

**PART 51—[AMENDED]**

■ 1. The authority citation for 7 CFR part 51 continues to read as follows:

**Authority:** 7 U.S.C. 1621–1627.

■ 2. Section 51.38 is revised to read as follows:

**§ 51.38 Basis for fees and rates.**

(a) When performing inspections of product unloaded directly from land or air transportation, the charges shall be determined on the following basis:

(1) Quality and condition inspections of products in quantities of 51 or more packages and unloaded from the same land or air conveyance:

- (i) \$99 for over a half carlot equivalent of an individual product;
- (ii) \$83 for a half carlot equivalent or less of an individual product;
- (iii) \$45 for each additional lot of the same product.

(2) Condition only inspection of products each in quantities of 51 or more packages and unloaded from the same land or air conveyance:

- (i) \$83 for over a half carlot equivalent of an individual product;
- (ii) \$76 for a half carlot equivalent or less of an individual product;
- (iii) \$45 for each additional lot of the same product.

(3) For quality and condition inspection and condition only inspection of products in quantities of 50 or less packages unloaded from the same conveyance:

- (i) \$45 for each individual product;
- (ii) \$45 for each additional lot of any of the same product. Lots in excess of carlot equivalents will be charged proportionally by the quarter carlot.

(b) When performing inspections of palletized products unloaded directly from sea transportation or when palletized product is first offered for inspection before being transported from the dock-side facility, charges shall be determined on the following basis:

- (1) Dock side inspections of an individual product unloaded directly from the same ship:
  - (i) 2.5 cents per package weighing less than 30 pounds;
  - (ii) 3.8 cents per package weighing 30 or more pounds;
  - (iii) Minimum charge of \$99 per individual product;
  - (iv) Minimum charge of \$45 for each additional lot of the same product.

(2) [Reserved]

(c) When performing inspections of products from sea containers unloaded directly from sea transportation or when palletized products unloaded directly from sea transportation are not offered for inspection at dock-side, the carlot

fees in paragraph (a) of this section shall apply.

(d) When performing inspections for Government agencies, or for purposes other than those prescribed in paragraphs (a) through (c) of this section, including weight-only and freezing-only inspections, fees for inspection shall be based on the time consumed by the grader in connection with such inspections, computed at a rate of \$49 an hour: *Provided*, That:

(1) Charges for time shall be rounded to the nearest half hour;

(2) The minimum fee shall be two hours for weight-only inspections, and one-half hour for other inspections;

(3) When weight certification is provided in addition to quality and/or condition inspection, a one-hour charge shall be added to the carlot fee;

(4) When inspections are performed to certify product compliance for Defense Personnel Support Centers, the daily or weekly charge shall be determined by multiplying the total hours consumed to conduct inspections by the hourly rate. The daily or weekly charge shall be prorated among applicants by multiplying the daily or weekly charge by the percentage of product passed and/or failed for each applicant during that day or week. Waiting time and overtime charges shall be charged directly to the applicant responsible for their incurrence.

(e) When performing inspections at the request of the applicant during periods which are outside the grader's regularly scheduled work week, a charge for overtime or holiday work shall be made at the rate of \$25.00 per hour or portion thereof in addition to the carlot equivalent fee, package charge, or hourly charge specified in this subpart. Overtime or holiday charges for time shall be rounded to the nearest half hour.

(f) When an inspection is delayed because product is not available or readily accessible, a charge for waiting time shall be made at the prevailing hourly rate in addition to the carlot equivalent fee, package charge, or hourly charge specified in this subpart. Waiting time shall be rounded to the nearest half hour.

Dated: December 9, 2003.

**A.J. Yates,**

*Administrator, Agricultural Marketing Service.*

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**BILLING CODE 3410–02–P**

**DEPARTMENT OF AGRICULTURE****Agricultural Marketing Service****7 CFR Parts 91 and 96**

[Docket Number ST02–03]

RIN 0581–AC18

**Removal of Cottonseed Chemist Licensing Program, Updating of Commodity Laboratory and Office Addresses, and Adoption of Information Symbols**

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

**ACTION:** Final rule.

**SUMMARY:** This rule amends the Agricultural Marketing Service (AMS) regulations by removing the cottonseed chemist licensing program and the related official cottonseed grading program. This regulation will update various commodity testing laboratory addresses and will adopt two information symbols in the form of approved AMS shields to indicate that products have been tested by AMS.

