payments, and benefits for which relief is provided to similarly situated participants is not more than \$1,000,000, as determined by the Secretary. This rule addresses only programs administered through FSA and, hence, through State Directors.

Further, the new law provides that such State Director grants of relief (1) shall not require prior approval by the Administrator of the Department of Agriculture's Farm Service Agency, or any other officer or employee of the Agency or Service; (2) shall be made

only after consultation with, and the approval of, the Office of General Counsel of the Department of Agriculture; and (3) are subject to reversal only by the Secretary (who may not delegate the reversal authority). Furthermore, the statute specifies that this special State Director authority does not apply to the administration of (1) payment limitations under (i) sections 1001 through 1001F of the Food Security Act of 1985 (7 U.S.C. 1308 *et seq.*), or (ii) a conservation program administered by the Secretary; or to (2) highly erodible land and wetland conservation requirements under subtitle B or C of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 *et seq.*). The State Director authority, the new law specifies, is in addition to any other applicable authority and does not limit other authority provided by law or the Secretary. Under the terms of the new law, a discretionary decision by the Secretary, the State Director, or the State Conservationist under the Section 1613 authority to grant relief in cases of bad information or good faith failures to fully comply with program rules shall be final, and shall not be subject to review under chapter 7 of title 5, United States Code, which provides generally for the relief of agency decisions.

Additionally, the statute requires that, not later than February 1 of each year, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes for the previous calendar year (1) the number of requests to the program agencies for "mis-information" and "failure to fully comply" relief (utilizing the Section 1613 authority) and (2) the number of requests for equitable relief under section 278(d) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6998(d)). Also, information must be submitted regarding the disposition of the requests. The reference to 7 U.S.C. 6998 (d) involves the authority of the Director of the Department's National Appeals Division to grant equitable relief under the same standards as those that apply to FSA.

Section 1613 further states that the authority provided in this section is in addition to any other authority provided in that or any other Act. Also, section 1613 amends section 281(a) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 7001(a)) with respect to the "90-day finality rule" which exempted two determinations from its coverage. One is decisions involving the administration of the Consolidated Farm and Rural

Development Act, and the second, are determinations arising out of conservation programs administered by the Natural Resources Conservation Service. Those exemptions are reflected in new language in this rule.

Section 1613 also repeals provisions for equitable relief which were contained in 7 U.S.C. 1339a and in 16 U.S.C. 3830. Changes to reflect those repeals will be made as needed in other rules. This rule is limited to 7 CFR part 718 which governs these issues generally for programs administered by the Farm Service Agency of the Department.

With the exception of the changes in the coverage of the finality rule noted above, this rule implements the section 1613 provisions on equitable relief in cases involving incorrect information or action by FSA and failure to comply provisions as they apply to FSA programs and to those programs of the Commodity Credit Corporation that are administered through the FSA. Other agencies within the Department, if any, to which these provisions apply may issue separate rules in this regard. With respect to the special State Director relief provisions, such relief is still under the control of the Secretary and subject to uniform rules under this part. The rules are broad in that regard and do not invade the provisions contemplated by the statute as they have been determined to be in this rule.

Under this rule, the statute is read as applying prospectively only. Relief will be allowed only for actions taken by producers to their detriment after enactment of the 2002 Act (May 13, 2002). (This includes any relief granted under the special State Director provisions). Nothing in the statute provides for retroactive application of the new rules and it was not understood that such a result was intended. A different result, opening old disputes, would be chaotic. Presumably, Congress would have specified that such retroactively was intended if it meant to have the statute read that way. In any event, even if retroactively were allowed, it would be rejected because of the unfairness and chaos it would create. Such a rejection would be authorized under the provisions of the statute which make the granting of any relief under section 1613 discretionary. This allows for one uniform set of rules for all types of relief for actions in the same time period. Again, this also applies to the State Directors. They have the authority to grant relief within the confines of the statute, and are not authorized to decide general policy for the granting of relief on such matters as the timing of the actions for which relief

may be granted. Obviously it would be improper to have those officials have differing interpretations of which decisions fall within the general scope of the powers granted them by the statute and, in any event, the general exercise of those powers are still subject to the supervision of the Secretary under whose authority these rules are written.

The statute as indicated does set certain dollar limits on the officials granted the special relief authority. However, the dollar limits are not tied, in the words of the statute itself, to a particular time period or official. Believing that tying of dollar amounts to nonetheless be the intent, given the normal yearly orientation of farm programs (as is reflected in the reporting requirements of the statute), such a tie has been made in the rule. The limits are made yearly limits. Special rules are set out for how the computation will be made.

