

# Proposed Rules

Federal Register

Vol. 68, No. 162

Thursday, August 21, 2003

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Farm Service Agency

#### Rural Housing Service

#### Rural Business-Cooperative Service

#### Rural Utilities Service

### 7 CFR Parts 1910, 1941 and 1965

RIN 0560-AH01

#### Revisions to Direct Farm Loan Programs Appraisal Regulations

**AGENCY:** Farm Service Agency, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** This rule proposes to amend the Farm Service Agency's (FSA) regulations governing real estate and chattel appraisals. In the loan making process, the rule proposes to allow FSA to obtain appraisals after loan funds become available and the applicant is determined eligible. Also, the rule proposes to increase the dollar threshold that determines when a real estate appraisal is required. In loan servicing, the rule proposes to raise the dollar threshold for real estate appraisals in partial release situations, and allow the Agency to release real estate security without appraising the retained real estate in some cases. All these changes will reduce FSA's appraisal costs and enhance the timeliness of program delivery of certain loan making and servicing actions.

**DATES:** Comments on this rule must be received on or before October 20, 2003 to be given full consideration.

**ADDRESSES:** Written comments may be mailed to the Farm Service Agency, U.S. Department of Agriculture, Farm Loan Programs, Loan Servicing and Property Management Division, Attention: Director, 1400 Independence Avenue, SW., STOP 0523, Washington, DC 20250-0523, or comments will be accepted when submitted at <http://www.regulations.gov>. All written comments received in connection with

this rule will be available for public inspection 8:15 a.m.–4:45 p.m., Eastern Standard Time, except holidays, at 1250 Maryland Avenue, SW., Suite 500, Washington, DC 20024-0523.

**FOR FURTHER INFORMATION CONTACT:** Michael Cumpton, Senior Loan Officer, Farm Service Agency; telephone: 202-690-4014; Facsimile: 202-690-0949; E-mail: [mike\\_cumpton@wdc.usda.gov](mailto: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.

In this rule, FSA is proposing revisions to both loan making and loan servicing regulations. In loan making, the Agency will not require a real estate appraisal completed by a certified general appraiser when real estate is used to secure an operating loan (OL) of less than \$50,000. This action will affect less than 5 percent of the OL's processed per year, or approximately 720 applicants. This would result in an annual savings to the Agency of approximately \$540,000 (\$750/appraisal). In loan servicing, the Agency will increase the dollar threshold for requiring a certified real estate appraisal from \$10,000 to \$25,000 when considering partial releases, subordinations, exchanges, or other real estate servicing actions. The Agency estimates that this will eliminate the need for approximately 150 certified real estate appraisals, for a savings to the Agency annually of approximately \$112,500.

The Agency does not expect these changes to impose any additional cost

on the borrowers. In fact, the reduced need for appraisals should benefit borrowers with increased timeliness of loan decisions by the Agency. 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 Impact Statement

The environmental impacts of this 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 part 799, and part 1940, subpart G. FSA has 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 rule has been reviewed in accordance with E.O. 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) no retroactive effect will be given to this rule; and (3) administrative proceedings in accordance with 7 CFR part 11 must be exhausted before bringing suit in court challenging action taken under this rule unless those regulations specifically allow bringing suit at an earlier time.

##### Executive Order 12372

For reasons set forth in the Notice to 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), the programs and activities within this rule are excluded from the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

### 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.

**Subpart A—Receiving and Processing Applications**

2. In § 1910.4 revise paragraph (b) by removing paragraph 21 and redesignating paragraph 22 as paragraph 21.

3. In § 1910.4 revise paragraph (j)(1)(i) to read as follows:

**§ 1910.4 Processing applications.**

\* \* \* \* \*

(j) \* \* \*

(1) \* \* \*

(i) Receipt by the applicant of a signed copy of the Agency's request for obligation of funds on the appropriate Agency form is written notice of loan approval and any conditions that must be met prior to loan closing. Loan approval conditions may include, but are not limited to, obtaining required real estate and chattel appraisals.

\* \* \* \* \*

**PART 1941—OPERATING LOANS**

4. The authority citation for part 1941 continues to read as follows:

**Authority:** 5 U.S.C. 301 and 7 U.S.C. 1989.

**Subpart A—Operating Loan Policies, Procedures, and Authorizations**

5. Revise § 1941.25 paragraph (a)(4) to read as follows:

**§ 1941.25 Appraisals.**

(a) \* \* \*

(4) A real estate appraisal is required when real estate is taken as primary security, as defined in § 1941.4, and the amount of the loan to be secured by the real estate exceeds \$50,000.

