

February 5, 2021

**United States Department of Agriculture  
Farm Service Agency  
Supporting Statement  
OMB Control Number 0560-New  
7 CFR 765, Direct Loan Servicing - Regular**

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 In addition, many FLP regulations contained outdated and confusing procedures that made the administration of FLP difficult.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. It has been the agency's experience, as information needed to apply for loans or servicing were dispersed in over 42 CFR subparts, 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 as the agency invariably when amending the pertinent section in the CFR through the rulemaking process, one or more applicable CFR sections were not included.
- 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 approved under control numbers 0575-0075 and 0575-0093 are transferred to this control number and are assigned a new control number. Further, the information collections approved under control numbers 0560-0158 and 0560-0171 are transferred to this control number. Control numbers 0560-0158 and 0560-0171 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 utilizing 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 counted 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 the agency uses to service most FLP loans to ensure borrowers are meeting the requirements of their loan agreements. Servicing of accounts is administered in accordance with the provisions of the Consolidated Farm and Rural Development Act (Act)

(Public Law 87-128), as amended.

Authority to establish the regulatory requirements contained in 7 CFR 765 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.

The general nature of a loan from the agency is very similar to that of any conventional commercial lender. However, agency borrowers tend to pose more of an economic risk of loss than do borrowers of commercial lenders. In order to qualify for a direct loan (funded directly by the Federal Treasury) the applicant must document that no other source of credit is available. Under the provisions of the Act, the agency is required to actively supervise its borrowers and provide credit counseling, management advice and financial guidance. Thus, the monitoring, reporting, evaluation, and consent requirements of this supervision increase the information collection burden on agency borrowers above that imposed by commercial lenders.

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

Information requested under this collection is submitted by borrowers to the local agency office servicing the county in which their business is headquartered. The information is used by the agency to consider whether a borrower is in compliance with their loan covenants, assist the borrower in achieving their business goals, conduct day-to-day management of the agency’s loan portfolio, and ensure that the agency’s interests are protected.

The information collection requirements established in 7 CFR 765 are described below and on the attached FSA-85-1, Reporting and Recordkeeping Requirements.

**Forms**

**FSA-2025 – Notification of Approval and Borrower Responsibilities**

7 CFR 765.403(a) and 766.204

When the agency approves a borrower’s request for transfer and assumption, the agency notifies the transferee of the approval by sending FSA-2025 which sets the terms and conditions the transaction will be completed. In addition, FSA-2025 notifies the transferee of the

responsibilities to which agency borrowers are required to adhere. Further, when the agency approves a borrower's request for shared appreciation amortization, the agency notifies the borrower of the terms and conditions of the reamortization with FSA-2025. Under both circumstances, borrowers read and sign FSA-2025, even if they do not accept the agency's terms.

The agency estimates that 600 transferees and 54 borrowers requesting shared appreciation will read and sign FSA-2025 and it will take 20 minutes each.

### **FSA-2040 - Agreement and Record of the Disposition of FSA Security/Release of Proceeds**

7 CFR 765.302

The borrower and the agency complete an agreement for the disposition of security and release of proceeds for each production cycle. Proceeds may be from the sale of milk or crops on hand or in storage, Government payments, crop insurance payments or insurance proceeds from loss of security. Loan and security instruments require the borrower to report to the agency the disposition of basic and normal income security; request agency consent to dispose security; and notify the agency of the property sold to a purchaser not listed on the agreement. The agency estimates that 40,930 borrowers will be required to complete FSA-2040 annually. The time to complete each FSA-2040 is estimated to be 20 minutes.

Further, 15,349 borrowers will require to update FSA-2040 twice during the year. The agency estimates that each update will require 10 minutes as borrowers may provide revisions by phone, letter, during field visits by agency personnel, or while visiting the agency office for other purposes.

