

payment has no outstanding Farm Loan Program loans and becomes delinquent on the SA amortized payment, the SA payment agreement may be reamortized in accordance with § 1951.909.

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Dated: March 24, 2003.

**J.B. Penn,**

*Under Secretary for Farm and Foreign Agricultural Services.*

Dated: April 1, 2003.

**Thomas C. Dorr,**

*Under Secretary for Rural Development.*

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## DEPARTMENT OF AGRICULTURE

### Farm Service Agency

### Rural Housing Service

### Rural Business-Cooperative Service

### Rural Utilities Service

### 7 CFR Parts 772, 1901, and 1951

RIN 0560-AG67

### Servicing Minor Program Loans

**AGENCY:** Farm Service Agency, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** This rule proposes to consolidate, clarify and revise the servicing regulations for the Minor Programs currently administered by the Farm Service Agency, Farm Loan Programs (FSA). Minor Program loans involve existing loans only since there is no longer funding for new loans in these programs. FSA Minor Programs consist of the following loan types: Grazing Association loans and Irrigation and Drainage Association loans previously administered by the U.S. Department of Agriculture's Rural Development (RD) mission area, and Non-Farm enterprise and Recreation Loans made to individuals which have previously been administered by FSA. Recreation loans to associations will continue to be serviced by RD.

**DATES:** Comments on the proposed rule must be received on or before June 9, 2003 to be assured of consideration.

**ADDRESSES:** Mail comments on the proposed rule to: Veldon Hall, Director, Farm Loan Programs, Loan Servicing and Property Management Division, Farm Service Agency, USDA, 1400 Independence Avenue, SW, Stop 0523, Washington, DC 20250-0523, or hand deliver to Suite 500, 1250 Maryland Avenue, SW., Washington, DC 20024 during normal business hours.

Comments and supporting documents may be viewed by contacting the information contact listed below. All comments, including names and addresses, will become part of the public record. Comments on the paperwork burden of this proposed rule must be sent to the addresses listed in the Paperwork Reduction Act section of this Rule.

**FOR FURTHER INFORMATION CONTACT:** Mel Thompson, Senior Loan Officer, Farm Service Agency; telephone: 202-720-7862; Facsimile: 202-690-1196; e-mail: [mel\\_thompson@wdc.fsa.usda.gov](mailto:mel_thompson@wdc.fsa.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:

##### Executive Order 12866

This rule was determined to be not significant under Executive Order 12866 and was not reviewed by the Office of Management and Budget.

##### Regulatory Flexibility Act

The Agency certifies that this rule will not have a significant economic effect on a substantial number of small entities, because it does not require any action by the borrower who may be a small entity. The Agency, therefore, is not required to perform a Regulatory Flexibility Analysis as required by the Regulatory Flexibility Act, Pub. L. 96-534, as amended (5 U.S.C. 601). This rule does not impact small entities to a greater extent than large entities.

##### Environmental Evaluation

The environmental impacts of this proposed 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 the FSA regulations for compliance with NEPA, 7 CFR parts 799, and 1940, subpart G. FSA completed an environmental evaluation and concluded that this proposed rule, if enacted, requires no further environmental review because no new loans are authorized. Servicing existing loans in accordance with previously published rules containing environmental requirements is not a major Federal action significantly affecting the quality of the human environment. 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 12988

This rule has been reviewed in accordance with E.O. 12988, Civil Justice Reform. In accordance with that Executive Order: (1) All State and local laws and regulations that are in conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings in accordance with 7 CFR parts 11 and 780 must be exhausted before requesting judicial review.

##### Executive Order 12372

As stated in the Notice related to 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983) the programs and activities within this rule do not require consultation with state and local officials under the scope of Executive Order 12372.

##### Unfunded Mandates Reform Act

This rule contains no Federal mandates as defined in Title II of the Unfunded Mandates Reform Act of 1995 (UMRA). 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 any new significant loan servicing criteria on state and local governments. The proposed rule revises the citation references and consolidates the servicing regulations to streamline loan servicing criteria applicable to Minor Programs. Therefore, consultation with the states is not required.