**EFFECTIVE DATE:** This rule is effective January 15, 2004.

**FOR FURTHER INFORMATION CONTACT:**

James V. Falk, Docket Manager, USDA, AMS, Science and Technology, 1400 Independence Avenue, SW., Room 3521 South Agriculture Building, Mail Stop 0272, Washington, DC 20250–0272; telephone (202) 690–4089; fax (202) 720–4631, or e-mail: [James.falk@usda.gov](mailto:James.falk@usda.gov).

**SUPPLEMENTARY INFORMATION:** On August 13, 2003, AMS published in the **Federal Register** (68 FR 48322–48326) a proposed rule with a 30-day comment period to provide an opportunity for interested individuals to comment on the removal of 7 CFR part 96, the 67-year-old USDA cottonseed chemist licensing program and the related official cottonseed grading program. The programs have been inoperative since June 3, 1999. Two information symbols in the form of approved AMS shields to indicate that products have been tested by AMS were also proposed. No comments were received. Therefore, AMS is adopting the proposed as a final rule, without change.

**Executive Order 12866 and Executive Order 12988**

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

This rule has been reviewed under Executive Order 12988, Civil Justice

Reform. It is not intended to have retroactive effect. This rule does not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to this rule or the application of its provisions.

### Regulatory Flexibility Act

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Even though an official cottonseed grading certificate has not been issued since June 3, 1999, there are some potential users available that may use the cottonseed chemist licensing program services. Such possible users of program services include 35 oil mills, 1,400 U.S. cottonseed gins, 11 private laboratories, and exporters. Many of these users are small entities under the criteria established by the Small Business Administration (13 CFR 121.201).

USDA licensed cottonseed chemist program service and official cottonseed grade determinations are provided to all businesses on a voluntary basis and user fees to administer the program are listed in 7 CFR part 96. Any decision to discontinue the use of the official cottonseed grading services (with a unit certificate fee) at private laboratories and obtain new contracts with their customers based upon unofficial grade of seed (without a fee) would not hinder the cottonseed industry members from marketing their products. Monthly published Marketing News reports for cottonseed are based entirely on summary information of the quality and quantity factors and grades obtained from all official certificates issued by licensed chemists. There has been no official cottonseed grade certificate issued from a licensed chemist since June 3, 1999. All cottonseed business since that date has been based on an unofficial cottonseed grade. User fee costs to entities would be proportional to their use of program services, so that costs are shared equitably by all users.

The last fee increases for the USDA Cottonseed Chemist Licensing Program services became effective on May 4, 1998 (63 FR 16370–16375). Since June 1999, no revenue has been available to administer the program and there has been a yearly increase in cost of living for the Federal employee salaries and benefits (\$47,786) that comprise 72 percent of total program expenses. No program revenue is generated because there has been a shift in usage patterns

on the part of the cottonseed industry for testing and grading services by chemists. The industry is now relying entirely on an unofficial cottonseed grade certification for their purchase and trade decisions.

Other miscellaneous and unsubstantial changes which would be made by the rule will not adversely affect users of the program services. The addition of two information symbols in the form of approved AMS shields and their inclusion in the regulations will not add further costs to users of the variety of AMS Science and Technology laboratory testing services.

Accordingly, the Agricultural Marketing Service has determined that this rule will not have a significant economic impact on a substantial number of small entities.

### Paperwork Reduction Act

This rule does not contain any new information collection or record keeping requirements that are subject to the Office of Management and Budget (OMB) approval under the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35).

### Background Information

On August 9, 1993, AMS published a rule in the **Federal Register** (58 FR 42408–42448) to combine AMS regulations concerning laboratory services. The goal was to consolidate and to transfer existing laboratory testing programs operating independently under the various commodity programs into the Science and Technology (S&T) program, formerly the Science Division and the Science and Technology Division (S&TD). All divisions in the Agricultural Marketing Service (AMS) were designated as programs by the Administrator on September 18, 1997.