Obviously, the amounts involved would be prohibitively small among the many States. And, the cross-State accounting that would otherwise be required would be difficult. Neither that difficulty, nor the odd race to grant relief that it might produce, appear to be intended. Rather, it appears that this provision was meant to provide a substantive change which would otherwise, within reasonable limits, short circuit the normal review process that might otherwise be required before the producer could enjoy the benefit of relief. Even if the statute were to be read as being not limited to a particular year or a particular official the additional authority that would be created by the rule would be within the general discretion granted the Secretary. However, since there will still be dollar limits, the rule does require that, in addition to the approval by the Office of the General Counsel of the Department, State Directors who use this special power must declare in writing their intent to use that authority. They must also report the use of the authority so that an accounting can be made. Rules issued in this notice cover those matters as well.

#### List of Subjects in 7 CFR Part 718

Agriculture, Disaster assistance, Government employees, Price support programs, Rural areas.

Accordingly, 7 CFR part 718 is amended as set forth below:

#### PART 718—PROVISIONS APPLICABLE TO MULTIPLE PROGRAMS

1. The authority for part 718 is revised to read as follows:

**Authority:** 7 U.S.C. 1311 *et seq.*; 7 U.S.C. 1501 *et seq.*; 7 U.S.C. 1921 *et seq.*; 7 U.S.C. 7201 *et seq.*; 7 U.S.C. 7996; 15 U.S.C. 714b; Pub. L. 107-171.

2. Subpart D is added to read as follows:

#### Subpart D—Equitable Relief From Ineligibility

Sec.

- 718.301 Applicability.
- 718.302 Definitions and abbreviations.
- 718.303 Reliance on incorrect actions or information.
- 718.304 Failure to fully comply.
- 718.305 Forms of relief.
- 718.306 Finality.
- 718.307 Special relief approval authority for State Executive Directors.

#### § 718.301 Applicability.

(a) This subpart is applicable to programs administered by the Farm Service Agency under chapters VII and XIV of this title, except for an agricultural credit program carried out under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 *et seq.*). Administration of this subpart shall be under the supervision of the Deputy Administrator, except that such authority shall not limit the exercise of authority allowed State Executive Directors of the Farm Service agency as provided for in § 718.307.

(b) Sections 718.303, 718.304, and 718.307 do not apply where the action for which relief is requested occurred before May 13, 2002. In such cases, authority that was effective prior to May 13, 2002, may be applied.

(c) Section 718.306 does not apply to a function performed under either section 376 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 *et seq.*), or a conservation program administered by the Natural Resources Conservation Service of the United States Department of Agriculture.

#### § 718.302 Definitions and abbreviations.

In addition to the definitions provided in § 718.2 of this part, the following terms apply to this subpart:

*Agricultural commodity* means any agricultural commodity, food, feed, fiber, or livestock that is subject to a covered program.

*Covered program* means a program specified in § 718.301 of this subpart.

*FSA* means the Farm Service Agency of the United States Department of Agriculture.

*OGC* means the Office of the General Counsel of the United States Department of Agriculture.

*SED* means, for activities within a particular state, the State Executive Director of the United States Department of Agriculture, FSA, for that state.

#### § 718.303 Reliance on incorrect actions or information.

(a) Notwithstanding any other law, action or inaction by a participant in a covered program that is to the detriment of the participant, and that is based upon good faith reliance on the action or advice of an authorized representative of a County or State FSA Committee, may be approved by the Administrator, FSA or the Executive Vice President, CCC, as applicable, or their designee, as meeting the requirements of the program, and benefits may be extended or payments made in accordance with § 718.305.

(b) This section applies only to a participant who relied upon the action of, or information provided by, a county or State FSA committee or an authorized representative of such committee and the participant acted, or failed to act, as a result of the Agency action or information. This part does not apply to cases where the participant had sufficient reason to know that the action or information upon which they relied was improper or erroneous or where the participant acted in reliance on their own misunderstanding or misinterpretation of program provisions, notices or information.

#### § 718.304 Failure to fully comply.

(a) Under a covered program, when the failure of a participant to fully comply with the terms and conditions of a program authorized by this chapter precludes the providing of payments or benefits, relief may be authorized in accordance with § 718.305 if the participant made a good faith effort to comply fully with the requirements of the covered program.

(b) This section only applies to participants who are determined by the FSA approval official to have made a good faith effort to comply fully with the terms and conditions of the program and rendered substantial performance.

#### § 718.305 Forms of relief.

(a) The Administrator of FSA, Executive Vice President of CCC, or their designee, may authorize a participant in a covered program to:

- (1) Retain loans, payments, or other benefits received under the covered program;
- (2) Continue to receive loans, payments, and other benefits under the covered program;
- (3) Continue to participate, in whole or in part, under any contract executed under the covered program;

(4) In the case of a conservation program, re-enroll all or part of the land covered by the program; and

(5) Receive such other equitable relief as determined to be appropriate.

(b) As a condition of receiving relief under this subpart, the participant may be required to remedy their failure to meet the program requirement, or mitigate its affects.