### **FSA-2060 – Application for Partial Release, Subordination or Consent**

7 CFR 765.205 (a)(1); 7 CFR 765.206(a); 7 CFR 765.253; 7 CFR 765.351; 7 CFR 765.351(b)(1); 7 CFR 766.354

Borrowers must obtain agency consent before they enter into transactions affecting agency real estate and chattel security. Such transactions include, but are not limited to, sale or exchange of security, granting a right-of-way, granting junior liens, and cutting, removing, or leasing timber, gravel, oil, gas, coal or other minerals. Borrowers requesting subordination of the agency's lien to obtain credit from other sources must obtain the agency's consent. Further, borrowers who want to cease farming must request agency consent. Lastly, borrowers requesting to voluntarily convey or liquidate real estate security must request agency consent.

In all cases, borrowers complete FSA-2060. The agency reviews the information provided on FSA-2060 and if the request is in the agency's best financial interest, it approves it. The agency receives 6,989 FSA-2060 annually, and the time to complete each is estimated to be 30 minutes. However, all parties that have executed the promissory note are required to sign FSA-2060; therefore, the number of signatures required is estimated to be 10,407 (4,234 individuals; 4,184 for husband and wife operations; and 1,989 entity members are included in this number).

### **FSA-2425 – Canceling Undisbursed Loan Funds**

7 CFR 765.152(b)(7)

At the time of loan making the agency obligates the total amount of the loan requested. Under certain circumstances, such as when loan funds will be used to conduct construction or development, or buy security over a period of time, the borrower may not need to utilize all the funds obligated. In those circumstances, the borrower must request the undisbursed funds be refunded back to the loan for which the funds were obligated. The agency estimates that 548 borrowers will complete FSA-2425 per year, and the time to complete it is estimated at 10 minutes. This information collection is new.

### **FSA-2450 – Temporary Amendment of Consent to Payment of Proceeds From the Sale of Farm Products**

7 CFR 765.302(d)

The agency obtains consent or assignment of proceeds from the sale of farm products on FSA-2042 or FSA-2043, as appropriate. However, during their term, the agency may need to modify the consent or assignment to allow the borrower to use proceeds from the sale of products in a different manner. In those circumstances, the agency temporarily relinquishes its right to collect the proceeds and obtains the purchaser's agreement on FSA-2450. The agency estimates that 550 purchasers will execute FSA-2450 annually and it will take 10 minutes each. This is an existing, previously unapproved collection.

### **FSA-2465 – Assignment, Acceptance, and Release of Wool and Mohair**

7 CFR 765.305(b)

Borrowers are required to assign the proceeds from the sale of wool or mohair to the agency as a condition for having the agency's lien released when the product is sold by consignment. Further, the broker, through whom the borrower will complete the sale, has to agree that the net proceeds of the wool or mohair will be paid by checks made payable jointly to the borrower and the agency. The agency has few borrowers with significant wool and mohair sales and not all of them sell their product by consignment; therefore, the agency estimates that 20 borrowers and 20 brokers will be required to complete FSA-2465. The time to complete each FSA-2465 is estimated to be 10 minutes for each borrower and each broker. This is an existing, previously unapproved collection.

### **FSA-2476 – Transfer of Real Estate Security**

7 CFR 765.401(b)

Borrowers must request and obtain agency consent before selling or transferring security to another party. Borrowers and transferees are required to complete FSA-2476 that provides a

record for the agreements reached between borrowers and transferees regarding the agency's real estate security. The agency estimates that 450 FSA-2476 will be completed every year and it will take 15 minutes for each borrower and 15 minutes for each transferee to complete, as the borrower and transferee have already come to an agreement on the terms and conditions of the transfer before they initiate completion of FSA-2476.

### **FSA-2489 – Assumption Agreement**

7 CFR 765.401(a)(2)

The agency may approve a security transfer and the corresponding loan assumption to obligate a new borrower to repay an existing borrower's agency debt. The agency completes FSA-2489, which details the existing indebtedness, security, existing and new borrowers, and sets forth the amount, terms and conditions for the assumed debt. The new borrower must read and execute FSA-2489. By executing FSA-2489, the transferee becomes personally liable for the borrower's debt and assumes the full responsibilities and obligations of the debt transferred. The agency estimates that 600 FSA-2489 will be executed per year and the estimated time to execute each is 20 minutes.