##### Paperwork Reduction Act

The amendments to 7 CFR parts 772, 1901, subpart E, and 1951, subparts E and F, contained in this rule only delete requirements and propose no new collections nor do they significantly affect the aggregate information collection burden of the Agencies. Certain forms and information collection are included and approved in the Information Collection Package for OMB control number 0560-0158 and are not impacted by this collection. Still, this rule transfers some of the information collections assigned OMB control numbers 0575-0118, 0575-0093, and 0575-0066, to the proposed part 772. This will result in certain burden that is currently assigned by OMB to the

Rural Development Agencies of USDA being shifted to FSA. Consequently, FSA is requesting comments on the information collection requirements in this rule that are being moved from those currently in parts 1901, subpart E and 1951, subparts E and F as required by the Paperwork Burden Reduction Act. After publication of this rule in final, the Agency will submit documents to OMB to modify the currently approved burden to reflect this shift between control numbers. An estimate of the paperwork burden of the regulations as affected by this proposed rule are as follows:

*Title:* 7 CFR part 772, Servicing Minor Program Loans.

*OMB Control Number:* 0560-NEW.

*Type of request:* Approval of new information collection.

*Abstract:* This part contains FSA policies and procedures for servicing Minor Program loans which include: Grazing Associations, Irrigation and Drainage Associations, Non-Farm Enterprise loans and Recreation loans to individuals.

*Estimate of burden:* Public reporting burden for this collection of information is estimated to average less than 1 hour per response.

*Respondents:* Individuals and businesses.

*Estimated number of respondents:* 338

*Estimated number of responses per respondent:* 1

*Estimated total annual burden on respondents:* 179 hours Comments are requested regarding (a) 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) the accuracy of the agency's estimates of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to 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 should be sent to Mel Thompson, Loan Servicing and Property Management Division, Farm Service Agency, United States Department of Agriculture, STOP 0523, 1400 Independence Avenue, SW., Washington, DC 20250-0523; or e-mail: [mel\\_thompson@wdc.usda.gov](mailto:mel_thompson@wdc.usda.gov).

### Federal Assistance Program

These proposed changes affect no programs listed in the Catalog of Federal Domestic Assistance.

### Discussion of the Proposed Rule

This proposed rule consolidates and clarifies the servicing policies of the Farm Service Agency's Minor Loan Programs. The Minor Programs were administered by the former Farmers Home Administration (FmHA). Under the discretionary authority of the Department of Agriculture Reorganization Act of 1994, Pub. L. 103-354, on October 20, 1994, the Individual-type loans (Non-Farm Enterprise and Recreation loans) were assigned to FSA. The Association-type loans (Grazing Associations and Irrigation and Drainage loans) were assigned to USDA's Rural Development mission area. Regulations for servicing the Association-type loans of these programs are currently found at 7 CFR part 1901, subpart E for Civil Rights Compliance; 7 CFR part 1951, subpart E for servicing; 7 CFR part 1951, subpart F for graduation; 7 CFR part 1956, subpart C for debt settlement; and 7 CFR part 1962 subpart A for bankruptcy. Individual-type Minor Program loans are the Non-Farm enterprise loans which are a subgroup of FSA, Farm Operating and Farm Ownership loans defined in 7 CFR 1941.4 and 1943.4 and Recreation loans, which are defined as Farm Loan Program (FLP) loans under 7 CFR 1951.906. Although these loans are no longer made by FSA, both categories are serviced as FLP loans in accordance with 7 CFR part 1951, subpart S.