The description of examination and licensure services provided in § 91.4 will be broadened to include other laboratory and testing licenses provided by the Science & Technology programs. In addition, since this final rule removes the Cottonseed Chemist Licensing Program then the limited description of services will no longer be applicable. Science & Technology Program laboratories and facilities have undergone modernization and consolidation since May 1998. In many instances the addresses of the locations changed in § 91.5. A major change was the October 2002 opening of the National Science Laboratory in Gastonia, North Carolina which now has biotechnology testing facilities.

On November 1, 1999 the USDA Office of Communications approved two

information symbols in the form of AMS shields to be added to the USDA/AMS inventory and they are acceptable for use with AMS materials. The two approved AMS shields with the words “USDA AMS TESTED” and “USDA LABORATORY TESTED FOR EXPORT” will be added to the regulations in 7 CFR part 91. A major role of the Science and Technology program for the Agency is to perform analytical testing services of commodities. The approved AMS shields are designed to enhance the acceptance of AMS tested agricultural commodities on a national or international basis.

The licensed cottonseed chemist program and official grade certification are voluntary, user fee-funded services, conducted under the authority of the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1622, 1624). Under the current USDA program, chemists in private laboratories are licensed to analyze cottonseed in order to certify its quality, to access its lot potential for oil yield at seed crushing mills, and to determine the grade of official samples of cottonseed produced at cotton gins according to the rules, regulations and By-Laws of the National Cottonseed Products Association (NCPA). A representative lot of cottonseed for official grade determination is generally limited to a maximum of 150 tons for quality concerns. An official certificate is issued by the licensed chemist for each official cottonseed sample at a present unit fee of \$3.18 to cover the costs of the USDA program.

The USDA licensed cottonseed chemist program originated on July 31, 1937 when a Bureau of the United States Department of Agriculture published a rule in the **Federal Register** (2 FR 1348–1353) and provided the details for the program. On August 14, 1937 the first user fee increase for the program occurred when the issuance cost for each certificate of the official grade of cottonseed increased from 10 cents to 25 cents (2 FR 1400).

The regulations in 7 CFR part 96 include in subpart A the details of the USDA cottonseed chemist licensing program (under the AMS Cotton Division's supervision for the last time in 1988) and the applicable user fees. In subpart B the method used to calculate official cottonseed grade was provided.

The current fees have been in effect since May 4, 1998 (63 FR 16370–16375). The fees include \$1,166 for a chemist's license examination, \$292 for a chemist's license renewal, a \$3.18 fee per official cottonseed grade certificate issued, and a \$60 fee for the review of the grading of an official lot of cottonseed. The number of official

cottonseed grade certificates issued by licensed chemists dropped from 36,565 in fiscal year 1992 to 5,718 in early fiscal year 1999, and zero official grade certificates thereafter. The large decline in official cottonseed grade certificates was due to the 40 percent divergence of cottonseed usage from human food to dairy animal feed. In addition, many large oil mills have set up their own laboratories to perform cottonseed quality testing and have established trade relations with their customers based on an unofficial grade of cottonseed.

The S&T programs are mainly voluntary, user fee services, conducted under the authority of the Agricultural Marketing Act of 1946, as amended. The Act authorizes the Department to provide analytical testing services that facilitate marketing and allow commodity products to obtain grade designations or meet marketing standards. In addition, the laboratory tests establish quality standards for the agricultural commodities. The Act also requires that reasonable and reimbursable fees be collected from users of the program services to cover, as nearly as practicable, the costs of the services rendered to maintain the program. At a May 1999 annual meeting, the National Cottonseed Products Association was provided an analysis of the services the Agency provides for the official cottonseed grade determination, and the revisions of fees that are needed to continue services to the extent commensurate with the actual costs. The industry expressed strong resistance to paying the increased costs needed to provide the official cottonseed grading service that includes official sampling expenses. It was their recommendation to eliminate the cottonseed chemist licensing program. In June 1999 the last official cottonseed grade certificate was issued and no revenue has been obtained from the USDA cottonseed chemist licensing program since that time to the present. The program has become a financial burden to AMS. The total obligatory cost to Science and Technology to carry the program forward to the full completion of fiscal year (FY) 2004 would be \$65,939. This cost consists of \$47,786 for salaries and benefits, \$2,480 for USDA blind check sample preparation, \$7,101 for travel, \$3,575 for rent/utilities/communications, and \$4,997 for administrative overhead. The Agency has no projected revenue to continue the program operation using the current user fee schedule. Hence, this rule will terminate the cottonseed chemist

licensing program and will remove related official cottonseed grading from the regulations and associated fees. This rule removes 7 CFR part 96 in its entirety. Private or non-government laboratories will no longer be allowed to hold USDA cottonseed chemist licenses. There will be no need for persons to possess cottonseed sampler licenses or similar designations. All such former chemist and sampler licensees will be instructed and will be required to return their licenses to offices at AMS headquarters. Marketing News for official cottonseed grade will no longer be available.