### **Non-form collections**

#### **7 CFR 765.101(a) – Lenders' Loan Underwriting Standards**

On a regular basis, the agency obtains agricultural lenders' requirements for extending credit to farmers. Information collected includes minimum and maximum loan size, percent of equity as well as repayment margin required, type of security loan to security value and maximum loan term. The agency uses the information to determine if applicants for loans as well as borrowers whose financial condition has improved may qualify for commercial credit. The agency estimates that 586 lenders are contacted to obtain the above information and that it takes 20 minutes for the lenders to provide it. This is an existing, previously unapproved collection.

#### **7 CFR 765.101(d) and (e) – Lender's Review of, and Response to, Borrower's Prospectus**

The agency is a temporary source of credit, and as such, it attempts to identify commercial lenders willing to refinance its borrowers' loans. The agency sends to commercial lenders financial information provided by borrowers with improved financial conditions, and requests the lenders to review and advise the agency if the lender is willing to refinance the borrower's agency loans. The agency estimates that 6,688 prospectuses are sent every year to 1,672 commercial lenders. It takes one half hour for lenders to review each prospectus.

It is further estimated that 1,254 lenders respond, on an average, to 75 percent, or 5,016, of prospectuses sent and it takes 10 minutes per response.

#### **7 CFR 765.101 – Documenting That Borrower Cannot Graduate**

Borrowers who cannot graduate to commercial credit have to provide documentation obtained

from the commercial lender stating the reasons for the lender's denial of credit. The agency estimates that about 74.8 percent of borrowers, or 5,007, whose prospectus is sent to lenders do not graduate to commercial credit. The agency further assumes that all 1,672 commercial lenders, to whom the prospectuses were sent, will provide the reasons for the denial of credit. It is estimated it takes each lender 10 minutes to provide the reasons and 10 minutes for each borrower to provide a copy to the agency.

#### **7 CFR 765.155(c) - Request for Refund of Overpayment**

If an agency miscalculation of a final payment results in an overpayment by the borrower of less than \$10.00, the borrower must request a refund from the agency in writing. This is estimated to occur on 20 occasions per year. The time to request the refund is estimated to be 15 minutes. This is an existing, previously unapproved collection.

#### **7 CFR 765.205(c) – Lender Consent to Second Subordination and Borrower's Assignment of Insurance Proceeds**

When the agency subordinates its lien position to a commercial lender for the borrower to obtain operating credit, and the lender did not provide for payment of the current year's crop insurance premium, the agency will approve a second subordination if the lender consents to the conditions of the second subordination in writing. Further, the borrower must assign the insurance proceeds to the agency or name the agency in the loss payable clause of the policy. It is estimated that 182 commercial lenders do not provide for payment of the crop insurance premium and are required to consent in writing for the agency to grant a second subordination. The time for each commercial lender to grant consent is estimated to be 10 minutes. This is an existing, previously unapproved collection.

Further, 182 borrowers have to provide assignment of the insurance proceeds to the agency. It is estimated it takes 10 minutes for each borrower to provide the assignment required. This is an existing, previously unapproved collection.

#### **7 CFR 765.206(b)(2) – Conditions for Consent to Junior Lien**

Borrowers requesting agency consent to obtain a junior lien on property that serves as security for agency loans are required to provide a copy of the operating plan they submitted to the junior lienholder. The operating plan is needed for the agency to ensure that the borrower has the ability to make payments on the junior lien as well as on all agency loans. The agency estimates that 740 borrowers will provide a copy of the operating plan, and the time is estimated to be 10 minutes per response because the borrower has already completed the operating plan provided to the junior lienholder. This is a new collection.

