

the full term of the loan (which could be up to 40 years on a real estate loan or 15 years on a chattel loan), it is essential that the Government take all measures possible to ensure the continued adequacy and availability of security during the entire term of the loan.

Three commentors disagreed with the requirement for additional security while five others supported the requirement. Two commentors disagreed because they believed this would add psychological burden on the borrowers in a time of natural disaster. This comment related mainly to the proposed short timeframes which coincided with the occurrence of a disaster. The final rule lengthens these timeframes to allow the borrowers ample time to be considered for DSA without interfering with statutory requirements regarding PLS. However, the same commentors believed that the security requirement would adversely affect other creditors and local communities by circumventing lien priority considerations and payments to other creditors. The Agency believes that the rule has no effect on lien priorities. State laws will continue to govern perfected liens. Also, Agency regulations requiring the release of normal income proceeds for essential family living or farm operating expenses remain unchanged. Finally, commentors felt that local Agency officials would abuse their discretion in the determination of required security. In drafting this rule the Agency included specific security requirements in section 1951.957(b)(4) which lessen the possibility that local offices will abuse their discretion. However, the rule allows enough flexibility in security requirements to minimize disruptions to the farm operation while protecting the Agency from an inordinate amount of financial risk.

Two of the supportive commentors advocated reducing the additional security requirement to a maximum of 150 percent of the outstanding loan amount (although one of the two thought the requirement for additional security should include non-delinquent borrowers). Another supporter wanted to use the 150 percent requirement but increase the amount required to 150 percent of the total debt (including prior liens) on the residence instead of just the FSA debt. After considering these comments, the additional security requirements contained in section 1951.957(b)(4) will not be revised. These requirements are the same as the existing security requirements for delinquent borrowers serviced under the primary loan servicing program

contained in 7 CFR 1951.910(b). That regulation requires that delinquent borrowers provide the best lien obtainable on all assets that the borrower owns but adopts the exclusions contained in 7 CFR 1941.19(c). Generally items excluded from the FLP security are real or chattel property which would prevent the borrower from obtaining credit from other sources; could subject the Agency to additional costs as creditor; or are used for subsistence purposes. These security requirements and their exceptions have been contained in FPL's regulations since 1992 and are well understood by borrowers and FLP employees. Adopting these security requirements in the 1951-T process will assure consistency in FPL's loan servicing programs.

Submission of Historical Information

While two commentors supported the historical information requirements and development of a farm business plan, three other commentors disagreed with the requirement for submission of 5 years of financial records, including records from the time period of the disaster. Although clarified, these requirements were contained in the previous regulation by 7 CFR 1951.953(c)(2) and 1951.954(a)(6). Section 1951.953(c)(2) of the proposed rule simply clarified these requirements, which ensures that cash flow projections are supported by adequate historical data. This policy is consistent with FSA's current loan making (7 CFR 1910.4(b)(6)) and loan servicing regulations (7 CFR 1951.906, definition of a feasible plan) which generally require production and expense records for the previous five years, if the borrower has been farming during that time period.

Submission of Information as Required for Agency Consideration

Two commentors do not agree with the requirement that the borrower provide "any documentation required to support the cash flow projection." However, this language is in section 1951.954(a)(6) of the current regulation. It is essential for the development of an accurate farm business plan, as the Agency has no way to foresee any and all financial and production aspects of all operations that could need assistance. This language simply allows FSA to obtain documentation on aspects of an operation that are unique and cannot be foreseen or codified in the regulation. In order to ensure the future viability of the farming operation, save borrower equity, and reduce government losses, eligibility

requirements for DSA continue to require borrowers to develop a cash flow projection. The authority to request applicable documentation will, therefore, be retained.

Elimination of Legacy Language Regarding Low Commodity Prices and Second DSA

The proposed rule stated that language referring to past authority which allowed DSA due to low commodity prices and a second DSA for that purpose would be removed. Two commentors believe that this authority should be retained. One commentor supported the removal of the low commodity price language but preferred that the use of the words "natural disaster" be changed to "disaster" to allow FSA discretion on its use for economic disasters. FSA's current regulation at 7 CFR 1951.953 provides authorization for the DSA program for economic disasters based on low commodity prices through 1999 only, and requires that applications for that program be received by August 31, 2000. Because this aspect of the DSA program has expired, FSA in implementing the final rule will be deleting an expired authority. FSA believes that adverse economic conditions are more appropriately serviced through the statutorily mandated loan servicing program contained in 7 CFR part 1951, subpart S. That regulation, in section 1951.909(c)(1)(iv), authorizes a sequenced loan servicing program, starting with the least costly rescheduling/reamortization program through the most costly debt writedown program which allows debt restructuring of the present value of the loans to the net recovery value of the security and any non-essential assets, when adverse economic factors, not limited to an individual case, such as low market prices for agricultural commodities as compared to production costs reduce repayment ability. If FSA believes an additional regulatory program for economic disasters is required in future years, it will reactivate the 1951-T authority through the rulemaking process.

Limitation of Installments on Which DSA Can Be Used

The proposed rule stated that the amount that may be set aside would be limited to the amount the borrower is unable to pay the Agency from the production and marketing period in which the disaster occurred. It further limited DSA to the first scheduled annual installment due immediately after the disaster occurred. Three