Because the current delegation of these similar loan programs between FSA and the agencies of the Rural Development mission area is inefficient, this rule proposes to remove parts of regulations that are currently shared by FSA and the agencies of the Rural Development mission area and publish a consolidated FSA regulation governing these programs. Consolidating these scattered regulations will result in more efficient and proper administration of the servicing requirements for the Minor Programs. Information not specific to the Minor Programs will be eliminated and language will be improved for readability. Only requirements specific to the Minor Programs will be included. The result will be better service to the borrowers with these types of loans, and, at the same time, ease the agency officials' burden in administering these programs. The regulations for servicing bankruptcy (7 CFR part 1962, subpart A) and debt settlement (7 CFR part 1956,

subparts B and C) previously applied to all Minor Program loans and will continue to apply under this rule. This proposed rule contains no new requirements, nor does it eliminate any provision currently contained in existing regulations. The intended effect of this rule is to transfer and consolidate authorities contained within separate Federal regulations into one part.

### List of Subjects

#### Part 772

Agriculture, Credit, Rural areas.

#### Part 1901

Civil rights, Compliance reviews, Minority groups.

#### Part 1951

Account servicing, Grant programs—housing and community development, Reporting requirements, Rural areas.

Accordingly, for the reasons stated in the preamble, 7 CFR part 772 is added and 7 CFR parts 1901 and 1951 are amended as follows:

1. Add part 772 to read as follows:

### PART 772—SERVICING MINOR PROGRAM LOANS

#### Sec.

- 772.1 Policy.
- 772.2 Abbreviations and definitions.
- 772.3 Compliance.
- 772.4 Environmental requirements.
- 772.5 Security maintenance.
- 772.6 Subordination of security.
- 772.7 Leasing Minor Program loan security.
- 772.8 Sale or exchange of security property.
- 772.9 Releases.
- 772.10 Transfer and assumption—AMP loans.
- 772.11 Transfer and assumption—IMP loans.
- 772.12 Graduation.
- 772.13 Delinquent account servicing.
- 772.14 Reamortization of AMP loans.
- 772.15 Protective advances.
- 772.16 Liquidation.
- 772.17 Equal opportunity and non-discrimination requirements.
- 772.18 Exception authority.

**Authority:** 5 U.S.C. 301, 7 U.S.C. 1989, and 25 U.S.C. 490.

#### § 772.1 Policy.

(a) *Purpose.* This part contains the Agency's policies and procedures for servicing Minor Program loans which include: Grazing Associations, Irrigation and Drainage Associations, Non-Farm Enterprise loans and Recreation loans to individuals.

(b) *Appeals.* The regulations at 7 CFR parts 11 and 780 apply to decisions made under this part.

#### § 772.2 Abbreviations and definitions.

- (a) Abbreviations.

AMP Association-Type Minor Program loan  
 CFR Code of Federal Regulations  
 FO Farm Ownership Loan  
 FSA Farm Service Agency  
 IMP Individual-type Minor Program loan  
 OL Operating Loan  
 USDA United States Department of Agriculture

(b) *Definitions.*

*Association-type Minor Program loans:* Means Minor Program loans to Grazing Associations and Irrigation and Drainage Associations.

*Entity:* Cooperatives, corporations, partnerships, joint operations, trusts, or limited liability companies.

*Graduation:* The requirement contained in loan documents of a Minor Program borrower that they pay their FSA loan in full with funds received from a commercial lending source as a result of improvement in their financial condition.

*Individual-type Minor Program loans:* Means Minor Program Non-Farm Enterprise or Individual Recreation loans that are serviced under existing regulations as program OL and FO loans. These loans were made to both entities and individuals.

*Member:* Means any individual who has an ownership interest in the entity which has received the Minor Program loan.

*Minor Program:* Non-Farm Enterprise, Individual Recreation, Grazing Association, or Irrigation and Drainage loan programs administered or to be administered by FSA that are subject to prescribed program loan servicing requirements, and, of which, each program has fewer than 500 outstanding loans and less than \$100 million in outstanding debt.

*Review official.* An agency employee, contractor or designee who is authorized to conduct a compliance review of a Minor Program borrower.

