

**United States Department of Agriculture  
Farm Service Agency  
Supporting Statement  
OMB Control Number 0560-New  
7 CFR 766, Direct Loan Servicing - Special**

This document supports the information collection requirements of the final rule to be published as part of the Farm Service Agency's (FSA) effort to reorganize and consolidate the regulations governing its Farm Loan Programs (FLP). In this effort, the agency consolidated several CFR subparts and moved its regulations from 7 CFR Chapter XVIII to 7 CFR Chapter VII. The programs of the former Farmers Home Administration (FmHA) were divided among four new agencies under the Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994 (Pub. L. 103-354).

Most regulations governing FLP, their information collection requirements, and many of the forms used by FLP were intertwined with those of three other USDA agencies (Rural Utilities Service, Rural Business and Cooperative Services, and Rural Housing Service) that also continue to administer programs of the former FmHA. In addition, many FLP regulations contained outdated and confusing procedures that made the administration of FLP difficult. Furthermore, regulations contained internal administrative processes that made updating the regulations cumbersome. This was a disincentive for even minor adjustments and stymied efficient program delivery. The final rule is part of an effort by the agency to:

- Review the FLP processes and make changes to improve program delivery within its current statutory authority, as the agency did not seek legislative changes before the publication of the proposed or final rule.
- Where feasible, match requirements imposed on applicants and borrowers to the requirements of commercial lenders. Applicants obtaining credit from the agency have been denied credit from commercial lenders, and therefore, pose a higher risk of losses to the agency. As a result, the Congress, through legislation, has incorporated additional requirements for the agency's applicants and borrowers.
- Eliminate unnecessary internal administrative provisions from the regulations that have resulted in confusing the requirements applicable to the public seeking agency assistance, and eliminate duplication found in the regulations governing FLP. Information needed to apply for loans or servicing were dispersed in over 42 CFR subparts. As a result, similar information was repeated several times, and in many cases not in the same order or stated with the exact same language. This caused irritation, confusion and frustration to applicants, borrowers, and employees.
- Rewrite internal handbooks used by State and County Offices in administering agency loan programs in a format easier to use. Further, as required by Departmental guidance and the Freedom to E-File Act, agency handbooks and forms must be made available in electronic format.

The information collections applicable to FLP currently approved under control numbers 0560-0160, 0560-0161, 0560-0164, 0560-0251, 0575-0147, and 0575-0172 are transferred and assigned a new control number. The above control numbers assigned to FSA will be retired when the final rule this document supports will be effective.

This analysis includes remodeled collection instruments, and provides the information collection requirements contained in the final rule. Estimated respondents are based on current program data. As provided in question 8, the agency consulted with applicants, borrowers, commercial lenders, as well as agency employees and has revised the information collections accordingly. Further, the agency made a concerted effort to accurately assess the burden it imposes on applicants and borrowers; therefore, for the information collections included in this submission, the agency has included respondents that were required to provide information but were not counted in previous submissions, as well as projected the time it takes to complete the collection instruments more accurately.

The information collection instruments included in this submission are in the proposed stage because:

- The agency needs to obtain OMB's approval of the information collection and be assigned a new control number
- The final rule, which this document supports, will not be effective until 60 days after its publication in the Federal Register.

**Note:** The agency renumbered all the forms used in FLP delivery since the paperwork burden packages for the proposed rule were submitted to OMB. Further, in this analysis, where appropriate the agency revised the (1) number of respondents; (2) responses per respondent, and (3) the response time per response to reflect current program use. Lastly, the agency is attaching an Excel spreadsheet that describes burden approved under the old OMB control numbers, the information collection instrument with the old and new number, and program changes or adjustments made to information collections as a result of the final rule.

## **Justification**

### **1. Explain the circumstances that make the collection of information necessary.**

FLP provides loans to family farmers to purchase real estate and equipment and finance agricultural production. The regulation covered by this information collection package describes the policies and procedures for FSA's servicing of financially distressed or delinquent direct loan borrowers in accordance with the provisions of the Consolidated Farm and Rural Development Act (Act) (Pub. L. 87-128), as amended. FSA's loan servicing options include disaster set-aside, primary loan servicing (including reamortization, rescheduling, deferral, write down and conservation contracts), buyout at market value, and homestead protection. In addition, the regulations describe FSA's policies and procedures regarding servicing of direct loan borrowers

who file bankruptcy, as well as liquidation of security when available servicing options do not result in a feasible plan.

Authority to establish the regulatory requirements contained in 7 CFR 766 is provided under 5 U.S.C. 301 which provides that “The head of an Executive department or military department may prescribe regulations for the government of his department, ...the distribution and performance of its business ...” Furthermore, section 339 of the Act (7 U.S.C. 1989) provides that “the Secretary is authorized to make such rules and regulations, prescribe the terms and conditions for making... loans, security instruments and agreements, except as otherwise specified herein, and to make such delegations of authority as he deems necessary to carry out this title.” The Secretary delegated authority to administer the provisions of the Act applicable to FLP to the Under Secretary for Farm and Foreign Agricultural Services (FFAS) in section 2.16 of 7 CFR part 2. FFAS further delegated this authority to the FSA Administrator in section 2.42 of 7 CFR part 2.

**2. Indicate how, by whom, and for what purpose the information is to be used. Except for new collection, indicate the actual use the Agency has made of the information received from the current collection.**

Information collections are submitted by FLP direct loan borrowers to the local FSA office serving the county in which their business is headquartered. The information is necessary to provide supervised credit and authorized servicing actions to financially distressed and delinquent direct loan borrowers as legislatively mandated and is used by Agency Officials to:

- Evaluate a borrower’s request, and determine their eligibility, for disaster set-a-side whereby the loan payment that cannot be made due to losses suffered as a result of a disaster is set-a-side, and becomes due on or before the final due date on the loan.
- Evaluate a borrower’s request, determine eligibility for, and feasibility of, primary loan servicing when requested by a financially distressed or delinquent borrower, as well as borrowers who have filed bankruptcy. When considering primary loan servicing options, FSA attempts to restructure the borrower’s debts with the Agency in a manner that results in the borrower being able to repay the debt, other creditors and farm operating expenses.
- Evaluate eligibility for market value buyout, whereby a delinquent borrower who is unable to develop a feasible plan to restructure their debt is offered the opportunity to buy out their FSA loans by paying the Agency an amount equal to the market value of the security property less the amount of any prior liens. This legislatively mandated servicing action provides the borrower an opportunity to continue farming while providing FSA with a recovery greater than or equal to that which would be recovered through a forced liquidation of security.
- Evaluate a borrower’s request, determine eligibility for, and feasibility of, homestead protection whereby a borrower who is unable to develop a feasible plan for restructuring through primary loan servicing, or whose dwelling has been acquired by the Agency, is

afforded the opportunity to retain their primary residence and up to ten acres through a lease-purchase agreement with the Agency.

- Liquidate security when available servicing options are not requested or do not result in a feasible plan to restructure a delinquent borrower's debt.

The general nature of loan servicing options available from FSA is very different from that of a conventional commercial creditor. FSA borrowers tend to pose more of an economic risk of loss than those operations financed by commercial credit sources, as applicants must document that no other source of credit is available at the time of their loan application. The Act requires FSA to actively supervise these borrowers and provide credit counseling, management advice, and financial guidance. In addition, numerous servicing options not available with commercial credit sources are mandated by the Act. As a result, the information collections associated with FSA's regulations for servicing loans of a financially distressed or delinquent borrower are more cumbersome than collections imposed by commercial credit sources.