#### **7 CFR 765.206(b)(4) - Junior Lienholder Agreement**

If state law does not provide it, when a borrower obtains a loan that is secured by the same collateral as the agency loan, the junior lienholder must agree in writing not to foreclose on its security instrument before providing notification to the agency. The agency estimates that 740

borrowers per year obtain a junior lien. Therefore, the agency assumes that 740 junior lienholders will provide written agreements to the agency, and the time to complete each is estimated to be 10 minutes.

### **7 CFR 765.207 – Request for Severance Agreement**

Borrowers obtaining a loan from a commercial lender to purchase an item to be fixed to the real estate that serves as security for the agency's loan, may request the agency to provide a severance agreement, acknowledging that the item is not part of the real estate. Examples include irrigation equipment, dairy milking equipment, and silos. The agency estimates that 280 borrowers request severance agreements. The time to complete each is estimated to be 10 minutes. This is an existing, previously unapproved collection.

### **7 CFR 765.251(c) and 7 CFR 765.252 - Request to Lease Security – Copy of Lease**

Borrowers who want to lease real estate or minerals that serve as security for an agency loan, must request agency consent. In order for the agency to grant consent for real estate leases, the borrower must provide a copy of the lease, documenting that the term of consecutive leases does not exceed three years, or five years if the lessee is related to the borrower by blood or marriage, and the lease does not contain an option to purchase. Further, the borrower must be unable to graduate to commercial credit, and not be ineligible for benefits as a result of disqualification for Federal crop insurance fraud.

To obtain agency consent for mineral leases, borrowers must document that the lease will not adversely affect the agency's interest in the security. It is estimated that 350 borrowers per year will request agency consent to lease security, and the time to prepare it is estimated to be 20 minutes to provide a copy of the lease.

### **7 CFR 765.251(c) and 7 CFR 765.253 - Request to Cease Operating Security – Copy of Lease**

The agency's authorizing statute, its loan documents, as well as its regulations, require a borrower to operate the security acquired with agency loan funds. If borrowers cannot continue operating the security, they may request agency consent to cease operating it. To receive agency consent, borrowers must document that they will be actively involved in the continued management of the farm; the failure to operate the security is due to age or poor health; the failure to operate the security is for reasons beyond the borrower's control; and the borrower will resume operating the farm within three years. This is estimated to occur about 350 times per year and the time to complete the documentation required is estimated to be 30 minutes per response.

### **7 CFR 765.252(e) – Lease of allotments**

Currently the agency does not have any allotment programs; however, payments for allotments on available crops may still be outstanding and borrowers may still continue to request alternate disposition of the payments received. Therefore, the agency will not eliminate this information



collection at the present time, as it may still need it for servicing of existing allotment payments, and in the case it reacquires statutory authority for allotments in the future.

### **7 CFR 765.301(d) and 7 CFR 765.303 (a)(3) - Other Lienholder Consent**

Borrowers must request lienholder agreement if they wish to use proceeds from the sale of security for a purpose other than for debt repayment in the order of lien priority. In addition, borrowers have to request concurrence of all lienholders to use sales proceeds to preserve the security because of a natural disaster or other severe catastrophe, when funds cannot be obtained by any other means in time to prevent the borrower and the agency from suffering substantial losses. The agency estimates that 391 borrowers will request 978 lienholders to provide the agreement. It is estimated that it will take the borrower 10 minutes to request the agreement and the lienholder 15 minutes to provide it.

### **7 CFR 765.351(b)(2) – Lienholder Consent to Use Timber, Gravel, Oil, Gas, Coal, or Mineral Proceeds**

Borrowers for whom the agency has approved a request to sell timber, gravel, oil, gas, coal, or minerals serving as security for agency loans, must assign to the agency any compensation received for damages to the surface or the real estate security resulting from the exploration for or recovery of minerals. Any remaining funds, after the real estate has been repaired, must be remitted to lienholders in order of priority, or the borrower may request lienholders' consent to use proceeds for an authorized loan purpose. The agency estimates that 98 borrowers will request consent from 245 lienholders to use proceeds from the sale of timber, gravel, oil, gas, coal, or minerals for an authorized loan purpose. It is further estimated that all 98 borrowers will assign compensation received for damages to the surface to the agency. The time for the borrower to complete the assignment to the agency and the request to the lienholder is estimated to be 25 minutes (15 minutes for the assignment to the agency and 10 minutes for lienholder consent), and 15 minutes for the lienholder to complete the consent. This is an existing, previously unapproved collection.