**§ 772.3 Compliance.**

(a) *Requirements.* No Minor Program borrower shall directly, or through contractual or other arrangement, subject any person or cause any person to be subjected to discrimination on the basis of race, color, national origin, or disability. Borrowers must comply with all applicable Federal laws and regulations regarding equal opportunity in hiring, procurement, and related matters. FSA's civil rights requirements applicable to Minor Program borrowers are contained in title 7, part 15, subpart A and part 15b.

(b) *Reviews.* In accordance with Title VI of the Civil Rights Act of 1964, the Agency will conduct a compliance

review of all Minor Program borrowers, to determine if a borrower has directly, or through contractual or other arrangement, subjected any person or cause any person to be subjected to discrimination on the basis of race, color, or national origin. The borrower must allow the review official access to their premises and all records necessary to carry out the compliance review as determined by the review official.

(c) *Frequency and timing.* Compliance reviews will be conducted no later than October 31 of every third year until the Minor Program loan is paid in full or otherwise satisfied.

(d) *Violations.* If a borrower refuses to provide information or access to their premises as requested by a review official during a compliance review, or is determined by the Agency to be not in compliance in accordance with this section, the Agency will service the loan in accordance with the provisions of § 772.14 of this part.

**§ 772.4 Environmental requirements.**

Servicing activities such as transfers, assumptions, subordinations, sale or exchange of security property, and leasing of security will be reviewed for compliance with title 7, part 1940, subpart G of chapter XVIII of the Code of Regulations and the exhibits to that subpart.

**§ 772.5 Security maintenance.**

(a) *General.* Borrowers are responsible for maintaining the collateral that is serving as security for their Minor Program loan in accordance with their lien instruments, security agreement and promissory note.

(b) *Security Inspection.* The Agency will inspect real estate that is security for a Minor Program loan at least once every three years, and chattel security at least annually. More frequent security inspections may be made as determined necessary by the Agency. Borrowers will allow representatives of the Agency, or any agency of the U.S. Government, in accordance with statutes and regulations, such access to the security property as the agency determines is necessary to document compliance with the requirements of this section.

(c) *Violations.* If the Agency determines that the borrower has failed to adequately maintain security, made unapproved dispositions of security, or otherwise has placed the repayment of the Minor Program loan in jeopardy, the Agency will:

(1) For chattel security, service the account according to title 7, part 1962, subpart A of chapter XVIII of the Code of Federal Regulations. If any normal income security as defined in that

subpart secures a Minor Program loan, the reporting, approval and release provisions in that subpart shall apply.

(2) For real estate security for AMP loans, contact the Office of General Counsel for advice on the appropriate servicing including liquidation if warranted.

(3) For real estate security for IMP loans, service the account according to title 7, part 1951, subpart S, of chapter XVIII of the Code of Federal Regulations.

**§ 772.6 Subordination of security.**

(a) *Eligibility.* The Agency shall grant a subordination of Minor Program loan security when the transaction will further the purposes for which the loan was made, and:

(1) The loan will still be adequately secured after the subordination or the value of the loan security will be increased by the amount of advances to be made under the terms of the subordination.

(2) The borrower can document the ability to pay all debts including the new loan.

(3) The action does not change the nature of the borrower's activities to the extent that they would no longer be eligible for a Minor Program loan.

(4) The subordination is for a specific amount.

(5) The borrower is unable, as determined by the Agency, to refinance its loan and graduate in accordance with this subpart.

(6) The loan funds will not be used in such a way that will contribute to erosion of highly erodible land or conversion of wetlands for the production of an agricultural commodity according to title 7, part 1940, subpart G of chapter XVIII of the Code of Federal Regulations.

(7) The borrower has not been convicted of planting, cultivating, growing, producing, harvesting or storing a controlled substance under Federal or state law. "Borrower", for purposes of this subparagraph, specifically includes an individual or entity borrower and any member, stockholder, partner, or joint operator, of an entity borrower. "Controlled substance", for the purpose of this subparagraph, is defined at 21 CFR part 1308. The borrower will be ineligible for a subordination for the crop year in which the conviction occurred and the four succeeding crop years. An applicant must attest on the Agency application form that it and its members, if an entity, have not been convicted of such a crime.