The information collection requirements established in 7 CFR 766 are described below and on the attached FSA- 85-1, Reporting and Recordkeeping Requirements. For several of the forms described, the estimated number of respondents is less than ten per year. While these forms would not be considered a "collection of information" as defined in 44 U.S.C. 3502(3)(A)(i), FSA's Farm Loan Programs has elected to request burden approval of all forms, regardless of the number of respondents, to ensure that all forms reflect an OMB Control Number thereby eliminating possible confusion or questions from the public. Most, if not all forms that would not be considered a "collection of information" are required under the provisions of the Act and therefore cannot be eliminated.

## **Forms**

### **FSA-2070 – Bill of Sale**

#### **7 CFR 765.403(a), 7 CFR 765.406(b)(4), 7 CFR 766.354(a)(4)**

A borrower who is transferring their security and property to another party, withdrawing from a joint operation, or conveying their chattel security, must execute a bill of sale to serve as evidence of the transfer since the ownership of chattel security is generally not reflected by a title or other legal type document. This action is required to protect the interests of the new owner, as well as protect the Agency's lien on the property. The Agency estimates that 250 borrowers will complete FSA-2070. The time to complete and sign FSA-2070 is 15 minutes.

### **FSA-2501 – Addendum to the Promissory Note or Assumption Agreement for the Disaster Set-Aside Program**

#### **7 CFR 766.57**

A borrower who operated a farm in a county designated or declared a disaster area, or contiguous county, who is unable to make all or a portion of the first or second payment due after the disaster

may request the amount of the payment that cannot be made to be set-aside. The set-aside portion of the payment becomes due on or before the final due date of the loan.

Borrowers who request assistance under the Disaster Set-Aside program and meet all applicable eligibility requirements must execute FSA-2501 to amend the payment schedule reflected on their promissory note or assumption agreement. The Agency estimates that 945 borrowers will execute this form. Of these borrowers, approximately 60.5 percent will be individual borrowers (572 X 1 respondent), 30 percent will be spouses farming as a joint operation (283 X 2 respondents) and 9.5 percent will be entities having an average of three members (90X 3 respondents), for a total of 1,408 respondents. The time to review and sign FSA-2501 is estimated to be 15 minutes.

### **FSA-2511 – Borrower Response to the Notice of the Availability of Loan Servicing**

#### **7 CFR 766.102(a)(1), 7 CFR 766.110(a)(3), 7 CFR 766.204(b), 7 CFR 766.302(a) & (b)**

As mandated by section 331D of the Act, delinquent borrowers who are 90 days past due are notified of the availability of loan servicing. The provisions of the Act require that notice include a summary, including eligibility criteria, of all primary loan servicing options, homestead protection, debt settlement, and appeal procedures. Additionally, the Act requires FSA include a summary of the application process as well as a copy of forms relevant to an application. As part of a complete application for loan servicing, the borrower, including all members of the entity, must execute FSA-2511. Completion of the FSA-2511 ensures that the borrower is aware of the statutorily imposed 60-day time frame to submit a complete application. The agency estimates that 1608 borrowers (or their attorney in the case of a borrower who has filed bankruptcy) will complete FSA-2511. Of these borrowers, 60.5 percent will be individual borrowers (973 X 1 respondents), 30 percent will be spouses operating as a joint operation (482 X 2 respondents) and 9.5 percent will be entities having an average of three entity members (153 X 3 respondents) for a total of 2,396 respondents. The time to complete FSA-2511 is estimated at 30 minutes which includes the time required to read the notice of availability of servicing provided on FSA-2510 and execute FSA-2511.

### **FSA-2513 – Borrower Response to Notice of the Availability of Loan Servicing**

#### **7 CFR 766.102(a)(1), 7 CFR 766.110(a)(2), 7 CFR 766.204(b), 7 CFR 766.302(a) & (b)**

As mandated by section 331D of the Act, FSA must provide notice of the availability of loan servicing upon written request of a borrower. As with delinquent borrowers, the provisions of the Act require that notice include a summary, including eligibility criteria, of all primary loan servicing options, homestead protection, debt settlement, appeal procedures the application process and a copy of forms relevant to an application. While not statutorily mandated to do so, FSA also provides notice of loan servicing to current borrowers when it becomes aware they are unable to make their next scheduled installment, a situation referred to as financially distressed. As part of a complete application for loan servicing, a current or financially distressed the borrower, including all members of the entity, must execute FSA-2513.

The notice provided to current and financially distressed borrower differs from that provided to delinquent borrowers in that debt writedown and current market value buyout are only available to delinquent borrowers. In addition, there is no statutorily imposed 60-day time frame to submit a complete application. Those borrowers who do not apply and later become 90-days past due will again be provided notice of loan servicing as mandated. The agency estimates that 1210 borrowers (or their attorney in the case of a borrower who has filed bankruptcy) will complete FSA-2511. Of these 1210 borrowers, 60.5 percent will be individual borrowers (732 X 1 respondent), 30 percent will be spouses farming as a joint operation (363 X 2 respondents), and 9.5 percent will be entities having an average of three entity members (115 X 3 respondents) for a total of 1,803 respondents. The time to complete FSA-2513 is estimated at 30 minutes which includes the time required to read the notice of availability of servicing provided on FSA-2512 and execute FSA-2513.

### **FSA 2515, Borrower Response to Notice of the Availability of Loan Servicing**

#### **7 CFR 766.102(a)(1), 7 CFR 766.302(a) & (b)**

FSA loan and security instruments include provisions with which the borrower must comply, such as operating the security for the loan and graduating to commercial credit when it is available. A borrower that fails to comply with the provisions of their loan and security instruments is considered to be in nonmonetary default and is subject to liquidation. As mandated by section 331D of the Act, FSA must provide notice of the availability of loan servicing prior to initiating liquidation or foreclosure. As with delinquent borrowers, the provisions of the Act require that notice include a summary, including eligibility criteria, of all primary loan servicing options, homestead protection, debt settlement, appeal procedures the application process and a copy of forms relevant to an application. As part of a complete application for loan servicing, a borrower in nonmonetary default, including all members of the entity, must execute FSA-2515.

The notice informs the borrower that the nonmonetary default must be cured prior to receiving loan servicing and that debt writedown and current market value buyout are only available to delinquent borrowers. Completion of the FSA-2515 ensures that the borrower is aware of the statutorily imposed 60-day time frame to submit a complete application. The agency estimates that 83 borrowers (or their attorney in the case of a borrower who has filed bankruptcy) will complete FSA-2515. Of these 83 borrowers, 60.5 percent will be individual borrowers (50 X 1), 30 percent will be spouses farming as a joint operation (25 X 2 respondents), and 9.5 percent will be entities having an average of three entity members (8 X 3 respondents) for a total of 124 respondents. The time to complete FSA-2515 is estimated at 30 minutes which includes the time required to read the notice of availability of servicing provided on FSA-2514 and execute FSA-2515.

### **FSA-2518, Acceptance of Primary Loan Servicing**

#### **7 CFR 766.106(b)(1)(i), 7 CFR 766.111(b)(1)**

Section 353 of the Act allows FSA 90 days to consider, and provide written notification of the results of its consideration to, a delinquent borrower or borrower in nonmonetary default that requested loan servicing. When FSA determines the borrower meets the applicable eligibility requirements and a feasible plan was found to restructure the borrower's debt, the Act provides the borrower 45 days to accept FSA's offer to restructure. FSA's offer is made using FSA-2517 when the borrower is delinquent or in nonmonetary default. Since the Act establishes a limitation of not more than one debt forgiveness, and further limits the eligibility for loans to borrowers that have received debt writedown to only annual operating loans, FSA allows those borrowers who qualify for restructuring with debt writedown and also have a feasible plan for restructuring at a lower debt service margin without debt writedown, to choose between the two options.