This rule will also update various commodity testing laboratory addresses and will adopt approved AMS shields to indicate that products have been tested by AMS. The new shields will be placed in a new subpart together with appropriate definitions.

#### List of Subjects

##### 7 CFR Part 91

Administrative practice and procedure, Agricultural commodities, Laboratories, Reporting and recordkeeping requirements.

##### 7 CFR Part 96

Administrative practice and procedure, Agricultural commodities, Laboratories, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, 7 CFR parts 91 and 96 are amended as follows:

#### PART 91—[AMENDED]

■ 1. The authority citation for part 91 continues to read as follows:

**Authority:** 7 U.S.C. 1622, 1624.

■ 2. In § 91.4, paragraph (b) is revised to read as follows:

##### § 91.4 Kinds of services.

\* \* \* \* \*

(b) *Examination and licensure.* The manager of a particular Science and Technology program administers examinations and licenses analysts in laboratories for competency in performing commodity testing services.

\* \* \* \* \*

■ 3. Section 91.5 is revised to read as follows:

##### § 91.5 Where services are offered.

(a) Services are offered to applicants at the Science and Technology field service laboratories and facilities in the following list:

(1) *Science and Technology regional laboratory.* A variety of tests and laboratory analyses are available in one

regional multi-disciplinary Science and Technology (S&T) laboratory, and is located as follows: USDA, AMS, Science and Technology, National Science Laboratory, 801 Summit Crossing Place, Suite B, Gastonia, NC 28054–2193.

(2) *Science and Technology (S&T) satellite laboratories.* The specialty laboratories performing mycotoxin and other chemical testing on peanuts, peanut products, dried fruits, grains, edible seeds, tree nuts, shelled corn products, oilseed products and other commodities as well as proximate analyses on foods are:

(i) USDA, AMS, Science & Technology, 959 North Main Street, Blakely, GA 39823–2030.

(ii) USDA, AMS, Science & Technology, 107 South Fourth Street, Madill, OK 73446–3431.

(iii) USDA, AMS, Science & Technology, c/o Golden Peanut Company LLC (Mail: P.O. Box 272; Dawson, GA 31742–0272), 715 Martin Luther King Jr. Drive, Dawson, GA 39842–1002.

(iv) USDA, AMS, S&T, Mail: P.O. Box 1130, 308 Culloden Street, Suffolk, VA 23434–4706.

(3) *Citrus laboratory.* The Science and Technology's citrus laboratory specializes in testing citrus juices and other citrus products and is located as follows: USDA, AMS, Science & Technology Citrus Laboratory, 98 Third Street, SW., Winter Haven, FL 33880–2905.

(4) *Program laboratories.* Laboratory services are available in all areas covered by cooperative agreements providing for this laboratory work and entered into on behalf of the Department with cooperating Federal or State laboratory agencies pursuant to authority contained in Act(s) of Congress. Also, services may be provided in other areas not covered by a cooperative agreement if the Administrator determines that it is possible to provide such laboratory services.

(5) *Other alternative laboratories.* Laboratory analyses may be conducted at alternative Science and Technology laboratories and can be reached from any commodity market in which a laboratory facility is located to the extent laboratory personnel are available.

(6) *Science and Technology headquarters offices.* The examination, licensure, quality assurance reviews, laboratory accreditation/certification and consultation services are provided by headquarters staff located in Washington, DC. The main headquarters office is located as follow: USDA, AMS,

Science and Technology, Office of the Deputy Administrator, Room 3507 South Agriculture Bldg., Mail Stop 0270, 1400 Independence Ave., SW., Washington, DC 20250-0270.