(b) *Application.* To request a subordination, a Minor Program

borrower must make the request in writing and provide the following:

(1) The specific amount of debt for which a subordination is needed;

(2) An appraisal in accordance with § 761.7 of this chapter, if the request is for more than \$10,000, unless an appraisal report that is sufficient, as determined by the Agency, that is less than one year old, is on file with the Agency; and

(3) Consent and subordination, as necessary, of all other creditors' security interests.

(c) *Approval.* SEDs are authorized to approve subordination requests.

(1) If a subordination request does not meet the requirements of this part, the SED may reject it and offer appeal rights, or recommend it to the Administrator, FSA, pursuant to exception authority, for approval.

(2) When the SED rejects a subordination request, the State Office will notify the borrower of the decision.

(3) When recommending to the Administrator for an exception, the SED must provide documentation on how approval of the subordination is in the best interest of the Government.

#### **§ 772.7 Leasing Minor Program loan security.**

(a) *Eligibility.* The Agency may consent to the borrower leasing all or a portion of security property for Minor Program loans to a third party when:

(1) Leasing is the only feasible way to continue to operate the enterprise and is a customary practice;

(2) The lease will not interfere with the purpose for which the loan was made;

(3) The borrower retains ultimate responsibility for the operation, maintenance and management of the facility or service for its continued availability and use at reasonable rates and terms;

(4) The lease prohibits amendments to the lease or subleasing arrangements without prior written approval from the Agency;

(5) The lease terms provide that the Agency is a lien holder on the subject property and, as such, the lease is subordinate to the rights and claims of the Agency as lien holder; and

(6) The lease is for less than three years and does not constitute a lease/purchase arrangement, unless the transfer and assumption provisions of this subpart are met.

(b) *Application.* The borrower must submit a written request for Agency consent to lease the property.

#### **§ 772.8 Sale or exchange of security property.**

(a) *AMP loans.* (1) Sale of all or a portion of security property for an AMP loan may be approved when:

(i) The property is sold for market value based on a current appraisal in accordance with the standards at § 761.7 of this chapter;

(ii) The sale will not prevent carrying out the original purpose of the loan. The borrower must execute RD Form 400-4 "Assurance Agreement" or successor form. The covenant involved will remain in effect as long as the property continues to be used for the same or similar purposes for which the loan was made. The instrument of conveyance will contain the nondiscrimination covenants contained in 7 CFR 1951.204;

(iii) The remaining security for the loan is adequate or will not change after the transaction;

(iv) Sale proceeds remaining after paying any reasonable and necessary selling expenses are applied to the Minor Program loan according to lien priority;

(2) Exchange of all or a portion of security property for an AMP loan may be approved when:

(i) The Agency will obtain a lien on the property acquired in the exchange.

(ii) Property more suited to the borrower's needs related to the purposes of the loan is to be acquired in the exchange;

(iii) The AMP loan will be as adequately secured after the transaction as before;

(iv) It is necessary to develop or enlarge the facility, improve the borrower's debt-paying ability, place the operation on a more sound financial basis or otherwise further the loan objectives and purposes, as determined by the Agency.

(b) *IMP loans.* (1) A sale or exchange of chattel that is serving as security for an IMP loan is governed by title 7, part 1962, subpart A of chapter XVIII of the Code of Federal Regulations.

(2) A sale or exchange of real estate that is serving as security for an IMP loan is governed by title 7, part 1965, subpart A of chapter XVIII of the Code of Federal Regulations.

#### **§ 772.9 Releases.**

(a) *Security.* Minor Program liens may be released when:

(1) The debt is paid in full.

(2) Security property is sold for market value and sale proceeds are received and applied to the borrower's creditors according to lien priority, or

(3) An exchange in accordance with § 772.7(b) of this subpart has been concluded.

