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DEPARTMENT OF AGRICULTURE

Rural Housing Service

Rural Business-Cooperative Service

Rural Utilities Service

Farm Service Agency

7 CFR Part 1951

RIN 0560-AG56

Prompt Disaster Set-Aside Consideration and Primary Loan Servicing Facilitation

AGENCY: Farm Service Agency, USDA.

ACTION: Final rule.

SUMMARY: Farm Service Agency (FSA) is amending its regulations for the Disaster Set-Aside (DSA) program to provide a disaster set-aside more quickly to those who can most benefit from the program. The changes also will reduce the Government's risk associated with the delay in debt collection by adding security requirements.

DATES: This rule is effective on October 27, 2003.

FOR FURTHER INFORMATION CONTACT: Michael Cumpton, 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, telephone (202) 690-4014; electronic mail: mike_cumpton@wdc.usda.gov.

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

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 67 FR 41869, June 20, 2002, 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 streamlining the Disaster Set-Aside (DSA) program, which postpones one delinquent loan installment to the end of the loan term. This rule somewhat limits the DSA program by increasing the security requirements, tightening the application timeframes and authorizing the program only for borrowers whose financial stress was caused by a designated natural disaster. While borrowers whose financial stress had been caused by low commodity prices had at one time been eligible for the DSA program, this authority applied only to low commodity prices in 1999, with an application deadline of August 31, 2000. This rule removes the low commodity price assistance aspect of the program. However, this authority previously expired on its own terms on August 31, 2000.

While the effect of these rule changes is to make fewer individuals eligible for the DSA program, the small entities affected by these changes may be eligible to receive more extensive debt restructuring known as Primary Loan Servicing (PLS), including reduced interest rates and debt writedown, to alleviate financial stress from designated natural disasters and/or low commodity prices. In FY 2002, 5,000 farm borrowers received PLS, the Agency's statutorily mandated debt restructuring tool. The DSA program, which is regulatory only, was used for only 834 farms. With these changes,

FSA estimates that 10 percent of these farms may no longer receive DSA assistance. However, without DSA assistance, the farms may then qualify for more wide ranging assistance under the PLS Program. The Agency estimates that the costs of applying for PLS may be greater than applying for DSA. However, Agency employees routinely assist farmers applying for PLS assistance, and the assistance that may be received will more than offset the costs. The eligibility standards for the two programs are similar. However, PLS assistance will more probably result in a farm becoming a viable small business. 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 proposed 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 of Environmental Quality (40 CFR Parts 1500-1508), and the FSA regulations for compliance with NEPA, 7 CFR part 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.