The Act also prohibits FSA from writing down any portion of debt that could be paid from the liquidation of the borrower's nonessential assets. As part of its consideration of a borrower's request for loan servicing, FSA calculates the net recovery that would be realized from the liquidation on nonessential assets and provides those borrowers who are eligible and have a feasible plan for restructuring, the option of paying this amount to reduce their Agency debt and having their repayment structure modified accordingly.

FSA uses FSA-2518 to document the borrower's acceptance of an offer to restructure within the statutorily mandated time frame. The Agency estimates that 1,520 borrowers will execute FSA-2518. The time to complete FSA-2518 is estimated to be 30 minutes which includes the time required for the borrower to review FSA-2517 and the Debt and Loan Restructuring System report reflecting the calculations for the loan servicing options considered.

### **FSA-2520, Acceptance of Primary Loan Servicing**

#### **7 CFR 766.106(a)(1)(i)**

While not statutorily mandated to do so, FSA provides notice of loan servicing to current borrowers when it becomes aware they are unable to make their next scheduled installment, a situation referred to as financially distressed. When FSA determines the borrower meets the applicable eligibility requirements and a feasible plan was found to restructure the borrower debt, the Act provides the borrower 45 days to accept FSA's offer to restructure. FSA's offer is made using FSA-2519 when the borrower is financially distressed or less than 90 days past due. The borrower's acceptance of the offer is documented by their execution of FSA-2520.

FSA is unable to use the same notice of offer used for borrowers who are more than 90 days past due as the financially distressed borrower is not subject to the statutorily mandated time frames. FSA-2520 is similar to FSA-2518 in that it allows delinquent borrowers to choose restructuring with or without writedown, when applicable and provides the option to pay the net recovery value of nonessential assets. However, FSA-2519 and FSA-2520 clarify that the borrower will be re-notified of the availability of loan servicing if they do not accept the offer and later become 90 days past due.

The Agency estimates that 697 borrowers will execute FSA-2520. The time to complete FSA-2520 is estimated to be 30 minutes, which includes the time required for the borrower to review FSA-2519 and the Debt and Loan Restructuring System report reflecting the calculations for the loan servicing options considered.

### **FSA-2522, Borrower Response to Denial of Primary Loan Servicing and Intent to Accelerate**

#### **7 CFR 766.113(b)**

Borrowers requesting loan servicing who are 90 days past due on their FSA debt, or are in nonmonetary default, must develop a feasible plan and meet certain statutory eligibility requirements. When a borrower is unable to meet one or both of these conditions, FSA notifies the borrower of their right for Current Market Value buyout, if applicable, whereby the borrower has 90 days to pay the Agency the market value of loan security, less prior liens. The borrower is also notified of their right to request reconsideration, mediation, and appeal to the National Appeals Division as required by 7 CFR parts 11 and 780, as well as the opportunity to request negotiation of appraisal as mandated by section 353 of the Act.

FSA provides notice of available options using FSA- 2521. The borrower notifies FSA of requested actions by executing FSA- 2522. The Agency estimates that 133 borrowers will complete FSA- 2522. The time to complete the form is estimated to be one hour, which includes the time required for the borrower to read about and evaluate their options described in FSA-2521, and review the Debt and Loan Restructuring System report reflecting the calculations for the loan servicing options considered.

### **FSA-2524, Borrower Response to Denial of Primary Loan Servicing**

#### **7 CFR 766.106(a)(2)**

Borrowers requesting loan servicing who are financially distressed or less than 90 days past due on their FSA debt must develop a feasible plan and meet certain eligibility requirements. When a borrower is unable to meet one or both of these conditions, FSA notifies the borrower of their right for Current Market Value buyout, if delinquent and applicable, whereby the borrower has 90 days to pay the Agency the market value of loan security, less prior liens. The borrower is also notified of their right to request reconsideration, mediation, and appeal to the National Appeals Division as required by 7 CFR parts 11 and 780, as well as the opportunity to request negotiation of appraisal as mandated by section 353 of the Act.

FSA provides notice of available options using FSA-2523. The borrower notifies FSA of requested actions by executing FSA-2524. The Agency estimates that 273 borrowers will complete FSA-2524. The time to complete FSA-2524 is estimated to be one hour, which includes the time required for the borrower to read about and evaluate their options described in FSA-2521, and review the Debt and Loan Restructuring System report reflecting the calculations for the loan servicing options considered.



## **FSA-2526, Borrower Response to Notice of Intent to Accelerate**

### **7 CFR 766.355**

Section 331D of the Act provides borrowers who are 90 or more days past due, or are in nonmonetary default, must respond within 60 days of receipt of FSA's notification of available loan servicing programs. Section 353 of the Act provides borrowers who are 90 or more days delinquent or in nonmonetary default that meet applicable eligibility requirements and develop a feasible plan must accept FSA's offer for loan restructuring within 45 days. If the borrower does not respond to the initial notification, or does not accept the offer to restructure, FSA notifies the borrower of its intent to accelerate.

The notice of intent to accelerate is considered an adverse action under 7 CFR parts 11 and 780. Therefore, FSA must offer the borrower the option of requesting reconsideration, mediation and/or appeal to the National Appeals Division. In addition, for borrowers that were offered restructuring, FSA must offer negotiation of appraisal, if applicable, as mandated by section 353 of the Act. FSA notifies the borrower of available options using FSA- 2525. The borrower notifies FSA of requested options by executing FSA-2526. The Agency estimates 418 borrowers will complete the form. The time to complete FSA-2526 is estimated to be 10 minutes which includes the time required to review FSA-2525 describing the available options.

## **FSA-2529, Negotiated Appraisal Agreement**

### **7 CFR 766.115**

Section 353(c)(7) of the Act provides that the Agency shall enter into negotiation of appraisal at the borrower's request when considering a request for loan servicing. If, based on a separate appraisal obtained by the borrower, they disagree with the Agency's appraisal, the borrower and Agency will select an independent appraiser to complete another appraisal of the property. The average of the two appraisals closest in value will become the final appraisal. The borrower is required to pay one half of the cost of the independent appraisal. This cost is included in question 13.

When a borrower requests negotiation of appraisal, the Agency will prepare FSA-2529 establishing the terms and conditions for the appraisal to be executed jointly by the borrower, appraiser, and Agency. FSA estimates that only 4 borrowers per year will execute FSA-2529 as the statute mandates the borrower pay the cost of the separate appraisal and one half of the cost of the independent appraisal. The time to complete FSA-2529 is estimated to be 30 minutes which includes the time required for the borrower and Agency to reach agreement on the selection of the independent appraiser. No burden is imposed on appraisers as they are paid to perform their normal business service.

## **FSA-2535, Conservation Contract**

### **7 CFR 766.110**

As provided for in section 349 of the Act, a borrower (current or delinquent) may request a cancellation of a portion of their FSA debt in return for granting a Conservation Contract on the security property. Contracts can be established for conservation, recreational and wildlife purposes on farm property that is wetland, wildlife habitat, upland or highly erodible land. The borrower selects a contract term of 10, 30, or 50 years.

