

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Rural Housing Service

### Rural Business-Cooperative Service

### Rural Utilities Service

### Farm Service Agency

### 7 CFR Part 1951

RIN 0560-AF78

### Farm Loan Programs Account Servicing Policies—Servicing Shared Appreciation Agreements

**AGENCIES:** Rural Housing Service, Rural Business-Cooperative Service, Rural Utilities Service, and Farm Service Agency, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** The Farm Service Agency (FSA) is proposing to amend the Shared Appreciation Agreement and the servicing of Shared Appreciation Agreements. The Shared Appreciation Agreement ensures that FSA shares in any appreciation of real estate security when a farm borrower has received a writedown of a portion of his or her FSA debt. The amount due can be paid in full or amortized when the Shared Appreciation Agreement matures or is triggered during the term of the agreement. The changes will allow the value of some capital improvements made during the term of the Shared Appreciation Agreement to be deducted from recapture, change the maturity period of future Shared Appreciation Agreements from 10 years to 5 years, and reduce the interest rate on Shared Appreciation loans to the Farm Program Homestead Protection rate. These changes will give borrowers an opportunity to repay a portion of the FSA debt that was written off, while still ensuring that the Government promptly recaptures some appreciation of the collateral. This rule will also improve Agency security during the term covered by the Shared Appreciation Agreement.

**DATES:** Comments on this rule and on the information collections must be submitted by January 10, 2000 to be assured consideration.

**ADDRESSES:** Submit written comments to Director, Farm Loan Programs, Loan Servicing and Property Management Division, United States Department of Agriculture, Farm Service Agency, STOP 0523, 1400 Independence Avenue, SW, Washington, DC 20250-0523.

**FOR FURTHER INFORMATION CONTACT:** Michael C. Cumpton, telephone (202) 690-4014; electronic mail: mike\_cumpton@wdc.fsa.usda.gov.

### SUPPLEMENTARY INFORMATION:

#### Executive Order 12866

This rule has been determined to be significant and was reviewed by the Office of Management and Budget under Executive Order 12866.

#### Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601-602), the undersigned has determined and certified by signature of this document that this rule will not have a significant economic impact on a substantial number of small entities. New provisions included in this rule will not impact a substantial number of small entities to a greater extent than large entities. Therefore, a regulatory flexibility analysis was not performed.

#### Environmental Evaluation

It is the determination of FSA that this action is not a major Federal action significantly affecting the environment. Therefore, in accordance with the National Environmental Policy Act of 1969, and 7 CFR part 1940, subpart G, an Environmental Impact Statement is not required.

#### Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988, Civil Justice Reform. In accordance with this rule: (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 parts 11 and 780 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 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 more 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.

#### Paperwork Reduction Act

The amendments to 7 CFR part 1951 set forth in this proposed rule require no revisions to the information collection requirements that were previously approved by OMB under the provisions of 44 U.S.C. chapter 35.

*Title:* 7 CFR 1951-S, Farmer Program Account Servicing Policies.

*OMB Number:* 0560-0161.

*Expiration Date of Approval:* January 31, 2001.

*Type of Request:* Revision of a currently approved information collection.

*Abstract:* The information collected under OMB Number 0560-0161, as identified above, is needed in order for FSA to effectively administer the regulation relating to the servicing of delinquent direct FSA farm loans. The information is collected by the loan official in order to document the

borrower's eligibility for specific loan servicing actions. The reporting requirements imposed on the public by the regulations set out in 7 CFR 1951-S are necessary to administer the loan program in accordance with statutory requirements, are consistent with commonly performed lending practices, and are necessary to protect the Government's financial interest.

This proposed rule—to provide for the exclusion of the value of some capital improvements when determining the amount of shared appreciation recapture due, reduce the term of the Shared Appreciation Agreement, and reduce the interest rate on amortized shared appreciation amounts—is expected to result in no increase in the number of applicants for loan servicing nor increase the time required to apply. The other information collection requirements approved under this control number will not change. Therefore, no request for revision is being made.

*Estimate of Burden:* Public reporting burden for this collection of information is estimated to average 1.4 hours per response.

*Respondents:* Individuals or households, businesses or other for profit and farms.

*Estimated Number of Respondents:* 6,100.

*Estimated Number of Responses per Respondent:* 1.

*Estimated Total Annual Burden on Respondents:* 8,588 hours.

Proposed topics for comment include:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments should be sent to the, Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Agriculture, Washington, DC 20503 and to Michael C. Cumpston, Senior Loan Officer, USDA, FSA, Farm Loan Programs Loan Servicing Division, Farm Service Agency, USDA, 1400 Independence Ave., SW, STOP 0523, Washington, DC 20250-0523: Comments regarding

paperwork burden will be summarized and included in the request for OMB approval of the information collection. All comments will also become a matter of public record.

