

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 proposed 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 proposed 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 proposed 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 Chapter XVIII contain no new information collections that require approval under the Paperwork Burden Reduction Act of 1995 for OMB 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:

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

Discussion of the Proposed Rule

This rule proposes to amend the regulations that govern the requirement for appraisals for FSA Farm Loan Programs (FLP) direct loans.

Application Processing

FSA proposes to remove the requirement for obtaining a real estate or chattel appraisal as part of the application process in 7 CFR 1910.4(b)(21). Under existing regulations, when real estate is to be

taken as security, FSA usually obtains the appraisal by contracting with a qualified appraiser, prior to approval of a loan. Chattel appraisals are completed by FSA employees who have been adequately trained and delegated chattel appraisal authority. The proposed rule will allow FSA to approve loans with the condition that an acceptable appraisal, which reflects at least adequate collateral for the loan, will be obtained before the loan is closed. Therefore, FSA will not be required to wait on a real estate appraisal and may conditionally approve the loan.

The primary benefit to FSA is one of cost savings. As previously discussed, existing procedures require that an appraisal be obtained prior to loan approval. Because availability of loan funds is subject to Congressional appropriations, all FSA farm loans are approved subject to the availability of funds. When appropriation levels are inadequate to meet loan demand, approved applications are held until funding becomes available. Sometimes, a year or more may pass before loan funds become available for an applicant, particularly in the farm ownership (FO) loan program. In such cases, the real estate appraisal purchased prior to loan approval is outdated when funding becomes available, and FSA must purchase a new appraisal. Thus, FSA pays for two real estate appraisals for one loan. Under this proposed rule, FSA will not purchase an appraisal until funds are available for the loan, thus, eliminating the need for second appraisals and the costs associated with them. While delays in funding can occur, the appraisal requirement will not cause any additional delay in most loan closings as loan funds are usually available without delay. On the Agency's, "Request for Obligations of Funds," applicants will agree that the 15-working day loan closing requirement may be exceeded to obtain the necessary appraisals. FSA will endeavor to minimize any delays. This change does not affect FSA's responsibility for ordering and funding the cost of real estate and chattel appraisals for loan making purposes.

Operating Loan Real Estate Appraisal Limits

FSA proposes to amend 7 CFR 1941.25 to require that a real estate appraisal be obtained when real estate is taken as primary security for an operating loan (OL) and the amount of the loan to be secured by the real estate exceeds \$50,000. The section currently provides no threshold dollar amount. FSA has determined that OL loans of \$50,000 or less generally constitute less

risk than larger loans due to the relatively small dollar amount involved. In addition, operations with credit needs in this range are normally not complex. Loan officials will no longer have to wait for an appraisal in such cases before conducting a loan analysis and making a credit decision. Therefore, applicants will receive loan funds on a more timely basis. This revision adds consistency with the existing Low Documentation policy for operating loans of \$50,000 or less, reduces the number of real estate appraisals required, and reduces FSA's real estate appraisal expenses.

Real Estate Security Servicing

FSA proposes 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. This will reduce the number of appraisals required by the Agency when borrowers wish to sell some portion of their real estate. Also, FSA is currently required to appraise the real property retained when processing a partial release. This measure ensures that the property retained by the borrower, after the sale, is not adversely affected by the loss of the tract sold (such as when the sale removes access to a paved road). The proposed rule would eliminate this requirement in most cases as 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.

List of Subjects

Part 1910

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

Part 1941

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

Part 1965

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

Accordingly, 7 CFR chapter XVIII is proposed to be 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.