Borrowers participating in the Conservation Contract program must review and sign FSA-2535 which is recorded in the local real estate records to establish the terms and conditions that the borrower or any subsequent owner will be subject to during the contract period. The Agency estimates that 86 borrowers per year will execute FSA-2535. The time to review and sign the form is estimated to be one hour, which also includes the time required for the borrower to review the management plan that will be followed by the easement manager.

### **FSA-2538, Response to Notification of Consideration for Homestead Protection**

#### **7 CFR 766.151(a)(1)**

The notice of availability of loan servicing provided to a financially distressed or delinquent borrower, or a borrower in nonmonetary default, informs the borrower of their right to be considered for primary loan servicing (rescheduling, reamortization, deferral, and writedown), conservation contract, market value buyout, homestead protection, and debt settlement. A borrower that requested loan servicing that is unable to develop a feasible plan, or is ineligible for primary loan servicing, will automatically be considered for homestead protection, whereby the borrower may retain their principal dwelling and up to 10 adjoining acres as authorized by section 352 of the Act.

FSA notifies the borrower they have 30 days to provide any additional information needed to consider Homestead Protection using FSA-2537. If the borrower does not respond, the Agency will deny Homestead Protection and is required to provide appeal rights mandated for all adverse decisions. Borrowers who are not interested in Homestead Protection may execute FSA-2538, thus eliminating the adverse decision and allowing liquidation of the security to proceed in a timely manner. The Agency estimates that 6 borrowers per year will execute FSA-2538. The estimated time to complete the form is 5 minutes which includes the time required to read the accompanying FSA-2537.

### **FSA-2539, Homestead Protection Agreement**

#### **7 CFR 766.154(a)(1)**

As noted above, FSA automatically considers a borrower for Homestead Protection if the borrower does not qualify for Primary Loan Servicing options. When the borrower meets all applicable homestead protection eligibility requirements and has sufficient income to maintain the property for the term of the lease, the borrower may enter into a lease-purchase agreement subject to FSA obtaining title to the property by executing FSA-2539. Execution of the agreement ensures the borrower's right to lease the property, with an option to purchase, for up to five years.

The Agency estimates that only one borrower per year will execute FSA-2539. The estimated time to review and execute the form is 15 minutes.

### **FSA-2543, Shared Appreciation Agreement**

#### **7 CFR 766.111(b)(4), 7 CFR 766.201(a)**

As provided in section 353(e) of the Act, FSA requires borrowers that own real estate that serves, or will serve, as security for the loan to execute a Shared Appreciation Agreement when the loan restructuring includes writedown of their FSA debt. This agreement permits the Agency to recapture a portion of any appreciation in value based on the appraised value at the time of restructuring and at the time of recapture. FSA-2543 establishes the terms and conditions of recapture as mandated by the Act.

The Agency estimates that 54 borrowers per year will execute FSA-2543. The estimated time to review and sign the document is 20 minutes.

### **FSA-2569, Warranty Deed**

#### **7 CFR 766.353(a)(4)**

As authorized by 335(a) of the Act, FSA affords borrowers the opportunity to voluntarily convey their security property to the Agency. This servicing action often results in greater returns to the Agency as it eliminates the need to pursue a forced liquidation which takes a significant amount of time in many States and results in the payment of numerous liquidation costs. Borrowers who request voluntary conveyance of their real estate security must execute FSA- 2569, in addition to the FSA- 2570, in order for FSA to become the owner of record.

The Agency estimates that 13 borrowers will execute FSA-2569 offering conveyance of their real estate security. The estimated time to complete FSA-2569 is 15 minutes.

### **FSA-2570, Offer to Convey Security**

#### **7 CFR 766.152(a)(4), 7 CFR 766.353(a)(1), 7 CFR 766.354(a)(1)**

Under the provisions of section 335(a) of the Act, FSA is authorized to bid for and purchase, or otherwise acquire property on which it has a lien. FSA affords borrowers the opportunity to voluntarily convey their security property to the Agency. This servicing action often results in greater returns to the Agency as it eliminates the need to pursue a forced liquidation which takes a significant amount of time in many States and results in the payment of numerous liquidation costs. Borrowers who request voluntary conveyance of their security property must execute FSA- 2570, establishing the terms and conditions of their offer.

The Agency estimates that 13 borrowers will execute FSA-2570 offering conveyance of their real estate security. Additionally, 2 borrowers will execute the form offering conveyance of

chattel security. The estimated time to complete FSA-2570 is 15 minutes, regardless of whether real estate or chattel security is being conveyed. This does not include the time required to prepare other information, such as current financial statement or Warranty Deed, as the time required to prepare, and submit, these documents is accounted for separately in the Agency's request for approval of those forms.

### **FSA-2571, Agreement for Voluntary Liquidation of Chattel Security**

**7 CFR 766.351(c)(2), 7 CFR 766.352(b), 7 CFR 766.353(a)(2)**

The security instruments executed by a borrower at the time a loan is made require the borrower obtain FSA approval prior to the sale of security property. FSA approval is required to ensure security property is sold for its market value, thereby reducing the potential for losses. A borrower may opt to reduce their indebtedness by selling chattel security that is no longer functional for their operation. Additionally, a borrower who has ceased farming or is unable to develop a feasible plan of operation may choose to voluntarily liquidate the security property. A voluntary liquidation will generally result in a greater recovery of FSA's indebtedness than a forced liquidation as the borrower is more likely to obtain a higher sales price, the sale is completed in a timely manner, and associated liquidation costs are less. A borrower obtains FSA's approval, as well as that of any other lienholder, by completing FSA-2571. FSA-2571 is utilized to document the proposed method of sale, such as private sale or public auction, as well as establish applicable terms and conditions.

The Agency estimates that 165 borrowers will complete FSA-2571 annually. The estimated time required for the borrower to complete the form and obtain approval of other lienholders is one hour. In addition, the borrower must obtain approval of other lienholders' concurrence. FSA estimates that each of the 165 borrower completing FSA-2571 will need to obtain the signature of three other lienholders for a total of 495 respondents. The estimated time for the lienholder to review and sign the form, as well as review their records regarding their lien is 15 minutes.

### **FSA 2572, Agreement of Secured Parties of Sale of Security Property**

**7 CFR 766.357(c)(2)**

When FSA is liquidating chattel security that is subject to prior liens, the Agency must either pay the prior liens in full prior to the foreclosure sale, or obtain the prior lien holders' concurrence to sell the security property and apply proceeds from the sale in order of lien priority. FSA obtains the prior lien holder's consent using FSA-2572.

The Agency estimates that 3 prior lien holders will complete the form each year for five accounts each year. The estimated completion time, which includes the time for each lien holder to review their records, as well as complete and return the form, is 15 minutes.

### **FSA-2591, Lease of Real Property**

**7 CFR 766.154(b)(4), 7 CFR 767.101(a)(1) & (2)**

As mandated by the provisions of section 352 of the Act, FSA must offer a former owner the opportunity to lease, with an option to purchase, their dwelling and up to 10 acres of adjoining land if the property served as security for their loan and is acquired by the Agency. In addition, under the authority provided in section 335(b) of the Act, FSA may lease property acquired into inventory when a beginning farmer has been selected to purchase the property, but direct or guaranteed loan funds are unavailable, or when the Agency is unable to advertise the property for sale because of lengthy litigation. When a property is leased, FSA prepares FSA-2591 to establish the terms and conditions of the lease.

The Agency estimates that FSA-2591 will be executed by 15 formers owners under the Homestead Protection Program and 3 beginning farmers who were selected to purchase the property subject to the availability of direct or guaranteed loan funds. The estimated time for the lessee to review and sign FSA-2591 is 15 minutes.