#### **Federal Assistance Programs**

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

10.407—Farm Ownership Loans

#### **Discussion of the Proposed Rule**

The Shared Appreciation Agreement was first issued by the Farmers Home Administration (now the Farm Service Agency (FSA)) as an exhibit to 7 CFR part 1951, subpart S in accordance with the Agricultural Credit Act of 1987 to enable the Agency to recapture a portion of the government debt that was written down from farm loan programs that assisted delinquent or financially distressed family farmers. Writedown options include partial debt forgiveness if the borrower can show a positive cash flow on the ongoing farm operation and the action is in the best financial interest of the Government. In those instances where FSA forgives debt through a debt writedown and has real estate security, the borrower enters into a Shared Appreciation Agreement with the Government so FSA can share in any future appreciation of the real estate. Currently, over 11,900 Shared Appreciation Agreements have been executed on debt writedown of over \$1.7 billion. Approximately 6,500 of these agreements are currently in effect and will become due over the next 10 years. The agreement states that if repayment is triggered within 4 years of entering into the agreement, the borrower owes the Agency 75 percent of any positive appreciation of the real estate security and 50 percent if the agreement is triggered after 4 years. In its present form, the Shared Appreciation Agreement states that repayment can be triggered if the Agency accelerates the promissory notes or the borrower pays in full, stops farming, or conveys the property. If none of these actions occurs in a 10 year period and the Shared Appreciation Agreement reaches maturity, then repayment is automatically due. The maximum amount to be recaptured cannot exceed the amount of the writedown received by the borrower. Currently under § 1951.914(e) (63 FR 6627, 6629, February 10, 1998), if the Shared Appreciation Agreement is triggered by some action other than acceleration, satisfaction of the debt, or the cessation of farming, the amount due can be amortized for up to 25 years at nonprogram rates if the borrower can

develop a farm business plan with a positive cash flow.

FSA proposes three changes to 7 CFR part 1951, subpart S. The term of new Shared Appreciation Agreements will be reduced to 5 years. This will reduce the burden of the Agency in monitoring the Shared Appreciation Agreements and allow the farmer to plan for the future without a contingent liability in the distant future. Next, allowances will be made for certain capital improvements made to property covered by an existing or future Shared Appreciation Agreement. The contributory value of capital improvements will be deducted from the appraised value calculated at the time of the triggering event or at the end of the agreement and will reduce the amount due. The Agency proposes that this rule will allow a deduction for the value of certain improvements involved in all Shared Appreciation Agreements that have matured, provided that there has been no agreement or resolution to pay the amount due, and all future agreements. The proposal allows farmers to develop and better maintain their real estate. This proposed rule intends changes to FSA direct loans only. The term reduction and value of capital improvement exclusion may be considered in a separate rulemaking document involving the FSA Guaranteed Loan Program. However, any comments on this modification as it applies to the Guaranteed Loan Program will also be considered. Finally, the agency proposes that the interest rate charged on Shared Appreciation loans, which are approved when a borrower cannot pay the shared appreciation due, will be reduced from the current nonprogram rate to near the Federal borrowing rate. This will allow borrowers easier access to the amortization option and, in turn, allow greater government recapture on debt writedowns.

#### **List of Subjects in 7 CFR Part 1951**

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

Accordingly, 7 CFR part 1951 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 S—Farm Loan Programs Account Servicing Policy

2. Amend § 1951.914 by revising paragraphs (b) introductory text, (c)(1), (e)(6) and (e)(9) to read as follows:

### § 1951.914 Servicing shared appreciation agreements.

\* \* \* \* \*

(b) *When shared appreciation is due.* Shared Appreciation is due at the end of the 5 year term of the Shared Appreciation Agreement, or sooner, if one of the following events occurs:

\* \* \* \* \*

(c) \* \* \*

(1) The current market value of the real estate property will be determined based on a current appraisal. If a dwelling, barn, grain storage bin, or silo was constructed on the property during the term of the Shared Appreciation Agreement, its contributory value, as determined by an FSA appraisal, will be deducted from the value of the property for calculation of appreciation. If the new item is a replacement for a like item that existed when the Shared Appreciation Agreement was executed or the original item was notably expanded, such as the addition of rooms to a home, only the value added by the new or expanded item that increases the value of the original item will be deducted from the current market value. If only a portion of the real estate is being sold, or has been sold, an appraisal will be done only on the real estate being considered for release. In the event of a partial sale, an appraisal may be required to determine the market value of the property at the time the Shared Appreciation Agreement was signed if such value cannot be obtained through another method.

