

Notice and Comment

This rule is not being published for public notice or to solicit comment from interested parties as a proposed rule. It implements precise statutory requirements of both the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) (8 U.S.C. 1611, 1641) and the Consolidated Farm and Rural Development Act (CONACT) (7 U.S.C. 1921 *et seq.*), where the Agency has little or no leeway in terms of policy interpretation. Thus, the Agency is not required by 5 U.S.C. 553 to publish a notice of proposed rulemaking for its interpretive policy. This rule is published as final and is effective immediately.

Executive Order 12866

This final rule has been determined to be not significant under Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget (OMB).

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act, Public Law 96-534, (5 U.S.C. 601), FSA has determined that this rule will not have a significant economic impact on a substantial number of small entities. FLP applicants and borrowers are predominantly family-size farmers and ranchers and, as defined by the U.S. Small Business Administration, approximately 98 percent of all farmers are classified as small businesses. The provisions in this rule will not impact a substantial number of small entities to a greater extent than large entities. The intent of this rule is to implement legislation and makes non-substantive updates. Large entities are subject to these rules to the same extent as small entities. Therefore, a regulatory flexibility analysis was not performed.

Environmental Evaluation

The environmental impacts of this final 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 on Environmental Quality (40 CFR parts 1500-1508), and the FSA regulations for compliance with NEPA, 7 CFR parts 799, and 1940, subpart G. FSA completed an environmental evaluation and concluded that 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 final rule has been reviewed in accordance with Executive Order 12988. This rule preempts State laws to the extent any laws are inconsistent with it, and its provisions are not retroactive. Before legal action may be brought concerning this rule, administrative remedies under 7 CFR part 11 must be exhausted.

Executive Order 13132

The policies contained in this rule do not have any substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Nor does this rule impose substantial direct compliance costs on State and local governments. Therefore, consultation with the States is not required.

Unfunded Mandates

The rule contains no Federal mandates, as defined by title II of the UMRA. Thus, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Paperwork Reduction Act

The Agency's information collection requirements, currently approved under OMB control numbers 0560-0154, 0560-0155, 0560-0157, 0560-0159, 0560-0162, 0560-0167, and 0560-0178, are not affected by this final rule.

Federal Assistance Programs

The titles and numbers of the Federal assistance programs, as found in the Catalog of Federal Domestic Assistance, to which this final rule applies are:

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

Discussion of the Final Rule

Individual Citizenship Requirements

To be eligible for FSA Farm Loan Programs (FLP) loans, FSA regulations provide that an applicant must be a citizen of the United States or an alien lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act; indefinite parolees are not eligible for loans. This rule changes FLP direct and guaranteed loan eligibility provisions to require an applicant be a United States citizen, a United States non-citizen national, or a qualified alien under applicable Federal immigration laws. This revision is necessary to reflect

changes made by section 401 of the PRWORA (8 U.S.C. 1611) prohibiting aliens who are not qualified aliens from receiving Federal public benefits such as Federal loans.

Entity Citizenship Requirements

PRWORA requirements similarly are adopted for entity citizenship requirements for direct and guaranteed FLP loans. These regulations are amended to consistently require the majority interest of the entity to be held by members who are United States citizens, United States non-citizen nationals, or qualified aliens under applicable Federal immigration laws. These changes implement CONACT program requirements that for an entity applicant to be eligible for a farm programs loan, individuals holding a majority interest of such entity must be citizens of the United States. See 7 U.S.C. 1922, 1941, and 1961.

In addition, FSA regulations require that aliens must provide the appropriate forms from the Bureau of Citizenship and Immigration Services of the Department of Homeland Security (BCIS) to document their permanent residency. This rule updates these provisions to require that United States non-citizen nationals and qualified aliens must provide the appropriate documentation as to their immigration status, as required by the BCIS. This revision further implements section 401 of the PRWORA.

Prohibition to Finance Non-Farm Enterprises

This rule amends FSA regulations to clarify that direct farm operating and farm ownership loan funds cannot be used to finance non-farm enterprises. This rule adds limitations in 7 CFR 1941.17 and 1943.17 and removes 7 CFR 1941.23(b)(3) accordingly.

Clarify Definition of Socially Disadvantaged

Section 355 of the CONACT defines a "socially disadvantaged group" as a "group whose members have been subjected to racial, ethnic, or gender prejudice because of their identity as members of a group without regard to their individual qualities." This rule amends FSA regulations 7 CFR 1943.4 and 1955.103 to clarify that the term "socially disadvantaged applicant" refers to an applicant who is a member of a socially disadvantaged group.

Borrower Eligibility

Section 373(b) of the CONACT, in part, allows FSA to make annual operating loans to borrowers who have had debt forgiveness and who are