

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Farm Service Agency

### Rural Housing Service

### Rural Business-Cooperative Service

### Rural Utilities Service

### 7 CFR Parts 1910, 1941 and 1965

RIN 0560-AH01

### Revisions to Direct Farm Loan Programs Appraisal Regulations

**AGENCY:** Farm Service Agency, USDA

**ACTION:** Final rule.

**SUMMARY:** This rule amends the Farm Service Agency's (FSA) regulations governing real estate and chattel appraisals. In loan making, the rule allows FSA to obtain appraisals after loan funds become available and the applicant is determined eligible. Also, the rule increases the dollar threshold that determines when a real estate appraisal is required. In loan servicing, the rule raises the dollar threshold for real estate appraisals in partial release situations and allows the Agency in some cases to release real estate security without appraising the retained real estate. These changes will reduce FSA's appraisal costs and enhance the timeliness of program delivery of certain loan making and servicing actions.

**DATES:** This rule is effective July 2, 2004.

**FOR FURTHER INFORMATION CONTACT:**

Michael Cumpton, Loan Servicing and Property Management Division, United States Department of Agriculture, Farm Service Agency, STOP 0523, 1400 Independence Avenue, SW., Washington, DC 20250-0523, telephone: 202-690-4014; e-mail: [mike\\_cumpton@wdc.usda.gov](mailto:mike_cumpton@wdc.usda.gov).

**SUPPLEMENTARY INFORMATION:**

### Discussion of the Final Rule

This rule amends the regulations that govern the requirement for appraisals for FSA Farm Loan Programs (FLP) direct loans. In response to the proposed rule published August 21, 2003 (68 FR 50479-50481), four comments were received. One comment was from a farm interest group and the other comments were from private citizens. Most aspects of the proposed rule received comments, with some respondents disagreeing with all changes. Two of the four comments received were vague or presented general observations that were not specific to the proposed rule. They included statements that FSA appraisals should be done in a fair and honest manner and that none of the proposals should be adopted. No changes were made to the rule as a result of these general comments. The remaining public comments are summarized as follows:

One respondent supported the proposal to allow FSA to approve loans with the condition that an acceptable appraisal, which reflects at least adequate collateral for the loan, will be obtained prior to loan closing. The respondent agreed that this would result in cost savings to the Government and provide better service to the applicant. The respondent also requested that the Agency adopt clear regulatory deadlines for completing the appraisal. The Agency believes that while delays in funding can occur, the appraisal requirement will not cause any additional delay in most loan closings. FSA will continue to monitor all applications closely to minimize any delays in ordering and funding appraisals, and this suggestion was not adopted.

One respondent stated that the FSA loan official should be given the latitude to decide whether a chattel or real estate appraisal is needed before loan approval. Currently, FSA's standard procedure allows the loan official to decide at what point in the loan-approval process appraisals will be completed. Therefore, no changes are being made to FSA policy due to this comment.

Two respondents supported the proposal to require a real-estate appraisal when real estate is taken as primary security for an operating loan only when the amount of the loan to be secured by the real estate exceeds

\$50,000. Previously, the regulation provided no set threshold dollar amount. The respondents agreed with FSA that adoption of the proposed rule will provide cost savings to the Government by reducing appraisal expenses and also will be consistent with the Lo-Doc requirements. As part of the Agency's streamlining project, Lo-Doc regulations were designed to reduce the time from receipt of a loan application to the disbursement of operating loan funds to a borrower. The proposed rule is adopted on this issue without change.

Two respondents commented on the proposal to increase the transaction amount triggering the need for a real-estate appraisal referenced in 7 CFR 1965.13(d), from \$10,000 to \$25,000. One respondent felt the limit should be changed from \$10,000 to \$50,000 because the \$25,000 limit is already exceeded by "many small real-estate transactions." The other respondent supported the change because they felt it increased farmers' flexibility by eliminating some potential delays in processing. The Agency believes that the \$25,000 limit strikes a reasonable balance between cost savings and convenience for the borrower and local FSA personnel and the protection of the Government's interest. Further, direct FLP loans are specifically targeted to family farmers in need of supervised credit, and transactions above the \$25,000 limit should receive a higher level of supervision. Therefore, the comment suggesting a \$50,000 limit is not adopted.

