

PART 96—[REMOVED AND RESERVED]

■ 4a. Under the authority of 7 U.S.C. 1622 and 1624, part 96 is removed and reserved.

Dated: December 9, 2003

A.J. Yates,

Administrator, Agricultural Marketing Service.

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DEPARTMENT OF AGRICULTURE**Farm Service Agency****Rural Housing Service****Rural Business-Cooperative Service****Rural Utilities Service****7 CFR Parts 772, 1901, and 1951**

RIN 0560-AG67

Servicing Minor Program Loans

AGENCY: Farm Service Agency, USDA.

ACTION: Final rule.

SUMMARY: This rule consolidates, clarifies and revises the servicing regulations for the Minor Programs currently administered by the Farm Service Agency, Farm Loan Programs (FSA). Minor Program loans involve existing loans only since there is no longer funding for new loans in these programs. FSA Minor Programs consist of the following loan types: Grazing Association loans and Irrigation and Drainage Association loans previously administered by the U.S. Department of Agriculture's Rural Development (RD) mission area, and Non-Farm Enterprise and Recreation Loans made to individuals previously administered by FSA. Recreation loans to associations will continue to be serviced by the RD mission area.

EFFECTIVE DATE: January 15, 2004.

FOR FURTHER INFORMATION CONTACT: Mel Thompson, Senior Loan Officer, Farm Service Agency; telephone: (202) 720-7862; Facsimile: (202) 690-1196; e-mail: mel_thompson@wdc.usda.gov. 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:**Discussion of the Final Rule**

This rule consolidates and clarifies the servicing policies of the Farm

Service Agency's Minor Loan Programs. The Minor Programs were administered by the former Farmers Home Administration (FmHA). Under the discretionary authority of the Department of Agriculture Reorganization Act of 1994, Public Law 103-354, on October 20, 1994, the Individual-type loans (Non-Farm Enterprise and Recreation loans) were assigned to FSA. The Association-type loans (Grazing Associations and Irrigation and Drainage loans) were assigned to the RD mission area. Regulations for servicing the Association-type loans of these programs were found at 7 CFR part 1901, subpart E for civil rights compliance; 7 CFR part 1951, subpart E for servicing; 7 CFR part 1951, subpart F for graduation; 7 CFR part 1956, subpart C for debt settlement; and 7 CFR part 1962 subpart A for bankruptcy. Individual-type Minor Program loans are the Non-Farm Enterprise loans defined in 7 CFR 1941.4 and 1943.4 and which are a subgroup of FSA, Farm Operating and Farm Ownership loans; and Recreation loans, which are defined as Farm Loan Program (FLP) loans under 7 CFR 1951.906. Although these loans are no longer made by FSA, they are serviced as FLP loans in accordance with 7 CFR part 1951, subpart S.

Because the current delegation of these similar loan programs between the FSA and RD mission area is inefficient, this rule removes parts of regulations that are currently shared by FSA and the agencies of the RD mission area and establishes a consolidated FSA regulation governing these programs. Information not specific to the Minor Programs has been eliminated and language has been improved for readability.

On April 9, 2003, the Farm Service Agency published a proposed rule (68 FR 17320) requesting comments regarding proposed consolidation and revision of the rules affecting the FSA Minor Programs. A comment was received from an Agency employee regarding servicing violations of non-compliance with civil rights laws by Minor Program borrowers. The commentor suggested that the Agency provide notices and try to correct the violation rather than going right into liquidation.

The Agency is adopting the comment. The Agency has clarified its civil rights compliance standards contained in § 772.3(a) and (d) since FSA's civil rights compliance procedures contained in Departmental regulations at 7 CFR 15.8 and internal Departmental Memorandum 4330-002, March 3, 1999, available on the Departmental website,

also apply. The comment pertains only to association type loans (AMP) which are Federal financial assistance because the borrowers are the recipients of the Federal funding but are not the ultimate beneficiary of the program. See 7 CFR 15.2 for the definition of these terms in a civil rights context. In this situation FSA acts as an enforcement agent of civil rights laws, and no violations of civil rights laws by FSA have been alleged. Departmental Memorandum 4330-002, ¶ 9 establishes a detailed compliance procedure, which provides notice and the opportunity to correct the violation before enforcement proceedings are undertaken. Moreover, 7 CFR part 15, subpart A provides an informal and formal means of disputing compliance issues through a fact finding process. Since these additional authorities already apply to civil rights compliance reviews, FSA has referenced these standards in § 772.3.

In addition, the Agency is clarifying its liquidation policy. Section 772.16 is revised to state that for Association-Type loans (AMP), the notice of acceleration will include appeal rights. For Individual-Type loans (IMP), § 772.16 states that all appeals must be exhausted before the notice of acceleration is issued; however, the notice of acceleration itself is not appealable. Thus, for both types of Minor Program loans, borrowers can dispute factual issues before liquidation. FSA has maintained the different timing for appealing adverse Agency decisions. AMP loans were previously serviced by the RD mission area under regulations providing for appeals in the notice of acceleration. IMP loans serviced by FSA before this rule are still considered Farm Loan Program (FLP) loans which by regulation require that all appeals precede acceleration.

Executive Order 12866

This rule has been determined under Executive Order 12866 to be not significant and was not reviewed by the Office of Management and Budget.

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