(7) *The Information Technology (IT) Group.* The IT office of the Science and Technology programs is headed by the Associate Deputy Administrator for Technology/Chief Information Officer and provides information technology services and management systems to the Agency and other agencies within the USDA. The main IT office is located as follows: USDA, AMS, Science and Technology, Office of the Associate Deputy Administrator for Technology, 1752 South Agriculture Bldg., Mail Stop 0204, 1400 Independence Ave., SW., Washington, DC 20250-0204.

(8) *Statistics Branch Office.* The Statistics Branch office of Science and Technology (S&T) provides statistical services to the Agency and other agencies within the USDA. In addition, the Statistics Branch office generates sample plans and performs consulting services for research studies in joint efforts with or in a leading role with other program areas of AMS or of the USDA. The Statistics Branch office is located as follows: USDA, AMS, S&T Statistics Branch, 0603 South Agriculture Bldg., Mail Stop 0223, 1400 Independence Ave., SW., Washington, DC 20250-0223.

(9) *Technical Services Branch Office.* The Technical Services Branch office of Science and Technology (S&T) provides technical support services to all Agency programs and other agencies within the USDA. In addition, the Technical Services Branch office provides certification and accreditation services of private and State government laboratories as well as oversees quality assurance programs; import and export certification of laboratory tested commodities. The Technical Services Branch office is located as follows: USDA, AMS, S&T Technical Services Branch, 3521 South Agriculture Bldg., Mail Stop 0272, 1400 Independence Ave., SW., Washington, DC 20250-0272.

(10) *Monitoring Programs Office.* Services afforded by the Pesticide Data Program (PDP) and Microbiological Data Program (MDP) are provided by USDA, AMS, Science and Technology Monitoring Programs Office (MDP and PDP), 8609 Sudley Road, Suite 206, Manassas, VA 20119-8411.

(11) *Federal Pesticide Record Keeping Program Office.* Services afforded by the Federal Pesticide Record Keeping Program for restricted-use pesticides by private certified applicators are provided by USDA, AMS, Science and Technology, Pesticide Records Branch,

8609 Sudley Road, Suite 203, Manassas, VA 20110-8411.

(b) The addresses of the various laboratories and offices appear in the pertinent parts of this subchapter. A prospective applicant may obtain a current listing of addresses and telephone numbers of Science and Technology laboratories, offices, and facilities by addressing an inquiry to the Administrative Officer, Science and Technology, Agricultural Marketing Service, United States Department of Agriculture (USDA), 1400 Independence Ave., SW., Room 0725 South Agriculture Building, Mail Stop 0271, Washington, DC 20250-0271.

■ 4. A new subpart J is added to read as follows:

**Subpart J—Designation of Approved Symbols for Identification of Commodities Officially Tested By AMS**

Sec.

91.100 Scope.

91.101 Definitions.

91.102 Form of official identification symbols.

**§91.100 Scope.**

Two approved information symbols in the form of AMS shields are available to indicate official testing by an AMS laboratory. The two approved AMS shields with the words “USDA AMS TESTED” and “USDA LABORATORY TESTED FOR EXPORT” are added to the USDA symbol inventory to enhance the acceptance of AMS tested agricultural commodities on a national or international basis.

**§91.101 Definitions.**

Words used in the regulations in this part in the singular form will import the plural, and vice versa, as the case may demand. As used throughout the regulations in this part, unless the context requires otherwise, the following terms will be construed to mean:

*AMS.* The abbreviation for the Agricultural Marketing Service (AMS) agency of the United States Department of Agriculture.

*Export.* To send or transport a product originally created or manufactured in the United States of America to another country in the course of trade.

*Laboratory.* An AMS Science and Technology (S&T) laboratory listed in § 91.5 that performs the official analyses.

*Test.* To perform chemical, microbiological, or physical analyses on a sample to determine presence and levels or amounts of a substance or living organism of interest.

*USDA.* The abbreviation for the United States Department of Agriculture.