FSA is currently required to appraise the real property retained when processing a partial release. This ensures that the property retained by the borrower, after the sale, is not adversely affected by the loss of the tract sold, such as where the sale removes access to a paved road. The Agency proposed to eliminate this requirement, in most cases, because this determination can usually be made without an appraisal. FSA may still obtain an appraisal on the property to be sold or retained when necessary to protect the Government's financial interests.

FSA received two comments on this proposal. One respondent supported the change, but indicated that language that allows the use of an existing FSA appraisal, as long as it is less than one year old, was removed. The respondent

is correct. However the rule refers to 7 CFR 761.7, which states that an existing appraisal can be used if certain conditions are met and the appraisal is less than 12 months old. Therefore, the proposed language will be adopted.

The other respondent thought the rule was confusing and advocated a policy that would allow local FSA officials to waive all appraisals if there would be "obvious value in the property being retained." This comment suggests that the controlling factor in the Agency's decision is the overall amount of remaining security, when, in fact, it is that the remaining security is not harmed by the transaction. If the borrower is receiving adequate compensation for the property sold and all other regulatory requirements are met, the Agency may still grant the release even if the value of the remaining security is inadequate. The appraised value of the remaining security is not relevant to the decision as long as the value of the retained property is not reduced by the loss of the property released. The Agency also believes that the policy suggested by the respondent is too subjective and could lead to disparate treatment from office to office. Therefore, the comment is not adopted and the proposed language remains unchanged.

#### **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**

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 FSA 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.

In this rule, FSA revises both loan-making and loan-servicing regulations. In loan making, the Agency will not require a real estate appraisal completed by a certified general appraiser when real estate is used to secure an operating loan (OL) of less than \$50,000. This action will affect less than 5 percent of OL's processed per year, or approximately 720 applicants, and will result in annual savings to the Agency of approximately \$540,000 (\$750/

appraisal). In loan servicing, the Agency will increase the dollar threshold for requiring a real estate appraisal be completed by a certified general appraiser from \$10,000 to \$25,000 when considering partial releases, subordinations, exchanges, or other real estate servicing actions. The Agency estimates that this will eliminate the need for approximately 150 real estate appraisals, for annual savings to the Agency of approximately \$112,500.

The Agency did not propose to impose any additional cost on the borrowers. In fact, the reduced need for appraisals should benefit borrowers with increased timeliness of loan decisions by the Agency. 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 Impact Statement**

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 part 799, and part 1940, subpart G. FSA has completed an environmental evaluation and concluded that 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 E.O. 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) no retroactive effect will be given to this rule; and (3) administrative proceedings in accordance with 7 CFR part 11 must be exhausted before bringing suit in court challenging action taken under this rule unless those regulations specifically allow bringing suit at an earlier time.

#### **Executive Order 12372**

For reasons set forth in the Notice relating to 7 CFR part 3015, subpart V published June 24, 1983 (48 FR 29115),

the programs and activities within this rule are excluded from the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

#### **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. Agencies generally must prepare a written statement, including a cost benefit analysis, for proposed and final rules with Federal mandates that may result in expenditures of \$100 million or more in any 1 year for State, local, or tribal governments, in the aggregate, or to the private sector. UMRA generally requires agencies to consider alternatives and adopt the more cost effective or least burdensome alternative that achieves the objectives of the rule. This final 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 final 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, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. Nor does this final rule impose substantial direct compliance costs on State and local governments. Therefore, consultation with the States is not required.

#### **Paperwork Reduction Act**

This rule contains no new information collections that require approval under the Paperwork Reduction Act of 1995 for information collections previously approved by OMB under control numbers 0560–0158, 0560–0162, and 0560–0178.

#### **Federal Assistance Programs**

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

- 10.404B—Emergency Loans
- 10.406B—Farm Operating Loans
- 10.407B—Farm Ownership Loans

#### **List of Subjects**

##### *7 CFR Part 1910*

Agriculture, Credit, Loan programs—housing and community development, Low and moderate income housing, Sex discrimination.

**7 CFR Part 1941**

Crops, Livestock, Loan programs—agriculture, Rural areas, Youth.

**7 CFR Part 1965**

Foreclosure, Credit, Loan programs—agriculture, Loan programs—housing and community development, Rural areas.