(b) *Borrower liability.* The Agency may release a borrower from liability when the Minor Program loan, plus all administrative collection costs and charges are paid in full. IMP borrowers who have had previous debt forgiveness on a farm loan program loan as defined in 7 CFR 1951.906 cannot be released from liability by FSA until the previous loss to the Agency has been repaid with interest from the date of debt forgiveness.

(c) *Servicing of debt not satisfied through liquidation.* Balances remaining after sale or liquidation will be subject to administrative offset in accordance with 7 CFR part 1951, subpart C, including internal agency administrative offset, Department of Treasury Offset and Treasury Cross-Servicing. Thereafter, the debt settlement provisions in part 1956, subpart B (for IMP loans) and subpart C (for AMP loans) of chapter XVIII of the Code of Federal Regulations apply.

#### **§ 772.10 Transfer and assumption—AMP loans.**

(a) *Eligibility.* The Agency may approve transfers and assumptions of AMP loans when:

(1) The present borrower is unable or unwilling to accomplish the objectives of the loan.

(2) The transfer will not harm the Government or adversely affect the Agency's security position.

(3) The transferee will continue with the original purpose of the loan.

(4) The transferee will assume an amount at least equal to the present market value of the loan security.

(5) The transferee documents the ability to pay the AMP loan debt as provided in the assumption agreement and has the legal capacity to enter into the contract.

(6) If there is a lien or judgment against the Agency security being transferred, the transferee is subject to such claims. The transferee must document the ability to repay the claims against the land.

(7) If the transfer is to one or more members of the borrower's organization and there is no new member, there must not be a loss to the Government.

(b) *Withdrawal.* Withdrawal of a member and transfer of the withdrawing member's interest in the Association to a new eligible member may be approved by the Agency if all of the following conditions are met:

(1) The entire unpaid balance of the withdrawing member's share of the AMP loan must be assumed;

(2) In accordance with the Association's governing articles, the required number of remaining members

must agree to accept any new member; and

(3) The transfer will not adversely affect collection of the AMP loan.

(c) *Requesting a transfer and assumption.* The transferor borrower and transferee applicant must submit:

(1) The written consent of any other lien holder, if applicable.

(2) A current balance sheet and cash flow statement.

(d) *Terms.* The interest rate and term of the assumed AMP loan will not be changed. Any delinquent principal and interest of the AMP loan must be paid current before the transfer of an assumption will be approved by the Agency.

(e) *Release of liability.* Transferors may be released from liability with respect to an AMP loan by the Agency when:

(1) The full amount of the loan is assumed.

(2) Less than the full amount of the debt is assumed, and the balance remaining will be serviced in accordance with § 772.9(c) of this subpart.

#### § 772.11 Transfer and assumption—IMP loans.

Transfers and assumptions for IMP loans are processed in accordance with title 7, part 1962, subpart A of chapter XVIII of the Code of Federal Regulations for chattel secured loans and part 1965, subpart A of chapter XVIII of the Code of Federal Regulations for real estate secured loans. Any remaining transferor liability will be serviced in accordance with § 772.9(c) of this subpart.

#### § 772.12 Graduation.

(a) *General.* Agency loan programs do not supplant or compete with credit available to borrowers from non-Governmental credit sources. Agency credit is intended to be available for a temporary period of time until the borrower has made sufficient progress to obtain credit from commercial lenders. This section does not apply to Minor Program borrowers with promissory notes which do not contain provisions requiring graduation.

(b) *Graduation reviews.* Borrowers shall provide current financial information when requested by the Agency or its representatives to conduct graduation reviews. After screening out the non-commercial and non-standard borrowers, the Agency will conduct a thorough review of the financial information provided by the borrower and request additional information as needed.

(1) AMP loans shall be reviewed at least every two years. In the year to be

reviewed, each borrower must submit, at a minimum, a year-end balance sheet and cash flow projection for the current year.