**§ 91.102 Form of official identification symbols.**

Two information symbols in the form of AMS shields indicate commodity testing at an AMS laboratory listed in § 91.5 of this part. The AMS shield set forth in figure 1 of this section, containing the words “USDA AMS TESTED”, and the shield set forth in figure 2, containing the words “USDA LABORATORY TESTED FOR EXPORT” have been approved by the USDA Office of Communications to be added to the USDA/AMS inventory of symbols. Each example of an AMS shield has a black and white background; however the standard red, white and blue colors are approved for the shields. They are approved for use with AMS materials. Shields with the same wording that are similar in form and design to the examples in figures 1 and 2 of this section may also be used.



Figure 1.



Figure 2.

**PART 96—[REMOVED AND RESERVED]**

■ 4a. Under the authority of 7 U.S.C. 1622 and 1624, part 96 is removed and reserved.

Dated: December 9, 2003

**A.J. Yates,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 03-30996 Filed 12-15-03; 8:45 am]

BILLING CODE 3410-02-P

**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:** Final rule.

**SUMMARY:** This rule consolidates, clarifies and revises 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 previously administered by FSA. Recreation loans to associations will continue to be serviced by the RD mission area.

**EFFECTIVE DATE:** January 15, 2004.

**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.usda.gov](mailto:mel_thompson@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:****Discussion of the Final Rule**

This 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, Public Law 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 the RD mission area. Regulations for servicing the Association-type loans of these programs were 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 defined in 7 CFR 1941.4 and 1943.4 and which are a subgroup of FSA, Farm Operating and Farm Ownership loans; 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, they are serviced as FLP loans in accordance with 7 CFR part 1951, subpart S.

Because the current delegation of these similar loan programs between the FSA and RD mission area is inefficient, this rule removes parts of regulations that are currently shared by FSA and the agencies of the RD mission area and establishes a consolidated FSA regulation governing these programs. Information not specific to the Minor Programs has been eliminated and language has been improved for readability.

On April 9, 2003, the Farm Service Agency published a proposed rule (68 FR 17320) requesting comments regarding proposed consolidation and revision of the rules affecting the FSA Minor Programs. A comment was received from an Agency employee regarding servicing violations of non-compliance with civil rights laws by Minor Program borrowers. The commentor suggested that the Agency provide notices and try to correct the violation rather than going right into liquidation.

The Agency is adopting the comment. The Agency has clarified its civil rights compliance standards contained in § 772.3(a) and (d) since FSA's civil rights compliance procedures contained in Departmental regulations at 7 CFR 15.8 and internal Departmental Memorandum 4330-002, March 3, 1999, available on the Departmental website,

also apply. The comment pertains only to association type loans (AMP) which are Federal financial assistance because the borrowers are the recipients of the Federal funding but are not the ultimate beneficiary of the program. See 7 CFR 15.2 for the definition of these terms in a civil rights context. In this situation FSA acts as an enforcement agent of civil rights laws, and no violations of civil rights laws by FSA have been alleged. Departmental Memorandum 4330-002, ¶ 9 establishes a detailed compliance procedure, which provides notice and the opportunity to correct the violation before enforcement proceedings are undertaken. Moreover, 7 CFR part 15, subpart A provides an informal and formal means of disputing compliance issues through a fact finding process. Since these additional authorities already apply to civil rights compliance reviews, FSA has referenced these standards in § 772.3.

In addition, the Agency is clarifying its liquidation policy. Section 772.16 is revised to state that for Association-Type loans (AMP), the notice of acceleration will include appeal rights. For Individual-Type loans (IMP), § 772.16 states that all appeals must be exhausted before the notice of acceleration is issued; however, the notice of acceleration itself is not appealable. Thus, for both types of Minor Program loans, borrowers can dispute factual issues before liquidation. FSA has maintained the different timing for appealing adverse Agency decisions. AMP loans were previously serviced by the RD mission area under regulations providing for appeals in the notice of acceleration. IMP loans serviced by FSA before this rule are still considered Farm Loan Program (FLP) loans which by regulation require that all appeals precede acceleration.

**Executive Order 12866**

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

**Regulatory Flexibility Act**

In accordance with the Regulatory Flexibility Act, 5 U.S.C. 601, the Agency has determined that there will not be a significant economic impact on a substantial number of small entities. All Farm Service Agency direct loan borrowers and all entities affected by this rule are small businesses according to the North American Industry Classification System, and the United States Small Business Administration. There is no diversity in size of the entities affected by this rule and the costs to comply with it are the same for