

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

Office of the Secretary

7 CFR Part 3

Debt Management

AGENCY: Office of the Secretary, USDA.

ACTION: Proposed rule.

SUMMARY: The United States Department of Agriculture (USDA) proposes to amend its regulations that govern the management of debts owed to it by program participants and other debtors. The rule proposes changes to existing regulations to further implement the Debt Collection Improvement Act of 1996 (DCIA) and the Federal Claims Collection Standards. The changes will affect USDA requirements for collection and settlement of debts, including administrative offset of eligible payments, and referral to the Department of the Treasury (Treasury) for collection. These changes are intended to ensure that USDA debt collection procedures comply with current laws and Treasury regulations governing Federal debt management.

DATES: Comments should be submitted on or before July 29, 2003, in order to be ensured of consideration. Comments received after this date may be considered to the extent practicable.

ADDRESSES: Comments should be sent to Dale Theurer, Credit, Travel, and Accounting Policy Division, Office of the Chief Financial Officer, Department of Agriculture, Mail Stop 9010, Room 3417 South, 1400 Independence Avenue, SW., Washington, DC 20250. Comments may also be submitted via electronic mail to dtheurer@cfo.usda.gov. All comments, including names and addresses will become a matter of public record. A copy of this rule, and the comments received, may be obtained by contacting Mr. Theurer at (202) 720-1167.

FOR FURTHER INFORMATION CONTACT: Dale Theurer at (202) 720-1167. 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:

Classification

This rule is not a significant regulatory action as defined in Executive Order 12866.

Regulatory Flexibility Act

USDA certifies that this proposed rule will not have a significant impact on a substantial number of small entities as defined in the Regulatory Flexibility Act, Public Law 96-354, as amended (5 U.S.C. 601 *et seq.*).

Executive Order 12988

The proposed rule has been reviewed in accordance with Executive Order 12988. If this proposed rule is adopted, it preempts State laws that are inconsistent with its provisions. Before a judicial action may be brought concerning this rule or action taken under this rule, all administrative remedies must be exhausted.

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, for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Paperwork Reduction Act

USDA has determined that the provisions of the Paperwork Reduction Act of 1995, as amended, 44 U.S.C. 3501, *et seq.*, do not apply to any collections of information contained in this rule because any such collections of information are made during the conduct of administrative action taken by an agency against specific individuals or entities. 5 CFR 1320.4(a)(2).

Background and Purpose

On November 7, 2001, USDA published an advanced notice of proposed rulemaking (66 FR 56247) for revision of the USDA debt management regulations, 7 CFR part 3, to reflect promulgation of the revised Federal

Claims Collection Standards (FCCS) and to incorporate other USDA specific changes with respect to collection of debt by administrative offset. No comments were received on this notice.

USDA now publishes a rule proposing revisions to 7 CFR part 3 to comply with FCCS and further implement the Debt Collection Improvement Act of 1996. The new regulation when final will apply to all USDA agencies and corporations of USDA, such as the Commodity Credit Corporation (CCC). The regulations at 7 CFR 3.21(b) currently provide that each USDA agency may adopt their own debt collection regulations to apply in lieu of 7 CFR part 3. However, this proposed rule does not contemplate the promulgation of separate USDA agency regulations in lieu of 7 CFR part 3. Instead, 7 CFR part 3 will establish general debt collection procedures for all USDA agencies, except where an agency needs supplemental regulations to meet program-specific legal requirements. A specific provision refers the reader to 7 CFR part 1403 for CCC debt collection procedures, but it is the intent of CCC to adopt 7 CFR part 3 generally in a forthcoming revision of 7 CFR part 1403.

The current subpart A of part 3 is an original debt settlement authority provided specifically to USDA for specific credit and farm programs in the Act of December 20, 1944, as amended (12 U.S.C. 1150 *et seq.*) (1944 Act). The standards and sums in the 1944 Act are mostly obsolete, yet they remain in effect. At some point, the provisions of the 1944 Act were expanded upon with some additional regulatory requirements reflected in subpart A, and it apparently formed the core of USDA debt collection regulations until enactment of the Debt Collection Act of 1982, Public Law 97-365, and the subsequent promulgation of 7 CFR part 3, subpart B in implementation of that Act. However, subpart A still reads as if applicable to all USDA debt collection activities, and one program was recently added to the list of programs in § 3.10 even though those programs are not designated by law in the 1944 Act.

USDA finds that the authorities provided in the 1944 Act would be rarely used, if ever. Accordingly, this rule proposes to remove the text of the current 7 CFR part 3, subpart A, from 7 CFR part 3 entirely. To the extent that