### **Non-form collections**

#### **7 CFR 766.54(a) - Written Request for Disaster Set-Aside**

A borrower who operated in a county designated or declared a disaster area, or contiguous county, who is unable to make all or a portion of the first or second payment due after the disaster may request the amount of the payment that cannot be made be set-aside. The set-aside portion of the payment becomes due on or before the final due date of the loan. To be considered for Disaster Set-Aside, the borrower, including each member of the entity, must make a written request for consideration. The Agency estimates that 945 borrowers will request consideration.

Of these borrowers, approximately 60.5 percent will be individual borrowers (945 X 60.5% X 1 respondent), 30 percent will be spouses farming as a joint operation (945 X 30% X 2 respondents) and 9.5 percent will be entities having an average of three members (945 X 9.5% X 3 respondents), for a total of 1,408 respondents. The time to prepare the request is estimated to be 15 minutes.

#### **7 CFR 766.54(b)(2) – Additional Information Needed to Determine Eligibility for Disaster Set-Aside**

To be eligible for Disaster Set-Aside, the borrower must submit financial records for the for the production cycle during which the disaster occurred. Approval of the collection of financial information was obtained with the approval of FSA-2037 and FSA-2038. The regulation also allows the Agency to request any additional information needed to determine the borrower's eligibility, such as documentation that nonmonetary default has been, or will be, cured prior to approval of Disaster Set-Aside. The need to request additional information is highly unusual. Therefore, the Agency estimates that five percent of the 841 borrowers (42 borrowers) approved for Disaster Set-Aside will be required to provide such information. The estimated time for the borrower to provide copies of any requested information is 15 minutes.

### **7 CFR 766.102(b) – Aerial Photo Delineating Requested Conservation Contract**

Borrowers requesting conservation contract as authorized by section 349 of Act must submit a map or aerial photo of the property delineating the proposed easement area. FSA estimates that 92 borrowers will request consideration under the conservation contract program. This projection includes the estimated 86 that will be approved as well as those whose request will not be approved as a result of ineligibility or inability to develop a feasible plan. The estimated time to provide a copy of the map or aerial photo is 20 minutes, which includes the time to obtain an aerial photo of the property from the FSA office as well as outlining the proposed easement area.

### **7 CFR 766.102(f)(2) & (3) – Copy of Divorce Decree and Evidence of Conveyance**

When jointly liable borrowers are divorced and one has withdrawn from the operation, the withdrawing individual may request they be released from liability for the FSA debt at the time loan servicing is considered. A copy of the divorce decree reflecting the remaining individual is solely responsible to the FSA debt and evidence the withdrawing individuals interest in the security have been conveyed to the remaining individual are required.

FSA estimates that 10 individuals per year will request release of liability at the time loan servicing is requested. The estimated time to locate the required documents and submit copies to the FSA office is 30 minutes.

### **7 CFR 766.110(d) – Borrower Selection of Conservation Contract Term**

Under the provisions of section 349 of the Act, the Agency may reduce a borrower's outstanding debt in return for the entering a contract for conservation, recreation, or wildlife purposes. The amount of debt reduction granted is based, in part, on the duration of the contract. Borrowers requesting a conservation contract may select either a 10, 30, or 50 year term. FSA will generally review the calculations for the amount of debt reduction for each of the three available contract terms with the borrower prior to making a final offer to the borrower. This allows the borrower to make an informed decision regarding the duration of the contract.

FSA estimates that conservation contract requests will be approved for 86 borrowers. The estimated time required for a borrower to select a contract term after reviewing calculations for the three available contract periods is 30 minutes.

### **7 CFR 766.115(2) & (3) – Independent Appraisal**

As provided by the provisions of section 353(c)(7) of the Act, a borrower who disagrees with the value established by the appraisal used by FSA to evaluate available loan servicing options may dispute the appraisal by obtaining an independent appraisal or requesting negotiation of appraisal. If the borrower obtains an independent appraisal completed according the requirements of the Uniform Standards of Professional Appraisal Practices (USPAP) that is within five percent or less of the FSA appraisal, the borrower may select the appraisal to be used. If the appraisals differ by more than five percent, the borrower may select an appraiser to complete a third appraisal. The average of the two appraisals closest in value will serve as the

value used in considering available loan servicing options. The Act requires the borrower pay the cost of the independent appraisal. This cost is reflected in question 13.

The Agency estimates that 11 borrowers will obtain an independent appraisal. The estimated time to obtain and provide the independent appraisal is 30 minutes.

### **7 CFR 766.151(a)(3), 7 CFR 766.151(b)(3) – Consideration for Pre-Acquisition and Post Acquisition Homestead Protection**

Borrowers who requested primary loan servicing, but were not eligible, could not develop a feasible plan, or did not accept FSA's offer of restructuring are automatically considered for pre-acquisition homestead protection, whereby the borrower may retain their principal dwelling and up to 10 adjoining acres as authorized by section 352 of the Act. Much of the information needed by FSA was provided with the borrower's request for primary loan servicing, or will be submitted as part of the request for voluntary conveyance under 7 CFR 766.353. Information collections associated with primary loan servicing and voluntary conveyance are approved under the applicable form used for the collection. However, in order for FSA to consider pre-acquisition homestead protection, the borrower must identify the up to ten acres adjacent to the dwelling they wish to retain.

Under the provisions of section 352 of the Act, if FSA did not enter into a homestead Protection Agreement (FSA-2539) prior to the acquisition of real estate containing the borrower's primary residence that served as security for the FSA loans, the Agency will notify the former owner of homestead protect after acquisition. As with pre-acquisition, the former borrower must identify the up to 10 adjacent acres they wish to retain.

FSA estimates that 18 borrowers per year will request pre-acquisition Homestead protection and an additional 5 former borrowers will request post-acquisition homestead protection. The time required for both the borrower or former borrower, to identify the acreage they wish to retain is 20 minutes, which includes time required to obtain an aerial photo from FSA which may be used to reflect this delineation.

### **7 CFR 766.154(c)(1) – Request to Exercise Option to Purchase With Homestead Protection Lease**

In accordance with the provisions of the Act's section 352(c)(4)(B), a lease under the homestead protection program includes an option to purchase that may be exercised at any time during the term of the lease. FSA requires the borrower exercise the option in writing as it must incur the cost of allowing the former borrower to select from a list of appraisers for completion of an independent appraisal establishing the purchase price of the property. FSA estimates that 10 former owners per year will exercise their option to purchase. The estimated time to prepare and submit a written request is 15 minutes.

### **7 CFR 766.154(e) – Selection of Appraiser for Homestead Protection**

Under the provisions of section 352(b)(3) of the Act, FSA must determine the value of homestead protection by an “independent appraisal.” FSA provides the former owner a list of qualified appraisers from which to select. The Agency estimates that 23 former owners entering a homestead protection lease/purchase agreement, and 10 former owners exercising their option to purchase under an existing lease/purchase agreement will need to select an appraiser. The estimated time to review the list and inform FSA of the appraiser selected is 10 minutes.

### **7 CFR 766.202(a)(1) – Identification of Capital Improvements to Real Estate**

Under the provisions of section 353(d) of the Act, a borrower who receives a writedown of their FSA debt must sign a Shared Appreciation Agreement under which the Agency may recover a portion of the amount written down. The amount of recapture due is based on the appreciation that occurs based on the appraised values at the time of writedown and the time recapture is due. FSA’s regulations permit the borrower to identify any capital improvements that have been added to the real estate since the execution of the shared appreciation agreement. The contributory value of these improvements will be deducted when determining the appraised value of the property.

