formula that will be used for allocating funds to State Offices. This action is needed due to the significant impact the use of the new 2000 U.S. Census data versus the 1990 U.S. Census data, used in previous years, will have on certain States' allocations.

EFFECTIVE DATE: February 4, 2004.

FOR FURTHER INFORMATION CONTACT: Sylvia Neal, Management Analyst, Business Program, U.S. Department of Agriculture, STOP 3221, 1400 Independence Avenue, SW., Washington, DC 20250–3221, telephone (202) 720–2811, or by sending an e-mail message to *sylvia.neal@usda.gov.*

SUPPLEMENTARY INFORMATION:

Classification

This action is not subject to the provisions of Executive Order 12866 since it involves only internal Agency management. This action is not published for prior notice and comment under the Administrative Procedure Act since it involves only internal Agency management and publication for comment is unnecessary and contrary to the public interest.

Programs Affected

The Catalog of Federal Domestic Assistance numbers for the programs impacted by this action are as follows:

10.768—Business and Industry Loans, and

10.769—Rural Development Grants (RBEG) (TDG).

Paperwork Reduction Act

This final rule does not revise or impose any new information collection requirements from those previously approved by the Office of Management and Budget.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local and tribal governments, and the private sector. Under section 202 of the UMRA, the agency generally must prepare a written statement, including a cost benefit analysis, for proposed and final rules with ''Final mandates'' that may result in expenditures to State, local, or tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires the agency to identify and consider a reasonable number of regulatory alternatives and adopt the least burdensome alternative that achieves the objective of the rule.

This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local and tribal governments, or the private sector. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Environmental Impact Statement

This action has been reviewed in accordance with 7 CFR part 1940, subpart G, ''Environmental Program.'' The Agency has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Public Law 91–190, an Environmental Impact Statement is not required.

Discussion

The Rural Business-Cooperative Service (RBS) is amending the regulation to recognize a transition formula that will be used for allocating funds to State Offices. The transition formula limits allocation shifts to any particular State in the event of changes from year to year of the basic formula, the basic criteria, or the weights given the criteria.

List of Subjects in 7 CFR Part 1940

Administrative practice and procedure, Agriculture, Allocations, Grant programs—Housing and community development, Loan programs—Agriculture, Rural areas.

■ Accordingly, Chapter XVIII, title 7, Code of Federal Regulations is amended as follows:

PART 1940—GENERAL

■ 1. The authority citation for part 1940 continues to read as follows:

Authority: 5 U.S.C.; 7 U.S.C.; 1989, and 42 U.S.C. 1480.

Subpart L—Methodology and Formulas for Allocation of Loan and Grant Program Funds

■ 2. Amend section 1940.589 by revising paragraph (d) to read as follows:

§ 1940.589 Rural Business Enterprise Grants.

* * * * *

(d) Transition formula. See § 1940.552(d) of this subpart. The percentage range for the transition equals 30 percent (±15%).

* * * * *

Dated: January 23, 2004.

John Rosso,

Administrator, Rural Business-Cooperative Service.

[FR Doc. 04–2265 Filed 2–3–04; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF AGRICULTURE

Farm Service Agency

Rural Business-Cooperative Service

Rural Housing Service

Rural Utilities Service

7 CFR Parts 1951, 1962, 1965

RIN 0560–AG50

Farm Loan Programs Account Servicing Policies—Elimination of 30-Day Past-Due Period

AGENCY: Farm Service Agency, USDA.

ACTION: Final rule.

SUMMARY: The Farm Service Agency (FSA) is amending its regulations to eliminate the 30-day past-due period prior to a determination that the borrower is delinquent and clarify the use of the terms ''delinquent'' and ''past due'' with regard to direct loan servicing and offset. Because the regulation only allows debt writedown after a borrower becomes delinquent, this change would allow Farm Loan Programs (FLP) borrowers to receive debt writedown on the day after a missed payment, assuming all other primary loan servicing criteria are met, instead of waiting 31 days.

DATES: Effective March 5, 2004.

FOR FURTHER INFORMATION CONTACT: Michael Cumpton, Senior Loan Officer, USDA, FSA, Loan Servicing and Property Management Division, STOP 0523, 1400 Independence Avenue, SW., Washington, DC 20250–0523; telephone (202) 690–4014; e-mail: *mike.cumpton@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:

Executive Order 12866

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

Regulatory Flexibility Act and Executive Order 13272

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 1170–1172, January 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.