### **7 CFR 765.351(c) - Exchange of Real Estate Property**

In the case of real property exchange, the borrower must document that the property acquired in the exchange meets program objectives, purposes and limitations relating to the type of loan involved. Agency borrowers rarely exchange real estate security; therefore, it is estimated that 10 borrowers will exchange property annually and the time to provide the documentation required is estimated to be 10 minutes per response. This is an existing, previously unapproved collection.

### **7 CFR 765.351(d) - Sale of Real Estate Under Contract for Deed**

To obtain agency consent to sell real estate under a contract for deed, the borrower must provide a copy of the contract to the agency documenting that (a) the contract provides for a 10 percent down payment; (b) there will be no impairment to the agency's security position; and (c) the agency will receive the installment proceeds by assignment. Very few borrowers sell real estate

security in this manner in a given year; therefore, it is estimated that 10 borrowers will sell real estate security under contract for deed annually and the time to provide a copy of the contract for deed is estimated to be 10 minutes per response. This is an existing, previously unapproved collection.

**7 CFR 765.406(b)(4) - Withdrawal of obligated party**

A jointly liable individual can be released from liability if they provide documentation that includes a divorce decree (or similar), and document that the remaining liable party can pay the loan. This is estimated to occur 500 times a year and require the borrower to expend one half hour providing the necessary documentation.

**Travel Time**

The agency estimates that borrowers required to provide information under this information collection docket will travel once to the agency office. Therefore, the agency estimates that this information collection docket imposes on the respondents 30,730 hours of travel time.

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

**Collections contained in 7 CFR 765 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 765, 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 difference purpose.

<b>CFR citation</b>	<b>Description</b>	<b>Approved under</b>
765.51 (a)	Requirement to provide financial information to agency from borrowers with limited resource interest rates annually to determine continued need for limited resource interest rates	7 CFR 761*
765.101 (c)	Borrowers have to submit financial information to the agency to assess their potential to graduate to commercial credit	7 CFR 761*
765.155 (d)	Debt settlement of underpayment the agency cannot collect from borrower	0575-0118
765.202 (a)(3) 765.252(b)(3)	Evidence that environmental compliance requirements have been met	0575-0094
765.205 (a)(2)	Financial information to process subordination request	7 CFR 761*
765.205 (a)(4)	Verification of non-farm income	7 CFR 764*
765.205 (a)(5)	Operating plan	7 CFR 761*
765.205 (a)(6)	List of creditors/authorization to release information for the agency to verify debts	7 CFR 764*
765.205 (b)(13) 765.352(a)(3)(iv)	Obtain valid mortgage on real estate in cases of purchase, exchange, or partial release of real estate security	7 CFR 764*

CFR citation	Description	Approved under
765.205 (b)(14) 765.352 (a)(3)(v)	Construction or development completed with funds obtained through subordination or partial release of real estate security complies with 7 CFR 761	7 CFR 761*
765.252	Assignment of income from lease of security (real estate or minerals)	7 CFR 764*
765.302 (h)	Maintenance of disposition records of chattel security	7 CFR 761*
765.303	Assignment of income from the sale of products when the agency has a security interest under the Uniform Commercial Code (UCC) and assignment of income from the sale of products when the agency does not have a security interest under UCC	7 CFR 764*
765.352(a)(3) (iii)	Use of supervised bank account to deposit proceeds from partial release of real estate security	7 CFR 761*
765.402(b)(2)	Release of liability when balance remains after a transfer and assumption	0575-0118
765.403(a)(1)	Eligible transferees must meet requirements of 7 CFR 764 for transfer and assumption of debt	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 decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.**