FSA estimates that 54 borrowers per year will identify capital improvements at the time the amount of recapture is calculated. The estimated time to submit a written list of improvements is 30 minutes. This estimate does not include the time required to submit copies of tax returns documenting the capitalization of the improvements as that collection is approved under 0560-New (7 CFR 761).

### **7 CFR 766.251(b) – Refute Finding of Unauthorized Assistance**

FSA regulations require that borrowers repay Farm Loan Programs benefits or assistance for which they were not entitled. Unauthorized assistance may result from a borrower providing false information, or from borrower or Agency error. When FSA determines that unauthorized assistance was received, the borrower is provided an opportunity to discuss or refute the Agency’s findings. Based on information submitted by the borrower, it may be determined that the assistance or benefits received were in fact authorized.

FSA estimates that 100 borrowers are notified they received unauthorized assistance each year. Most if not all of these borrowers will want to discuss the Agency’s findings, as well as possibly refute the findings. The estimated time for the borrower to review the Agency findings, prepare for a meeting to discuss/refute the findings, and attend the meeting is estimated to be 4 hours.

### **Travel time**

FSA estimates that 1,408 borrowers requesting Disaster Set-Aside will travel twice, once to submit the request, and once to sign the addendum to the promissory note/assumption agreement. FSA estimates that 2,217 borrowers requesting primary loan servicing will travel twice, once to the FSA office to complete the loan servicing application and a second time to complete the closing of the approved loan servicing request. Lastly, FSA estimates the 100 borrowers refuting



a finding of unauthorized assistance will also travel to the office one time. This results in a total of 3,725 visits to an FSA office with an average travel time of one hour per round trip.

**Note:** There is no travel time imposed on lenders or financial institutions providing information on behalf of the borrower, purchasers of agricultural products, or appraisers.

### **Information Collections With Less than 10 Respondents Per Year**

#### **7 CFR 766.101a)(5) – Borrower Request to Receive Notification of Loan Servicing Options**

Section 331D of the Act list the circumstances requiring the Agency notify borrowers of the availability of loan servicing options. These include prior to taking a collection action or adverse action, as well as upon on written request of the borrower. FSA provides “supervised credit” and routinely meets with its borrowers to assess their financial progress. Under FSA servicing regulations, notification of the availability of loan servicing is provided as soon as FSA becomes aware a borrower is in financial distress, as well as when the borrower is 90 days past due. Therefore, most, if not all borrowers in need of loan servicing are provided notification and it is estimated that less than 10 borrowers per year will request such notification.

#### **7 CFR 766.115(a)(1) – Technical Appraisal Review**

If a borrower disagrees with the appraised value of the security used by FSA in evaluating available servicing options, they may obtain and present a technical appraisal review as part of the appeal process. The technical appraisal review is used to determine whether the appraisal is in compliance with the Uniform Standards of Professional Appraisal Practices.

The Agency estimates that 5 borrowers per year will exercise this option. The estimated time required for the borrower to locate a qualified appraiser to complete the review and provide a copy of the completed review to FSA is 30 minutes.

#### **7 CFR 766.153 – Transfer of Homestead Protection Rights to Spouse**

Section 352(c)(5) of the Act prohibits the transfer or assignment of homestead protection rights except in the case of a spouse upon the death or incompetency of the borrower-owner, provided the spouse agrees to comply with the terms and conditions of the lease. FSA estimates that transfer of homestead protection rights, which requires the spouse to agree to comply with the terms and conditions of the lease, to occur less than 10 times per year. While the number of homestead protection leases outstanding for fiscal years 2003 through 2005 is 40.5 per year, the number has declined steadily. There were 48 leases outstanding in fiscal year 2003; this number was reduced to 42 in fiscal year 2004 and 32 in fiscal year 2005. The number of deaths or cases of incompetence occurring per year based on this small number would be few if any.

#### **7 CFR 766.353(a)(5) and 7 CFR 766.354(a)(5) – Resolution by Entity Members Approving Voluntary Conveyance of Real Estate or Chattel Security**

The Agency estimates that 13 borrowers per year will request voluntary conveyance of real estate security and two borrowers per year will request voluntary conveyance of chattel security as authorized by section 335 of the Act. Of these 15 borrowers, 9.5 percent, less than two borrowers per year, will be an entity required to present evidence of a resolution by entity members authoring the conveyance of the security.

**7 CFR 766.353(a)(6) – Assignment of Outstanding Lease on Real Estate Security Being Conveyed**

Borrowers requesting to voluntarily convey their real estate security who have leased the property must assign the outstanding lease to FSA. Based on historical records, the Agency only accepts a voluntary conveyance of real estate from 13 borrowers per year. FSA loan security instruments require the borrower to operate the security, with limited exceptions. Therefore, the provision requiring the assignment of the lease is established to address the few, if any, cases which may occur each year.

**7 CFR 766.356(b)(1) and 7 CFR 766.3565(b)(2) – American Indian Borrower Request Loan Be Assigned to Tribe or Secretary of Interior**

As provided by section 335(e)(1)(D)(v) of the Act, an American Indian borrower whose real estate security is being foreclosed on, will be notified of their right to request their loan be assigned to either the tribe having jurisdiction over the Indian reservation on which the property is located or the Secretary of the Interior. Based on historical information maintained by the Agency, it is estimated that less than 10 borrowers per year will make such requests.

**7 CFR 766.356(b)(1)(i) – Tribe’s Acceptance of Assignment of Loan**

The Tribe having jurisdiction over the Indian reservation must notify FSA of its intent to accept assignment of an American Indian borrower’s loan being foreclosed. Since less than 10 borrowers will request assignment, the number of Tribes accepting assignment will also be less than 10.

**Collections contained in 7 CFR 766 that will be approved under OMB Control Numbers for other CFR parts/OMB Control Numbers**

The following table summarizes the information collections included in 7 CFR 766, for which approval has been obtained or requested under the OMB Control Number for another CFR part that requires the same collection of information for a different purpose.

<b>CFR Citation</b>	<b>Description</b>	<b>Approved Under</b>
766.52(a)(2) 766.52(a)(4) 766.53(a)(2) 765.54(b)	Documentation the borrower does not have the ability to pay all expenses and creditors due to circumstances beyond their control using FSA-2038.	7 CFR 761*
766.52(a)(5)	Documentation the borrower has a feasible plan for next operating plan after receiving disaster set-aside	7 CFR 761*

CFR Citation	Description	Approved Under
	using FSA-2038.	
766.52(a)(7) 766.54 (a)	Written request for disaster set-aside and certification the borrower is not ineligible due to crop insurance violation on FSA-2001 or similar format.	7 CFR 764*
766.56	Borrower pledging lien on all assets using FSA-2028 and/or FSA-2029.	7 CFR 764*
766.102(a)(2)	Application, FSA-2001, requesting primary loan servicing.	7 CFR 764*
766.102(a)(2)	Entity member financial statements, using FSA-2037, when entity requests primary loan servicing.	7 CFR 761*
766.102(a)(3)	Most recent three years financial records on FSA-2002 and copy of applicable tax returns.	7 CFR 761*
766.102(a)(3)	Copy of tax return documenting capital improvements claimed for shared appreciation recapture reduction were capitalized.	7 CFR 761*
766.102(a)(4)	Three years of production records on FSA-2003 for borrower's requesting primary loan servicing.	7 CFR 761*
766.204(a)(6)	Amortization of shared appreciation using FSA-2026 as the loan agreement.	7 CFR 764*
766.353(a)(7)	Title record using FSA-2352 when real estate security is voluntarily conveyed.	7 CFR 764*

\* New information collection packages for the above CFR parts have been submitted to OMB for approval. However, OMB Control Numbers have not yet been assigned.