In the U.S. there are 86,000 FSA direct farm loan borrowers. In this final rule, FSA is amending its regulations to eliminate the 30-day past-due period prior to a determination that the borrower is ''delinquent'' and clarify the use of the terms ''delinquent'' and ''past due'' with regard to direct loan servicing and offset. Because the regulation only allows debt writedown after a borrower becomes delinquent, this change would allow Farm Loan Programs (FLP) borrowers to receive debt writedown on the day after a missed payment, assuming all other primary loan servicing criteria are met, instead of waiting 31 days.

While this rule will change the definition of the word ''delinquent'' with regard to all servicing and offsets, the overall impact of the rule will be very limited because it will not affect the ''90 days past due'' criteria that is currently used for sending initial notices of primary loan servicing under 7 CFR part 1951, subpart S, as this requirement is statutory (7 U.S.C. 1981d).

Currently, only 906 borrowers are less than 30 days past due. With these changes, all of these borrowers would immediately be eligible for consideration of all Primary Loan Servicing options. The Agency estimates that this change will have no effect on the cost of applying for Primary Loan Servicing. Therefore, the costs of compliance 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 final 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 the rule requires no further environmental review. 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 Executive Order 12988, Civil Justice Reform. In accordance with this Executive Order: (1) All State and local laws and regulations that are in conflict with this rule will be preempted; (2) except as specifically stated in this rule, no retroactive effect will be given to this rule; and (3) administrative proceedings in accordance with 7 CFR part 11 must be exhausted before seeking judicial review.

Executive Order 12372

For reasons contained in the notice related to 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983) the programs within this rule are excluded from the scope of E.O. 12372, which requires intergovernmental consultation with State and local officials.

The Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments or the private sector of $100 million or more in any 1 year. When such a statement is needed for a rule, section 205 of the UMRA requires FSA to prepare a written statement, including a cost and benefit assessment, for proposed and final rules with ''Federal mandates'' that may result in such expenditures for State, local, or tribal governments, in the aggregate, or to the private sector. UMRA generally requires agencies to consider alternatives and adopt the most cost effective or least burdensome alternative that achieves the objectives of the rule.

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

Executive Order 13132

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

Paperwork Reduction Act

The amendments to 7 CFR parts 1951 and 1965 contained in this rule require no revisions to the information collection requirements that were previously approved by OMB control numbers 0560–0161 and 0560–0158 under the provisions of 44 U.S.C. chapter 35. The information collections currently approved by OMB under control number 0560–0171 include the amendment to 7 CFR part 1962 contained in this rule.

Federal Assistance Programs

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

10.404—Emergency Loans;
10.406—Farm Operating Loans;
10.407—Farm Ownership Loans.

Discussion of the Final Rule

Currently, borrowers are considered ''past-due'' for 30 days after a scheduled FLP payment is not made, after which they are considered ''delinquent''. This is not consistent with the terminology used by FSA Farm Programs (FP) where no ''past-due'' period exists prior to delinquency. For consistency, FSA is amending 7 CFR part 1951, subparts C and S, 7 CFR part 1962, subpart A, and 7 CFR part 1965, subpart A to eliminate the 30-day ''past-due'' period prior to a borrower becoming delinquent. Because 7 CFR part 1951, subpart S only allows debt writedown after a borrower becomes delinquent, this change will allow FLP borrowers to receive debt writedown on the day after a missed payment, assuming all other primary loan servicing criteria are met, instead of waiting 31 days. This will allow servicing to be completed earlier with no additional loss to the government, as the additional accrued interest during the 30 day period is often simply added

to the writedown amount which would have been calculated on the first day the account was ''past-due''. In addition, the definition of the word ''delinquent'' with regard to all servicing and offsets is revised for consistency. The rule does not affect the ''90 days past due'' criteria that is currently used for sending initial notice of primary loan servicing under 7 CFR part 1951 subpart S, as this requirement is statutory (7 U.S.C. 1981d).

In response to the proposed rule published January 9, 2003 (68 FR 1170–1172), only two comments were received. All comments were considered and are addressed as follows.

One commentor felt that it is helpful for the term delinquency to have the same definition in all FSA programs, and for this definition to agree with the common usage of the term. The commentor also felt that the use of the present ''past due/delinquent'' terminology (whereby a borrower who is 90 days past due is 60 days delinquent) is often confusing for both borrowers and agency personnel. The commentor also felt the earlier writedown possibility could be helpful to an operation which needs such loan restructuring to begin farm operations for a crop year. The Agency agrees.