#### **§ 718.306 Finality.**

(a) A determination by a State or county FSA committee made on or after October 13, 1994, becomes final and binding 90 days from the date the application for benefits has been filed, and supporting documentation required to be supplied by the producer as a condition for eligibility for the particular program has been filed, unless one of the following conditions exist:

(1) The participant has requested an administrative review of the determination in accordance with part 780 of this chapter;

(2) The determination was based on misrepresentation, false statement, fraud, or willful misconduct by or on behalf of the participant;

(3) The determination was modified by the Administrator, FSA, or in the case of CCC programs conducted under Chapter XIV of this title, the Executive Vice President, CCC; or

(4) The participant had reason to know that the determination was erroneous.

(b) Should an erroneous determination become final under the provisions of this section, it shall only be effective through the year in which the error was found and communicated to the participant.

#### **§ 718.307 Special relief approval authority for State Executive Directors.**

(a) *General nature of the special authority.* Notwithstanding provisions in this subpart providing supervision and relief authority to other officials, an SED without further review by other officials (other than the Secretary) may grant relief to a participant under the provisions of §§ 718.303 and 718.304 as if the SED were the final arbiter within the agency of such matters so long as:

(1) The program matter with respect to which the relief is sought is a program matter in a covered program which is operated within the State under the control of the SED;

(2) The total amount of relief which will be provided to the person (that is, to the individual or entity that applies for the relief) by that SED under this special authority for errors during that year is less than \$20,000 (including in

that calculation, any loan amount or other benefit of any kind payable for that year and any other year);

(3) The total amount of such relief which has been previously provided to the participant using this special authority for errors in that year, as calculated above, is not more than \$5,000;

(4) The total amount of loans, payments, and benefits of any kind for which relief is provided to similarly situated participants by the SED (or the SED's predecessor) for errors for any year under the authority provided in this section, as calculated above, is not more than \$1,000,000.

(b) *Report of the exercise of the power.*

A grant of relief shall be considered to be under this section and subject to the special finality provided in this section only if the SED grants the relief in writing when granting the relief to the party who will receive the benefit of such relief and only if, in that document, the SED declares that they are exercising that power. The SED must report the exercise of that power to the Deputy Administrator so that a full accounting may be made in keeping with the limitations of this section. Absent such a report, relief will not be considered to have been made under this section.

(c) *Additional limits on the authority.* The authority provided under this section does not extend to:

(1) The administration of payment limitations under part 1400 of this chapter (§§ 1001 to 1001F of 7 U.S.C. 1308 *et seq.*);

(2) The administration of payment limitations under a conservation program administered by the Secretary; or

(3) Highly erodible land and wetland conservation requirements under subtitles B or C of Title XII of the Food Security Act of 1985 (16 U.S.C. 3811 *et seq.*) as administered under 7 CFR part 12.

(d) Relief may not be provided by the SED under this section until a written opinion or written acknowledgment is obtained from OGC that grounds exist for determination that the program participant has, in good faith, detrimentally relied on the guidance or actions of an authorized FSA representative in accordance with the provisions of this subpart, or that the producer otherwise failed, in good faith, to fully comply with the requirements of the program and that the granting of the relief is within the lawful authority of the SED.

(e) *Relation to other authorities.* The authority provided under this section is in addition to any other applicable

authority that may allow relief. Generally, the SED may, without consultation other than with OGC, decide all matters under \$20,000 but those decisions shall not be subject to modification within the Farm Service Agency to the extent provided for under the rules of this section.

Signed in Washington, DC, on October 28, 2002.

**James R. Little,**

*Administrator, Farm Service Agency, and Executive Vice President, Commodity Credit Corporation.*

[FR Doc. 02-27683 Filed 10-30-02; 8:45 am]

BILLING CODE 3410-05-P

## **DEPARTMENT OF AGRICULTURE**

### **Rural Housing Service**

### **Rural Business-Cooperative Service**

### **Rural Utilities Service**

### **Farm Service Agency**

### **7 CFR Part 1944**

RIN 0575-AC25

### **Farm Labor Housing Technical Assistance**

**AGENCY:** Rural Housing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** The Rural Housing Service (RHS) is amending its regulations for the Farm Labor Housing (FLH) program. The Housing Act of 1949 authorizes the RHS to provide financial assistance to private and public nonprofit agencies to encourage the development of domestic and migrant farm labor housing projects. The nonprofit agencies that receive this financial assistance, in turn, provide "technical assistance" to other organizations to assist them in obtaining loans and grants for the construction of farm labor housing. The intended effect of this action is to amend the regulations to establish the eligibility requirements that nonprofit agencies must meet to receive technical assistance grants and how the financial assistance will be made available by the RHS.

**EFFECTIVE DATE:** December 2, 2002.

**FOR FURTHER INFORMATION CONTACT:** Douglas MacDowell, Senior Loan Specialist, Multi-Family Housing Processing Division, Rural Housing Service, U.S. Department of Agriculture, STOP 0781, 1400 Independence Avenue SW., Washington, DC 20250-0781, Telephone (202) 720-1604.

**SUPPLEMENTARY INFORMATION:**