\* \* \* \* \*

(e) \* \* \*

(6) The interest rate will be the Farm Program Homestead Protection rate contained in RD Instruction 440.1 (available in any FSA office.)

\* \* \* \* \*

(9) Unless serviced in accordance with this paragraph, the loan for the repayment of the shared appreciation amount will be closed and serviced in accordance with subpart J of this part. If the borrower has outstanding Farm Loan Programs loans, and becomes delinquent or financially distressed in accordance with § 1951.906, the loan for the repayment of the Shared Appreciation Agreement may be considered for reamortization as set forth in § 1951.909(e).

Signed in Washington, DC, on October 31, 1999.

**August Schumacher, Jr.,**

*Under Secretary for Farm and Foreign  
Agricultural Services.*

[FR Doc. 99-29396 Filed 11-9-99; 8:45 am]

BILLING CODE 3410-05-P

## DEPARTMENT OF AGRICULTURE

### Food Safety and Inspection Service

#### 9 CFR Part 391

[Docket No. 99-045P]

#### Fee Increase for Meat and Poultry Inspection Services

**AGENCY:** Food Safety and Inspection Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** The Food Safety and Inspection Service (FSIS) is proposing to increase the fees FSIS charges meat and poultry establishments, importers, and exporters for providing voluntary inspection services, overtime and holiday inspection services, identification services, certification services, and laboratory services. These fee increases reflect the increased cost of inspection, the national and locality pay raise for Federal employees (proposed 4.8 percent effective January 2000), the increased laboratory costs, and the applicable travel and operating costs. FSIS is proposing to make the fee increases effective January 2, 2000. At this time, FSIS is not proposing to amend the fee for the Accredited Laboratory Program.

**DATES:** Comments must be received by December 10, 1999.

**ADDRESSES:** Submit one original and two copies of written comments to FSIS Docket Clerk, Docket #99-045P, U.S. Department of Agriculture, Food Safety and Inspection Service, Room 102, Cotton Annex, 300 12th Street, SW., Washington, DC 20250-3700. All comments submitted in response to this proposal will be available for public inspection in the Docket Clerk's Office between 8:30 a.m. and 4:30 p.m., Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** For information concerning policy issues, contact Daniel Engeljohn, Ph.D., Director, Regulations Development and Analysis Division, Office of Policy, Program Development, and Evaluation, FSIS, U.S. Department of Agriculture, Room 112, Cotton Annex, 300 12th Street, SW., Washington, DC 20250, (202) 720-5627, fax number (202) 690-0486.

For information concerning fee development, contact Michael B. Zimmerer, Director, Financial Management Division, Office of Management, FSIS, U.S. Department of Agriculture, Room 2130-S, 1400 Independence Avenue, SW., Washington, DC 20250, (202) 720-3552.

## SUPPLEMENTARY INFORMATION:

### Background

The Federal Meat Inspection Act (FMIA) and the Poultry Products Inspection Act (PPIA) provide for mandatory inspection by Federal inspectors of meat and poultry slaughtered or processed at official establishments. Such inspection is required to ensure the safety, wholesomeness, and proper labeling of meat and poultry. The cost of mandatory inspection (excluding such services performed on holidays or on an overtime basis) is borne by FSIS.

In addition to mandatory inspection, FSIS provides a range of voluntary inspection, certification, and identification services for meat and poultry. Under the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*), FSIS provides these services to assist in the orderly marketing of various animal products and byproducts not subject to the FMIA or the PPIA. These services include the certification of technical animal fats and the inspection of exotic animal products. FSIS is required to recover the costs of voluntary inspection, certification, and identification services.

FSIS also provides certain voluntary laboratory services that establishments or others may request FSIS to perform. The cost of these services, which are provided under the Agricultural Marketing Act of 1946, must be recovered by FSIS. Laboratory services are provided for four types of analytic testing. These are: microbiological testing, residue chemistry tests, food composition tests, and pathology testing.

Each year, FSIS expects to review the fees that it charges for providing overtime and holiday inspection services, voluntary inspection, identification, and certification services, and laboratory services, and to perform a cost analysis to determine whether the fees it has established are adequate to recover the costs that it incurs in providing the services. In its analysis of projected costs for January 1, 2000 to September 30, 2000, FSIS has identified increases in the costs that it will incur. FSIS is not proposing an increase in the fees for full calendar year 2000 because FSIS intends to propose a new fee