(2) All IMP borrowers classified as “commercial” or “standard” in accordance with title 7, part 1951, subpart F of chapter XVIII of the Code of Federal Regulations shall be reviewed at least every two years. In the year to be reviewed, each borrower must submit a year-end balance sheet, actual financial performance for the most recent year, and a projected budget for the current year.

(c) *Criteria.* Borrowers will be requested to graduate from the Minor Programs as follows:

(1) Borrowers with IMP loans that are classified as “commercial” or “standard” will be requested to apply for private financing within 30 days from the date the borrower is notified of lender interest, if an application is required by the lender. For good cause, the Agency may grant the borrower a reasonable amount of additional time to apply for refinancing.

(2) Borrowers with AMP loans will be considered for graduation at least every two years or as otherwise determined by the Agency that the borrower’s financial condition has significantly improved.

(d) *Enforcement.* The Agency shall take action to enforce graduation, when the Agency has evidence that commercial credit can be obtained at reasonable rates and terms.

(1) The Agency will accelerate the loan of a Minor Program borrower who fails to provide requested documents, does not take positive steps to refinance the loan when commercial credit can be obtained at reasonable rates and terms, or refuses to cooperate in any way with the requirements of this section.

(2) The Agency must inform the borrower in writing of the specific request of which the borrower failed or refused to cooperate and provide appeal rights in accordance with 7 CFR part 780 and 7 CFR part 11.

#### § 772.13 Delinquent account servicing.

(a) *AMP loans.* The Agency will take the following actions on delinquent AMP borrowers:

(1) *First contact.* The Agency will attempt to contact the borrower 10 days after the payment due date, advise the borrower of the amount past due, and request that the payment be remitted immediately.

(2) *Second contact.* If within 20 days the borrower has not responded to the initial contact, a delinquency letter will be sent notifying the borrower that if the account is not brought current within 30

days, the Agency will take action to protect the Government’s interest.

(3) *Third contact.* If within 30 days the borrower has not responded to the second contact delinquency letter or the borrower will not or cannot make satisfactory arrangements to bring the account current, the borrower will be notified by letter of the option of selling their security property to recover any equity, and advising that further collection action, including internal agency offset and referral to the Department of Treasury Offset Program and Treasury Cross-Servicing, will be taken if payment is not received or satisfactory arrangements are not made to bring the account current within 15 days.

(4) *Liquidation.* If the borrower does not make arrangements to cure the default and is not eligible for reamortization in accordance with § 772.14 of this subpart, liquidation action will be taken according to § 772.16 of this subpart.

(b) *IMP loans.* Delinquent IMP borrowers will be serviced according to part 1951, subpart S, of chapter XVIII of the Code of Federal Regulations and title 7 parts 3 and 1951, subpart C of chapter XVIII of the Code of Federal Regulations, concerning internal agency offset and referral to the Department of Treasury Offset Program and Treasury Cross-Servicing.

#### § 772.14 Reamortization of AMP loans.

(a) The Agency may approve reamortization of AMP loans when there is no extension of the final maturity date of the loan and no intervening lien exists on the security for the loan which would jeopardize the Government’s security position, and when:

(1)(i) The account is delinquent and cannot be brought current within one year; and

(ii) The borrower has presented a cash flow budget which demonstrates the ability to meet the proposed new payment schedule; or

(2) The account is current, but due to circumstances beyond the borrower’s control, the borrower will be unable to meet the annual loan payments;

(b) An exception may be provided by and at the discretion of the Agency Administrator to the conditions in paragraph (a) of this section in accordance with § 772.18.

#### § 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 vouch for the account to protect its lien or security.

(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 stress cannot be cured by the options in § 772.13, the borrower will be encouraged to dispose of the Agency security voluntarily through sale or transfer and assumption. If a transfer or voluntary sale is not carried out, the loan will be liquidated according to title 7, part 1955, subpart A of chapter XVIII of the Code of Federal Regulations.