**3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses, and the basis for the decisions for adopting this means of collection. Also describe any consideration of information technology to reduce burden.**

Information collections obtained using agency forms may be submitted electronically provided the applicant has obtained and activated a USDA account with Level 2 access that allows for electronic submissions. All forms that the applicant has to complete in their entirety, or review and execute, are posted on the e-Gov website at <http://www.sc.egov.usda.gov>. For forms the applicant is required to complete in their entirety, the fillable version of the form, as well as detailed instructions on completing the form, are included on the e-Gov website. Forms prepared by the agency, that the public simply reviews and signs, are also provided on the e-Gov website. However, in lieu of detailed instructions for completing those forms, the instructions simply state that the forms are provided on the website for information purposes only.

Non-form information collections require providing copies of documents in the applicant's possession or providing written replies to agency requests or offers. Non-form collections, as well as all agency forms, may be submitted in person at the local agency office, by mail, or by

facsimile. Further, applicants with established Level 2 accounts may provide non-form information collections as any kind of non-executable attachments, such as PDF, doc, xls, or text formats.

Even though forms are available on the e-Gov forms website, public input on this information collection package indicated that very few applicants and borrowers utilize this option. Most respondents stated that they obtain and return forms and non-forms to the agency office as they feel a person-to-person meeting is beneficial. The information required from applicants and borrowers is mainly financial in nature, and farmers are not comfortable with providing it through electronic means, notwithstanding the adequacy of agency security safeguards in place. Most of the agency's applicants and borrowers reside in rural areas, which often do not have access to high speed internet connection. Moreover, applicants and borrowers often seek additional clarification and explanation of the requirements, as well as explanation of the consequences of not complying with the requirements, from agency officials.

Currently, the agency can only accept forms electronically from individual applicants. Electronic signature authentication for entity borrowers is not currently available; however, the agency is anticipating that this option will be available in the near future, provided adequate appropriations are received from Congress to ensure that appropriate system security safeguards are met. Further, the agency is currently exploring options available for applicants and borrowers to respond to, and provide information to, agency-initiated actions. This option will allow the agency to pre-fill forms with information already in its possession, as there are several instances in the loan making process where the agency completes part of the information collection instrument and provides it to the applicant to review and execute. In turn, when this option becomes available, the agency may initiate interactions and transactions that only require the applicant or borrower's review and approval or disapproval, as in those situations the applicant or borrower may not need to visit the agency office to complete the transaction.

Lastly, even though USDA and the agency have publicized and provided information in outreach materials, during stakeholder meetings, as well as agriculture-related meetings and symposiums, on the option to provide information electronically, applicants and borrowers still prefer going to the agency office to obtain forms and information on how to apply for loans and servicing than obtaining forms and information from the internet. Therefore, the agency estimates that less than one percent of responses will be provided through the internet.

As noted above, electronic signature authentication is currently limited to applicants and borrowers who have obtained and activated a USDA account with Level 2 access. Therefore, all third parties, including lenders, that provide information to the agency on behalf of the applicant or borrower do so in paper format, as they cannot submit information electronically nor is there the ability to provide all third parties with a USDA account with Level 2 access.

**4. Describe efforts to identify duplication. Show specifically why similar information already available cannot be used or modified for use for the purposes described in Item 2 above.**

The final rule restructures the CFR parts pertaining to FLP. Existing CFR parts have been consolidated to remove duplicative requirements. Much of the remaining burden established in this regulation is required under the provisions of the Act which mandates specific actions be taken when servicing loans of FLP borrowers.

Agency personnel with expertise in servicing loans have reviewed the information collections required under this CFR part for eliminating any duplication or unnecessary collections of information. The information contained in this collection is made part of the case file and, when reasonably current, may be used in lieu of re-submission by the borrower; however, financial information that is collected at another time may be dated and not useful for the specific action being considered. Various program areas within FSA share data; however, information collections established in this regulation would typically not be available from another agency. Therefore, the potential to share data is limited.

**5. Methods to minimize burden on small businesses or other small entities (Item 5 of OMB Form 83-I), describe any methods to minimize burden.**

The agency has made every effort to minimize burden on small businesses and small entities. The agency only requires collection of information when necessary to act on an applicant or borrower's request for assistance. The information required by this regulation is financial in nature and similar to that required to complete Federal tax returns, make business decisions or to obtain a loan from any commercial lender. Thus, it places no additional burden on small businesses above that required in the normal course of business.

**6. Describe the consequences to Federal program or policy activities if the collection is not conducted or conducted less frequently, as well as any technical or legal obstacles to reducing burden.**

The agency is mandated to provide supervised credit; therefore, failure to collect the information, or collecting it less frequently, could result in the failure of the farm operation or loss of Agency security property. The collection of information is required as a result of an applicant or borrower's specific request, is obtained on an as-needed basis, and is used to document the applicant or borrower's eligibility for the requested benefit. Accurate decisions, when making a loan or servicing an account, largely depend on current financial information and actual history and the potential of the farming operation to carry out the purposes for which the loan was made. There is no regular reporting schedule related to the information collection requirements in this part. If the information were not collected, or collected less frequently, the agency would be unable to meet the Congressionally-mandated mission of its loan programs.

**7. Explain any special circumstances that would cause an information collection to be conducted in a manner:**

- a.** Requiring respondents to report information more frequently than quarterly.  
There are no information collection requirements that require information more frequently than quarterly.

- b. Requiring written responses in less than 30 days. There are no information collection requirements that require written responses in less than 30 days.
- c. Requiring more than an original and two copies. There are no information collection requirements that require more than an original or single copy of a document.
- d. Requiring respondents to retain records for more than 3 years. There are no such requirements.
- e. No utilizing statistical sampling. There are no such requirements.
- f. Requiring the use of statistical sampling which has not been reviewed and approved by OMB. There are no such requirements.
- g. Requiring the pledge of confidentiality. There are no such requirements.
- h. Requiring submission of propriety trade secrets. There are no such requirements.

**8. Describe efforts to consult with persons outside the Agency to obtain their view on the availability of data, frequency of collection, the clarity of instructions and record keeping, disclosure, or reporting format (if any), and on data elements to be recorded, disclosed, or reported.**

On February 9, 2004 (69 FR 6056-6121), the agency published a notice regarding its intention of requesting OMB approval to establish new information collections to correspond with the agency's new CFR structure. There were no comments received on the notice.

For this information collection the agency contacted commercial lenders' representatives and current borrowers. Field office employees assisted the agency in identifying current borrowers and assisted in reviewing the information collection instruments and the applicable instructions. All persons contacted reviewed draft information collection instruments and the instructions for their completion, and provided answers to the same survey questions.

Based on comments received from the commercial lenders' representatives, the agency determined that its loan servicing practices, as provided in the final rule, do not closely correspond to commercial lenders' practices. Both representatives stated that commercial lenders normally do not use forms for loan servicing offers, but use letters instead. Therefore, differences between the agency's practices and those of commercial lenders' are attributed to the differences in statutory requirements to which the agency is required to adhere. However, both representatives stated that the information the agency requests to determine eligibility and feasibility of loan servicing requests is necessary, as the agency's loan servicing programs may contribute to the borrower's ability to retain the farming operation, and eventually become successful. Further, they stated that commercial lenders also require submission of financial information from borrowers to determine servicing availability.