Information collections obtained using agency forms may be submitted electronically provided the borrower has obtained and activated a USDA account with Level 2 access that allows for electronic submissions. All forms that the borrower 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 borrower 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 borrower'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, borrowers 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 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, especially when requesting loan servicing. The information required from 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 borrowers reside in rural areas, which often do not have access to high speed internet connection. Moreover, 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 and borrowers. 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 servicing process where the agency completes part of the information collection instrument and provides it to the borrower, and lender if applicable, to review and execute. In turn, when this option becomes available, the agency may initiate interactions and transactions that only require the borrower's review and approval or disapproval, as in those situations the 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 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 any 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 to direct FLP borrowers.

Agency personnel with expertise in servicing loans, have reviewed the information collections required under this CFR part to eliminate any duplicative 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 business 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 servicing on 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 a borrower's specific request, is obtained on an as-needed basis, and is used to document the borrower's eligibility for the requested benefit. Accurate decisions, when servicing an account, largely depend on current financial information, actual production and financial 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 CFR 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 than quarterly. There are no information collection requirements that require reporting on more than a quarterly basis.
- 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 document or a single copy of a document.
- d. Requiring respondents to retain records for more than 3 years. There are no such

requirements.

- e. Not utilizing statistical sampling. There are no such requirements.
- f. Requiring use of statistical sampling which has not been reviewed and approved by OMB. There are no such requirements.
- g. Requiring a pledge of confidentiality. There are no such requirements.
- h. Requiring submission of proprietary 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, a member of the Secretary's Committee on Beginning Farmers, 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 practices, as provided in the final rule, closely correspond to commercial lenders' practices, especially as they pertain to production and financial records requirements. Commercial lenders do not enter into agreements for the use of proceeds with their borrowers as they do not have the requirement, and commercial lenders do not have the same statutory and regulatory requirements to comply with, as is the case with the agency. Further, in most cases, the agency is subordinating its lien position to commercial lenders for borrowers to obtain other credit, therefore, the lenders' representatives stated the information the agency requests to subordinate its position is reasonable.

The borrowers the agency contacted stated that the information the agency requests, is not excessive or intrusive, and they understood that the agency cannot process the request for servicing without obtaining the information. However, several stated that since the agency's information collection instruments contain legal terms and conditions borrowers may not understand, the agency should consider instructing its borrowers to seek legal advice before execution of the instruments.

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

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

785 537-1343

Richard Beasley  
6139 Massaponax Church Road  
Fredericksburg, VA 22408  
540-582-8055

Maria Moreira  
Member, Advisory Committee on Beginning Farmers  
Lancaster, MA 01523  
978 534-5411

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

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

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

There is no payment or gift to respondents.

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

Agency 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 Agency's 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, respondents must provide total disclosure of income data and a history of business dealings that is often considered sensitive. Regardless, the information is required to properly document the agency's decision.

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

The annual cost for respondents was calculated as follows:

Total Number of Unduplicated Respondents	52,288
Reports Filed Per Person	2.10
Total Annual Responses	110,121
Total Annual Burden Hours	60,877
Average Burden per Collection	34 minutes
Per Respondent	1 hour, 11 minutes

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

Respondent's Cost per Hour - Farmers	\$19.09
- Business	\$28.53
Total Annual Respondent Cost – Farmers	\$1,051,400
- Business	\$ 165,503
- Total	\$1,216,903

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 the respondents or record keepers resulting from the collection of information.**

The regulation and associated information collection places no burden cost on respondents for capital, start-up, total 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 1,035,912 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 2,080 hours equals an hourly salary of \$34.05.



Therefore, the estimated annual cost to the Federal Government is  
 $1,035,912 \times \$34.05 = \$35,272,803$ .

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 reasons 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 0575-0075, 0575-0093, 0560-0158 and 0560-0171.

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 agency forms are 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 forms 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 83-I.**

There are no exceptions requested.

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

Agency employees collect the required information from the 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 borrowers. Information collected is stored at the Service Center.