#### § 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 § 1910.2 of title 7, part 1910, subpart A of chapter XVIII of the Code of Federal Regulations, 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 interest. Any exception must be consistent with the authorizing statute and other applicable laws.

### PART 1901—PROGRAM-RELATED INSTRUCTIONS

#### Subpart E—Civil Rights Compliance Requirements.

2. The authority citation for part 1901 is revised to read as follows:

**Authority:** 5 U.S.C. 301; 7 U.S.C. 1989; 40 U.S.C. 442; 42 U.S.C. 1480.

3. Amend § 1901.204 by:

a. Removing paragraphs (a)(1), (2), (4), and (10);

b. Redesignating paragraph (a)(3) as paragraph (a)(1);

c. Redesignating paragraphs (a)(5) through (9) as paragraphs (a)(2) through (6); and

d. Redesignating paragraphs (a)(11) through (28) as paragraphs (a)(7) through (24).

### PART 1951—SERVICING AND COLLECTIONS

#### Subpart E—Servicing of Community and Direct Business Programs Loans and Grants

4. The authority citation for part 1951 continues to read as follows:

**Authority:** 5 U.S.C. 301; 7 U.S.C. 1932 note; 7 U.S.C. 1989; 42 U.S.C. 1480.

5. Amend § 1951.201 by removing the words "loans for Grazing and other shift-in-land-use projects;" and "Association Irrigation and Drainage loans;"

#### § 1951.221 [Amended]

6. Amend § 1951.221 in paragraph (b) heading by removing the words "Grazing Association Loans, Irrigation and Drainage and other".

Signed in Washington, DC, on April 2, 2003.

**J.B. Penn,**

*Under Secretary for Farm and Foreign Agricultural Services.*

[FR Doc. 03-8597 Filed 4-8-03; 8:45 am]

**BILLING CODE 3410-05-U**

### DEPARTMENT OF AGRICULTURE

#### Agricultural Marketing Service

#### 7 CFR Part 956

[Docket No. FV03-956-1 PR]

#### Sweet Onions Grown in the Walla Walla Valley of Southeast Washington and Northeast Oregon; Fiscal Period Change

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** This rule invites comments on a proposed change in the fiscal period under the Walla Walla sweet onion marketing order from June 1 through May 31 to January 1 through December 31. This rule was recommended by the Walla Walla Sweet Onion Marketing Committee (Committee), the agency responsible for local administration of the marketing order regulating the handling of sweet onions grown in the Walla Walla Valley of Southeast Washington and Northeast Oregon. The current fiscal period has been in place since the marketing order's inception in 1995. Because of advance planning needed for market promotion, including paid advertising, the Committee now develops its budget of expenditures before June 1, but delays actual expenditures until that date. This has made it more difficult for

the Committee to coordinate the timing of marketing promotion activities with the short harvest and marketing season for Walla Walla sweet onions. The recommended change is expected to help the Committee better coordinate its marketing promotion activities with the marketing season—mid-June into September.

**DATES:** Comments must be received by June 9, 2003.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250-0237; Fax: (202) 720-8938; or E-mail:

[moab.docketclerk@usda.gov](mailto:moab.docketclerk@usda.gov). Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: <http://www.ams.usda.gov/fv/moab.html>.

#### FOR FURTHER INFORMATION CONTACT:

Robert J. Curry, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1220 SW Third Avenue, suite 385, Portland, Oregon 97204-2807; telephone: (503) 326-2724, Fax: (503) 326-2724; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250-0237; telephone: (202) 720-2491, Fax: (202) 720-8938.

Small business may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250-0237; telephone: (202) 720-2491, Fax: (202) 720-8938, or E-mail: [Jay.Guerber@usda.gov](mailto:Jay.Guerber@usda.gov).

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Agreement and Order No. 956 (7 CFR part 956) regulating the handling of Walla Walla sweet onions grown in Southeast Washington and Northeast Oregon, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act."

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.