

**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

all entities. FSA stated its finding in the proposed rule at 68 FR 17320, April 9, 2003, that the rule will not have a significant economic impact on a substantial number of small entities, and received no comments on this finding.

There are currently 346 Minor Loan Program borrowers including 61 Grazing Associations, 39 Irrigation and Drainage Associations, 218 Non-Farm Enterprise loans, and 28 Recreations loans to individuals which total less than \$22,000,000 in outstanding indebtedness. This rule consolidates the regulations governing these programs, but it contains no new requirements nor does it eliminate any provision in previous regulations. This rule does not limit options available to program participants, or change any aspect of the program that would have a significant effect on the business of these associations. Therefore, the costs of compliance resulting from this rule are deemed not significant. Accordingly, pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Agency certifies that this rule will not have a significant economic impact on a substantial number of small entities.

#### Environmental Evaluation

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 the FSA regulations for compliance with NEPA, 7 CFR parts 799 and 1940, subpart G. FSA completed an environmental evaluation and concluded that the rule 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 required preparation of an environmental assessment or environmental impact statement.

#### 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 part 11 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

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, requires Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments or the private sector. This rule contains no Federal mandates, as defined by title II of the UMRA; therefore, this rule is not subject to sections 202 and 205 of the 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 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. Still, this rule transfers some of the information collections that were approved under OMB control numbers 0575–0118, 0575–0093, and 0575–0066, to part 772, which has been approved by OMB and assigned control number 0560–0230.

#### Federal Assistance Program

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

#### List of Subjects in 7 CFR

##### 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 parts 1901 and 1951 are revised 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, 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 Association loans, Irrigation and Drainage Association loans, and Non-Farm Enterprise 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 (AMP):* Loans to Grazing Associations and Irrigation and Drainage Associations.

*Entity:* Cooperative, corporation, partnership, joint operation, trust, or limited liability company.

*Graduation:* The requirement contained in loan documents that borrowers 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 (IMP):* Non-Farm Enterprise or Recreation loans to individuals.

*Member:* 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

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

#### § 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. AMP borrowers are subject to the nondiscrimination provisions applicable to Federally assisted programs contained in 7 CFR part 15, subparts A and C, and part 15b. IMP loans are subject to the nondiscrimination provisions applicable to federally conducted programs contained in 7 CFR parts 15d and 15e.

(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 caused 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 or Departmental regulations and procedures, the Agency will service the loan in accordance with the provisions of § 772.16 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 7 CFR part 1940, subpart G and the exhibits to that subpart and 7 CFR part 799.

#### § 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 3 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 7 part 1962, subpart A. 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 Regional 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 7 CFR part 1965, subpart A.

#### § 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 all of the following are met:

(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 7 CFR part 1940, subpart G.

(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 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 prepared in accordance with § 761.7 of this chapter, if the request is for a subordination of more than \$10,000, unless a sufficient appraisal report, 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.

#### § 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 lienholder on the subject property and, as such, the lease is subordinate to the rights and claims of the Agency as lienholder; and

(6) The lease is for less than 3 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) For AMP loans.

(1) Sale of all or a portion of the security property may be approved when all of the following conditions are met:

(i) The property is sold for market value based on a current appraisal prepared in accordance with § 761.7 of this chapter.

(ii) The sale will not prevent carrying out the original purpose of the loan. The borrower must execute an Assurance Agreement as prescribed by the Agency. 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; and

(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) For IMP loans.

(1) A sale or exchange of chattel that is serving as security is governed by 7 CFR part 1962, subpart A.

(2) A sale or exchange of real estate that is serving as security for an IMP loan is governed by 7 CFR part 1965, subpart A.

#### **§ 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) 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, however, 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. An AMP borrower may also be released in accordance with § 772.10 in conjunction with a transfer and assumption.

(c) *Servicing of debt not satisfied through liquidation.* Balances remaining after sale or liquidation of the security will be subject to administrative offset in accordance with 7 CFR part 3, Department of Treasury Offset Program (TOP) and Treasury Cross-Servicing regulations at 31 CFR part 285 and Federal Claims Collections Standards at 31 CFR parts 900–904. Thereafter the debt settlement provisions in 7 CFR part 1956, subpart B of chapter XVIII of the Code of Federal Regulations or successor regulation 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; and

(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 by the new member;

(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 lienholder, 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 and 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; or

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

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

Transfers and assumptions for IMP loans are processed in accordance with 7 CFR part 1962, subpart A, for chattel secured loans and 7 CFR part 1965, subpart A, 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.* This section only applies to Minor Program borrowers with promissory notes which 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.

(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 7 CFR part 1951, subpart F, shall be reviewed at least every 2 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 must graduate from the Minor Programs as follows:

(1) Borrowers with IMP loans that are classified as “commercial” or “standard” must 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 more frequently if the Agency determines that the borrower’s financial condition has significantly improved.

**§ 772.13 Delinquent account servicing.**

(a) *AMP loans.* If the borrower does not make arrangements to cure the default after notice by the Agency and is not eligible for reamortization in accordance with § 772.14, the Agency will liquidate the account according to § 772.16.

(b) *IMP loans.* Delinquent IMP borrowers will be serviced according to 7 CFR part 1951, subpart S, and parts 3 and 1951, subpart C, concerning internal agency offset and referral to the Department of Treasury Offset Program and Treasury Cross-Servicing (or successor regulations).

**§ 772.14 Reamortization of AMP loans.**

The Agency may approve reamortization of AMP loans provided:

(a) There is no extension of the final maturity date of the loan;

(b) No intervening lien exists on the security for the loan which would

jeopardize the Government’s security position;

(c) If the account is delinquent, it cannot be brought current within one year and the borrower has presented a cash flow budget which demonstrates the ability to meet the proposed new payment schedule; and

(d) If the account is current, the borrower will be unable to meet the annual loan payments due to circumstances beyond the borrower’s control.

**§ 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 voucher 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 distress cannot be cured by the options in § 772.13, or the loan is in non-monetary default, the borrower will be encouraged to dispose of the Agency security voluntarily through sale or transfer and assumption in accordance with this part. If such a transfer or voluntary sale is not carried out, the loan will be liquidated according to 7 CFR part 1955, subpart A. For AMP loans, appeal rights under 7 CFR part 11 are provided in the notice of acceleration. For IMP loans, appeal rights must be exhausted before acceleration, and the notice of acceleration is not appealable.

**§ 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 7 CFR 1910.2, 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 financial 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; 42 U.S.C. 1480.

**§ 1901.204 [Amended]**

■ 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**

■ 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.

**Subpart E—Servicing of Community and Direct Business Programs Loans and Grants****§ 1951.201 [Amended]**

■ 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 December 10, 2003.

**Floyd D. Gaibler,**

*Acting Under Secretary for Farm and Foreign Agricultural Services.*

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