The borrowers the agency contacted stated that the information the agency requests to evaluate loan servicing requests is not excessive or intrusive. Further, all borrowers stated they did not believe the agency is collecting duplicative information, since primary loan servicing is available only when a borrower is financially distressed, delinquent, or in non-monetary default and the information needed to apply for primary loan servicing is not available from any other source. One borrower stated that the estimated time for completing FSA-2511, FSA-2513, and FSA-2515 seem to be more than necessary; however, when the agency clarified that included in the

estimated time was reviewing FSA-2510, FSA-2512, and FSA-2514, the borrower agreed with the agency that the time was adequate as estimated. One borrower stated that some of the Grantor's reservations, especially those pertaining to mineral rights, as provided on FSA-2535 may not be enforceable by the agency. The agency's Office of the General Counsel has provided legal assistance in the drafting of this form; therefore, no changes were made. Another borrower stated the time for completing FSA-2535 should be increased. The agency did not change the estimated time as the agency completes FSA-2535, as well as the management plan, and the borrower is required to review both before signing. Additionally, another borrower suggested the estimated time should be reduced. Therefore, the agency believes that the estimated time adequately represents the average time it takes to read and execute FSA-2535. Lastly, one borrower stated the forms required to apply for primary loan servicing can be complicated for some borrowers; however, the borrower stated that agency personnel provide assistance in completing the required forms.

The following provided input on the information collection for this docket.

Richard Beasley  
6139 Massaponax Church RD  
Fredericksburg, VA 22408  
540-582-8055  
(Kimberly DePasquale, Farm Loan Manager, Fredericksburg, VA, assisted in gathering input)

James Benson  
Farmer  
616 LCR 437  
Mexia, TX  
254-472-0390

Marty Desmond  
MidAtlantic Farm Credit  
1410 South State Street  
Dover, DE 19901  
302 734-7534

Karen Eifert-Jones  
Farmer  
16626 Old Highway 18  
Manhattan, KS 66502  
785 537-1343

Richard Heikes  
Farmer  
88524 574<sup>th</sup> Ave.  
Hartington, NE 68739  
402 692-3260  
(Mark Moser, Farm Loan Manager, Wayne, NE, assisted in gathering input)

William Wamsley  
The Centreville National Bank of Maryland  
P.O. Box 400  
Centreville, MD 21617

**9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.**

There are no payments or gifts provided to respondents.

**10. Describe any assurance of confidentiality provided to the respondents and the basis for the assurance in statute, regulation, or Agency policy.**

FSA forms that serve as collection instruments contain a Privacy Act statement identifying circumstances under which the information collected may be released. This statement is based on the Privacy Act, the Freedom of Information Act and the FSA System of Records that has been published in the Federal Register. Agency policies, as well as a copy of the System of Records, are published in FSA handbooks 2-INFO and 3-INFO. No further assurance of confidentiality is provided to applicants or borrowers.

**11. Provide additional justification for any question of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.**

The information collected is of a financial nature. As a condition for the receipt of program benefits, applicants and borrows must provide total disclosure of income data and a history of their business dealings that is often considered sensitive. Regardless, the information is required to properly document the agency's decision pertaining to loan making and servicing actions.

**12. Provide estimates of the hour burden of the collection of information.**

The estimate of hour burden of the information collections is as follows:

Total Number of Unduplicated Respondents.....	6,663
Reports Filed Per Person.....	1.76
Total Annual Responses.....	11,761
Total Annual Burden Hours.....	9,191
Average Burden Per Collection.....	.78
Per Respondent.....	1.38



The estimate of annual cost for the information collections is as follows:

Respondent's Cost Per Hour -	Farmers	\$19.09
	- Creditors/Financial Institutions	\$28.53
Total Annual Respondent Cost –	Farmers (9,161X\$19.09)	\$174,884
	- Creditors/Financial Inst. (30X\$28.53)	\$ 856
	- Total	\$175,740

Cost per hour for all respondents was derived from the U.S. Department of Labor's Occupational Employment and Wages, May 2005, tables which are found at the Bureau of Labor Statistics website at <http://stats.bls.gov/oes>.

**13. Provide an estimate of the total annual cost burden to respondents or record keepers resulting from the collection of information.**

In accordance with the provisions of the Act, a borrower is required to pay the cost of an independent appraisal when they disagree with the value determined in the appraisal obtained by FSA. In addition, those borrowers who pursue negotiation of appraisal must pay one half of the cost of the third appraisal. The estimated average appraisal cost of an agricultural property is \$1,200. The Agency estimates that 11 borrowers will obtain an independent appraisal and an additional 4 will incur one half the cost of a third appraisal as part of the negotiation of appraisal process. Therefore, the total estimated cost to borrowers for real estate appraisals is \$15,600.

The regulation and associated information collections place no other burden costs on respondents for capital, start-up, operation, maintenance, or the purchase of services.

**14. Provide estimates of annualized cost to the Federal Government.**

Agency employees review information provided by applicants, borrowers, and third parties and make feasibility determinations. The agency estimates that its employees spend 229,696 hours reviewing and processing the collections included in this docket.

Averaging the GS-9 through GS-12 salaries indicates an average employee salary of \$53,146 per year. Standard adjustments recommended by FSA's Budget Division of 33.3% are added for benefits and miscellaneous expenses, for a total average cost for an FLP employee salary of \$70,844 per year, which divided by 2080 hours equals an hourly salary of \$34.05.

Therefore, the estimated annual cost to the Federal Government is  $229,696 \times \$34.05 = \$7,821,149$ .

Note: The agency utilized the County Office Workload and Funding Report, BU-533R, for FY 2006 to estimate the costs to the Federal Government.

**15. Explain the reason for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I.**

The agency is publishing a final rule to consolidate several CFR subparts and to move FLP regulations from 7 CFR Chapter XVIII to 7 CFR Chapter VII. Therefore, the agency is requesting that a new OMB Control Number be assigned to this information collection, which includes collections applicable to FLP currently approved under control numbers 0560-0160, 0560-0161, 0560-0164, 0560-0251, 0575-0147, and 0575-0172.

As a result of the information collection analysis completed for the final rule, the total burden hours for FLP were increased. In some cases the increase was due to changes in the number of respondents, responses per respondent, or response time. In other cases the increase was due to the addition of existing information collections that are currently unapproved. A detailed explanation on the specific program changes and adjustments made to the information collection is included in the attached spreadsheet analysis.

**16. For collection of information whose results will be published, outline plans for the tabulation and publication.**

The information collections required under this regulation will not be tabulated or published.

**17. If seeking approval to not display the expiration date for the OMB approval of information collection, explain the reasons that display would be inappropriate.**

While FSA forms are made available electronically at [www.sc.egov.usda.gov/](http://www.sc.egov.usda.gov/), hard copies of each form are also maintained in State and County Offices. Displaying the expiration date results in the need to dispose of existing supplies and reprinting of the form with the new expiration date each time the approval is renewed. This increases printing costs for the Agency and results in the need to revise forms posted to the website.

**18. Explain each exception statement to the certification statement identified in Items 19 and 20 on OMB Form 83-I.**

There are no exceptions requested.

**19. Explain how this information collection relates to the Secretary of Agriculture's Service Center Implementation Team initiative.**

Agency employees collect the required information from the applicant or borrower. Information collected is program specific and would not be part of one-stop shopping, except for basic information dissemination between Service Center agencies. Employees utilize information already available at the Service Center and work directly with other FSA programs and USDA agencies to minimize the amount of information collected from applicants and borrowers. Information collected is stored at the Service Center.