However, as the taking of all assets is required when restructuring a delinquent account under primary loan servicing (7 CFR part 1951 subpart S), this commentor was concerned that FSA would be required to take a lien on all assets where this would not have been required in the past. The commentor suggests that FSA adopt the current requirement used when making a new loan whereby security is not required beyond 150 percent of the FSA loan. In consideration of this comment, the Agency notes the difference in making a new loan and restructuring delinquent loans. The 150 percent requirement is reasonable and protects the Government's interest when making a new, fully secured loan over a term that is commensurate with the life of the security. However, in primary loan servicing, FSA is often working with an account that is already undersecured and in serious financial difficulty. Further, chattel secured loans are almost always rescheduled over 15 years from the date of restructure, which is well beyond the useful life of most chattels. The additional security is needed to minimize the Government's risk of loss. Therefore, the commentor's suggestion on taking only 150 percent loan security at restructuring was not adopted.

Another commentor supported the proposed rule, but had several concerns and felt the change could have unintended consequences. With regard to unintended consequences, the Agency feels that it has given adequate consideration to the changes caused by this rule. It recognizes however, that all possible results of a rule cannot be considered in a program that covers over 80,000 borrowers with widely diverse financial situations. The commentors' specific concerns included the following:

1. Loan Eligibility

Under the Debt Collection Act (31 U.S.C. 3720B), FSA generally cannot make a loan to a borrower who is delinquent on a non-tax Federal debt. The commentor states that this rule would prevent a borrower from getting an FSA loan 30 days earlier. This rule does not revise loan eligibility regulations. This law is implemented by 31 CFR 285.13 which defines ''delinquent status'' as 90 days past due. No change was made based on this comment.

2. Primary Loan Servicing Notification and 60 Day Timeframe for a Complete Application

The commentor suggested that borrowers will not know that they may receive a writedown immediately after becoming past due, as they are not normally notified of servicing options until they become 90 days past due. The commentor also states that it is essential to allow, but not require, borrowers to apply for servicing prior to becoming 90 days past due and for them to have 60 days to apply for loan servicing after receiving a packet. The Agency agrees, but believes that the current notification procedures are adequate. In general, borrowers are informed of all servicing options, in accordance with § 331D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981d), when they are distressed (*i.e.* unable to develop a feasible plan though current), in non-monetary default, or request servicing when they are 90 days past due. After notice, they have 60 days to apply for servicing. This process need not be changed by this rule.

3. Accelerated Eligibility for Administrative Offset Under 7 CFR 1951.102(b)

The commentor stated that the proposed change could allow the Agency to begin offset during the 30 days immediately following a missed payment by the borrower. The Agency disagrees, but has amended 7 CFR 1951.102(b)(13), to require that the debt be 90 days past due for offset or in default of other obligations to be feasible. The Agency has removed the reference to ''60 days delinquent''. Therefore, the situation the commentor is concerned about should not occur.

4. Interaction With 7 CFR Part 1951, Subpart T (Disaster Set-Aside), Proposed Rule (67 FR 41869, June 20, 2002)

The commentor stated that the interaction between this rule, as proposed, and the above Disaster Set-Aside (DSA) proposed rule could prevent borrowers from applying for DSA immediately after they have missed a payment. The Agency agrees with this interpretation and revised its DSA regulation by final rule on September 25, 2003 (68 FR 55299–55304), to allow the Agency to accept DSA applications until the borrower becomes 90 days past due.

5. Consistency With FSA Farmer Programs (FP) and the Guaranteed FLP Program

The commentor questions the need for FLP to be consistent with FP terminology, as FP mainly administers commodity loans. They instead suggest equating the word default in the guaranteed program with the word delinquent in the direct loan program, and that ''30 days'' should be retained to remain consistent with the guaranteed program. The Agency continues to believe that the consistency and clarity of making the terms ''past due'' and ''delinquent'' synonymous, as supported by the other commentor, will contribute to a more consistent delivery of the FLP program. With regard to the comparison of the direct and guaranteed loan programs, FSA believes that the term ''default'' is used in different contexts. In the direct FLP program, the Promissory Note (Form FSA 1940–17) states that a default occurs when the borrower fails ''to pay when due any debt evidenced by this note or perform any covenant of agreement under this note.'' Upon default, FSA must service the debt as required under its regulations and can offer many restructure options to the borrower. The use of the term ''default'' in the guaranteed program as being 30 days after a payment is missed simply indicates the date when a lender must bring a past due payment to the attention of FSA and begin consideration of additional servicing actions. The guaranteed lender will then offer restructure or debt servicing options based on their own policies, and in accordance with FSA regulations. The guaranteed loan policy is consistent with the practice of private sector lenders who generally do not consider

a loan in default until it is at least 30 days past due.