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

**PART 1910—GENERAL**

■ 1. The authority citation for part 1910 continues to read as follows:

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

**Subpart A—Receiving and Processing Applications**

■ 2. Amend § 1910.4 by removing paragraph (b)(21) and by redesignating paragraph (b)(22) as new paragraph (b)(21).

■ 3. In § 1910.4, revise paragraph (j)(1)(i) to read as follows:

**§ 1910.4 Processing applications.**

\* \* \* \* \*

(j) \* \* \*  
(1) \* \* \*

(i) Receipt by the applicant of a signed copy of the Agency's request for obligation of funds on the appropriate Agency form is written notice of loan approval and any conditions that must be met prior to loan closing. Loan approval conditions may include, but are not limited to, obtaining required real estate and chattel appraisals.

\* \* \* \* \*

**PART 1941—OPERATING LOANS**

■ 4. The authority citation for part 1941 continues to read as follows:

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

**Subpart A—Operating Loan Policies, Procedures, and Authorizations**

■ 5. Revise § 1941.25(a)(4) to read as follows:

**§ 1941.25 Appraisals.**

(a) \* \* \*

(4) A real estate appraisal is required when real estate is taken as primary security, as defined in § 1941.4, and the amount of the loan to be secured by the real estate exceeds \$50,000.

\* \* \* \* \*

**PART 1965—REAL PROPERTY**

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

**Authority:** 5 U.S.C. 301, 7 U.S.C. 1989 and 42 U.S.C. 1480.

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

■ 7. In § 1965.13(d) revise the introductory paragraph to read as follows:

**§ 1965.13 Consent by partial release or otherwise to sale, exchange or other disposition of a portion of or interest in security, except leases.**

\* \* \* \* \*

(d) *Appraisals.* A new appraisal report for the security to be transferred or released will be obtained in accordance with § 761.7 of this title as necessary to protect the financial interests of the Government or when the transaction involves more than \$25,000. A new appraisal report for the security to be retained will be obtained in accordance with that section as necessary to protect the financial interests of the Government. Appraisal reports under this section may show the present market value of the property being transferred or released and the property being retained on a single appraisal report or on separate appraisal reports. The value of rights to mining products, gravel, oil, gas, coal or other minerals will be specifically included as a part of the appraised value of the real estate security.

\* \* \* \* \*

Signed in Washington, DC, on May 19, 2004.

**J.B. Penn,**

*Under Secretary for Farm and Foreign Agricultural Services.*

[FR Doc. 04-12202 Filed 6-1-04; 8:45 am]

BILLING CODE 3410-05-P

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 39**

[Docket No. 2003-NM-216-AD; Amendment 39-13646; AD 2004-11-01]

RIN 2120-AA64

**Airworthiness Directives; Raytheon Model BAe.125 Series 800A (Including C-29A and U-125 Variant) and 800B Airplanes; and Model Hawker 800 (Including U-125A Variant), and 800XP Airplanes**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to certain Raytheon Model

BAe.125 series 800A (including C-29A and U-125 variant) and 800B airplanes; and Model Hawker 800 (including U-125A variant) and 800XP airplanes; that requires a functional test of the engine fire extinguishing wiring for the appropriate installation; verification of the correct wiring connector installation; correction of wiring if necessary; and installation of new marker bands. This action is necessary to prevent incorrect wiring of the engine fire extinguisher bottles, which could result in one or both fire extinguisher bottles being discharged into the wrong engine nacelle. This action is intended to address the identified unsafe condition.

**DATES:** Effective July 7, 2004.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 7, 2004.

**ADDRESSES:** The service information referenced in this AD may be obtained from Raytheon Aircraft Company, Department 62, P.O. Box 85, Wichita, Kansas 67201-0085. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741-6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

**FOR FURTHER INFORMATION CONTACT:** Jeff Pretz, Aerospace Engineer, Airframe and Propulsion Branch, ACE-118W, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946-4153; fax (316) 946-4107.

**SUPPLEMENTARY INFORMATION:** A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Raytheon Model BAe.125 series 800A (including C-29A and U-125 variant) and 800B airplanes; and Model Hawker 800 (including U-125A variant) and 800XP airplanes; was published in the **Federal Register** on February 26, 2004 (69 FR 8880). That action proposed to require a functional test of the engine fire extinguishing wiring for the appropriate installation; verification of the correct