\* \* \* \* \*

**PART 1965—REAL ESTATE**

6. The authority citation for part 1965 continues to read as follows:

**Authority:** 5 U.S.C. 301, 7 U.S.C. 1989 and 42 U.S.C. 1480.

**Subpart A—Servicing of Real Estate Security for Farm Loan Programs Loans and Certain Note-Only Cases**

7. In § 1965.13 revise introductory paragraph (d) to read as follows:

**§ 1965.13 Consent by partial release or otherwise to sale, exchange or other disposition of a portion of or interest in security, except leases.**

\* \* \* \* \*

(d) *Appraisals.* A new appraisal report for the security to be transferred or released will be obtained in accordance with § 761.7 of this title as necessary to protect the financial interests of the Government or when the transaction

involves more than \$25,000. A new appraisal report for the security to be retained will be obtained in accordance with that section as necessary to protect the financial interests of the Government. Appraisal reports under this section may show the present market value of the property being transferred or released and the property being retained on a single appraisal report or on separate appraisal reports. The value of rights to mining products, gravel, oil, gas, coal or other minerals will be specifically included as a part of the appraised value of the real estate security.

\* \* \* \* \*

Signed in Washington, DC, on August 14, 2003.

**J.B. Penn,**

*Under Secretary for Farm and Foreign Agricultural Services.*

[FR Doc. 03-21422 Filed 8-20-03; 8:45 am]

**BILLING CODE 3410-05-P**

**FEDERAL ELECTION COMMISSION****11 CFR Parts 100, 106, 114, 9004, and 9034**

[Notice 2003-14]

**Candidate Travel**

**AGENCY:** Federal Election Commission.  
**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Federal Election Commission requests comments on proposed changes to its rules covering the proper rates and timing for payment of candidate travel on private means of transportation that are not offered for commercial use, including government conveyances. The proposed rule would provide more comprehensive guidance than the current regulations by establishing a single, uniform valuation scheme for campaign travel that does not depend on whether the service provider is a corporation, labor organization, individual, partnership, limited liability company or other entity, or on whether the destination city is served by regularly scheduled commercial service. The proposed rules would apply to all Federal candidates including publicly funded presidential candidates. No final decisions have been made by the Commission on any of the proposed revisions in this Notice. Further information is provided in the supplementary information that follows.  
**DATES:** Comments must be received on or before September 19, 2003. If the Commission receives sufficient requests to testify, it will hold a hearing on these proposed rules on October 1, 2003, at

9:30 a.m. Commenters wishing to testify at the hearing must so indicate in their written or electronic comments.

**ADDRESSES:** All comments should be addressed to Ms. Mai T. Dinh, Acting Assistant General Counsel, and must be submitted in either electronic or written form. Electronic mail comments should be sent to *travel2003@fec.gov* and must include the full name, electronic mail address and postal service address of the commenter. Electronic mail comments that do not contain the full name, electronic mail address and postal service address of the commenter will not be considered. If the electronic mail comments include an attachment, the attachment must be in the Adobe Acrobat (.pdf) or Microsoft Word (.doc) format. Faxed comments should be sent to (202) 219-3923, with printed copy follow-up to ensure legibility. Written comments and printed copies of faxed comments should be sent to the Federal Election Commission, 999 E Street, NW., Washington, DC 20463.

Commenters are strongly encouraged to submit comments electronically to ensure timely receipt and consideration. The Commission will make every effort to post public comments on its Web site within ten business days of the close of the comment period. The hearing will be held in the Commission's ninth floor meeting room, 999 E Street NW., Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Ms. Mai T. Dinh, Acting Assistant General Counsel, or Mr. Richard T. Ewell, Attorney, 999 E Street NW., Washington, DC 20463, (202) 694-1650 or (800) 424-9530.

**SUPPLEMENTARY INFORMATION:** The Commission is proposing several changes to its rules to establish a simple, uniform payment scheme covering all candidate travel on either government or private aircraft and other conveyances. The current regulation at 11 CFR 114.9(e) establishes the timing for reimbursement and the amount that a candidate must reimburse a corporation or labor organization for the use of a private airplane or other means of transportation, but does not address means of travel furnished by individuals, partnerships, and other entities. The current rules in section 114.9(e) are also not fully consistent with the Commission's treatment of similar travel by presidential and vice-presidential candidates using government-provided transportation under 11 CFR 9004.7 and 9034.7.