6. Hindrance of the Borrowers Ability To Recover From Delinquency

The commentor indicates that the use of the term ''delinquent'' attaches a stigma to the account and could hinder the borrower's ability to obtain or reschedule financing from private creditors. The commentor states that the 30 day past due period is much like the ''golden hour'' after an injury ''when medical intervention has the greatest chance of success.'' Concerning the effect this change will have on private lenders, the Agency believes that lenders base commercial lending decisions on creditworthiness, profitability, security, and other financial data. The Agency does not believe that FSA's terminology change will affect these decisions.

List of Subjects

7 CFR Part 1951

Account servicing, Credit, Debt restructuring, Loan programs—agriculture, Loan programs—housing and community development.

7 CFR Part 1962

Agriculture, Bankruptcy, Loan programs—agriculture, Loan programs—housing and community development.

7 CFR Part 1965

Loan programs—agriculture, Loan programs—housing and community development, Low and moderate income housing.

■ Accordingly, 7 CFR chapter XVIII is amended as follows:

PART 1951—SERVICING AND COLLECTIONS

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

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

Subpart C—Offsets of Federal Payments to USDA Agency Borrowers

■ 2. Amend § 1951.102 to:
■ a. Revise paragraph (b)(6);
■ b. Revise the third sentence of paragraph (b)(13), to read as follows:

§ 1951.102 Administrative offset.

* * * * *

(b) * * *

(6) *Delinquent or past-due* means a payment that was not made by the due date.

* * * * *

(13) * * * To be feasible the debt must exist and be 90 days past due or the borrower must be in default of other obligations to the Agency, which can be cured by the payment.

* * * * *

Subpart S—Farm Loan Programs Account Servicing Policies

■ 3. Amend § 1951.906 by removing the definition of ''Delinquent borrower'' and adding in its place the definition of ''Delinquent or past-due borrower''.

§ 1951.906 Definitions.

* * * * *

Delinquent or past-due borrower. A borrower who has failed to make all or part of a payment by the due date.

* * * * *

■ 4. Amend the second sentence of § 1951.907 paragraph (c) to read as follows:

§ 1951.907 Notice of loan service programs.

* * * * *

(c) * * * FLP borrowers who are at least 90 days past due will be sent exhibit A of this subpart with attachments 1 and 2 by certified mail, return receipt requested. * * *

* * * * *

PART 1962—PERSONAL PROPERTY

■ 5. The authority citation for part 1962 continues to read as follows:

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

Subpart A—Servicing and Liquidation of Chattel Security

■ 6. Amend § 1962.40 to revise the first sentence of paragraph (b)(2) to read as follows:

§ 1962.40 Liquidation.

* * * * *

(b) * * *

(2) In Farm Loan Programs loan cases, borrowers who are 90 days past due on their payments must receive exhibit A with attachments 1 and 2 or attachments 1, 3, and 4 of exhibit A of subpart S of part 1951 of this chapter in cases involving nonmonetary default. * * *

* * * * *

PART 1965—REAL PROPERTY

■ 7. The authority citation for part 1965 continues to read as follows:

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

Subpart A—Servicing of Real Estate Security for Farm Loan Programs Loans and Certain Note-Only Cases

■ 8. Amend § 1965.26 to revise the first sentence of paragraph (b)(2) to read as follows:

§ 1965.26 Liquidation action.

* * * * *

(b) * * *

(2) In Farm Loan Programs loan cases, borrowers who are 90 days past due on their payments, must receive exhibit A with attachments 1 and 2, or attachments 1, 3, and 4 of exhibit A of subpart S of part 1951 of this chapter in cases involving nonmonetary default. * * *

* * * * *

Dated: January 15, 2004.

J.B. Penn,

Under Secretary for Farm and Foreign Agricultural Services.

Dated: January 16, 2004.

Gilbert Gonzalez,

Under Secretary for Rural Development.

[FR Doc. 04–1792 Filed 2–3–04; 8:45 am]

BILLING CODE 3410–05–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

RIN 3150–AH32

Minor Changes to Decommissioning Trust Fund Provisions

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule: Confirmation of effective date.

SUMMARY: The Nuclear Regulatory Commission (NRC) is confirming the effective date of December 24, 2003, for the direct final rule that was published in the **Federal Register** on November 20, 2003 (68 FR 65386). This direct final rule amended the NRC's regulations related to decommissioning trust fund provisions to correct typographical errors and make minor changes to a final rule promulgated by the NRC in December of 2002.

EFFECTIVE DATE: The effective date of December 24, 2003, is confirmed for this direct final rule.

ADDRESSES: Documents related to this rulemaking may be examined at the NRC Public Document Room, located at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. These same documents may also be viewed and downloaded electronically via the rulemaking Web site (*http://*