

United States Department of Agriculture  
Farm Service Agency (FSA)  
Supporting Statement  
OMB Number-0560-0155  
7 CFR 762, "Guaranteed Farm Loan Programs Loans"

The purpose of this document is to request extension and revision of a currently approved information collection package used in support of FSA's Guaranteed Farm Loan Program (FLP). This extension includes revisions to the program regulations for the Interest Assistance (IA) program. The collected information is needed to evaluate an applicant's eligibility, determine the economic feasibility of the operation, and the adequacy of the security being offered. In addition, all forms used for the Guaranteed Loan Program have been renumbered.

The current burden expires August 31, 2007. The implementation of the changes to the IA program will be effective 60 days after publication of the final rule in the Federal Register, therefore, the burden collection will have a 60 day delay as well.

**Publication of the Interest Assistance Proposed Rule**

FSA published a proposed rule on June 22, 2005 to amend its regulations governing loans made under the guaranteed farm loan Interest Assistance (IA) program. Though an information collection package was not submitted to OMB at the proposed rule stage, the agency did comply with requirements in accordance with 5 CFR 1320.8(d) by embedding the 60-day notice for public comment in the proposed rule.

**Revised Interest Assistance Program**

The IA Program enables lenders to provide credit to operators of family farms who have complex farming problems or lack financial resources to meet standard repayment terms, as compared to other operators of similar type operations. IA is intended to assist farmers who have low production or suffered the effects of a natural disaster or adverse economic conditions. Beginning farmers are also specifically targeted by FSA for increased assistance because of their inability to access private credit programs. The IA program could provide such applicants with the assistance needed to get them through the difficult early years as they accumulate farm assets and become financially viable.

Changes include deletion of annual review requirements, limitations on maximum subsidy payments and period of assistance, and streamlining of claim submission. The changes are intended to reduce paperwork burden on program participants and agency employees, make IA available to more farmers, reduce the costs of the program and enhance the fiscal integrity of the program.

The maximum time for which interest assistance is available has been revised. A borrower may only receive interest assistance for one 5-year period. Beginning farmers and ranchers, as defined by 7 CFR 762.102, however, may be considered for two 5-year

periods. The applicant must meet the definition of a beginning farmer or rancher and meet the other eligibility requirements outlined in 7 CFR 762.102 at the onset of each 5-year period.

The Agency realizes that some existing borrowers need some time to prepare for the reduced period of eligibility. A transition rule will give any borrower at least two more years of eligibility after publication of the final rule as long as the total period does not exceed ten years from the effective date of the original IA agreement.

To receive an interest assistance payment, the lender must prepare and submit a claim on the appropriate Agency form. For loans closed under this revised regulation, the lender will only be required to submit: an Agency IA payment form and the average daily principal balance for the claim period, with supporting documentation.

### **Renumbered Forms**

In accordance with the Agency's initiative to streamline all processes, the forms used for the guaranteed loan program have all been renumbered. There has been no additional burden to the lenders who use these forms. However forms FSA-2233 (formerly FSA-1980-15) "Conditional Commitment", FSA-2222 (formerly FSA-1980-24) "Request for Interest Assistance Payment, and FSA-2221 (formerly FSA-1980-64) "Interest Assistance Agreement" have been revised.

### **Revisions include:**

FSA-2233 "Conditional Commitment" – Part 9 Second paragraph changed to, "Conditions include the requirement that the interest assistance be based on an annual analysis of the borrower's need for continued interest assistance, for which the lender is required to obtain FSA concurrence" has been removed.

FSA-222 "Request for Interest Assistance Payment" – Process for Terminating Interest Assistance has been revised. Lender Certification has been revised to read, "I hereby certify that the above claim and any request for continuation or adjustment of interest assistance is accurate and consistent with the terms of FSA regulations and the Interest Assistance Agreement under which it was issued."

FSA-2221 "Interest Assistance Agreement" – Part B revised to reflect Interest Assistance as 4% only; Language requiring claims to be filed within 12 months clarified; Request for Continuation revised to limit to Beginning Farmers only; Continuation processed in accordance with 2-FLP Paragraph 230B.

### **Justification**

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

The Consolidated Farm and Rural Development Act (CONACT), as amended, authorize the Secretary of Agriculture to make and service loans guaranteed by FSA to eligible

farmers and ranchers. The statutory authority for the guaranteed loan program is set out in the Code of Federal Regulations (CFR), Title 7, Chapter VII, Part 762. The loans made and serviced under 7 CFR 762 include farm operating and farm ownership loans. Also serviced under this Subpart are emergency loans, soil and water loans, and recreation loans, which exist from past authority, but are no longer, granted new guarantees by FSA. The collection of information requested is necessary to assure that the program is being carried out in accordance with the applicable laws, authorities, and policy objectives.

The Secretary is authorized to define the character, scope, and frequency of information required to be collected. The law requires that certain policies be verified by FSA to assure that farmers and ranchers, joint operators, farm cooperatives, private domestic corporations and partnerships that are controlled by farmers and ranchers engaged primarily and directly in farming or ranching in the United States comply with such policies in order to obtain the requested assistance.

In general, a loan applicant for FLP type loan assistance must meet the following conditions: They must be a citizen of the United States; own and operate or become the owner and operator of not larger than a family size farm; and be unable to obtain sufficient credit elsewhere at reasonable rates and terms.

The reporting and record keeping requirements imposed on the public by regulations set out in 7 CFR 762 are necessary to administer the FLP guaranteed loan program in accordance with the statutory requirements listed above and are consistent with commonly performed lending practices. Periodic collection of information after loans are made is necessary to protect the Government's financial interest.

Authority to establish the regulatory requirements obtained in 7 CFR 762 is provided under 5 U.S.C. 301, 7 U.S.C. 1989, 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 a new collection, indicate the actual use the Agency has made of the information received from the current collection.**

FSA uses Agency forms and written evidence to collect needed information. The information collected is used to determine lender and loan applicant eligibility for farm

loan guarantees, and to ensure the lender protects the government's financial interests. The information is stored in FSA Service Center loan files, State Office Lender files, or in the Agency's computer systems. FSA requires original lender signatures on the documents submitted. Original signatures from loan applicants are required on the applications for loan guarantees. The regulations require submission of information essential to protect the Government's interest.

The information collection requirements established in 7 CFR 762 are described below and on the attached Form FSA 85-1, "Reporting and Recordkeeping Requirements". 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" is required under the provisions of the Act and therefore cannot be eliminated.

### **FORMS:**

#### **Form FSA-2232 "Conditional Commitment"**

##### **7 CFR 762.130(4)(c)(2)**

This form is used by the lender to certify that the requirements listed on this form have been or will be met. All loans guaranteed require the lender to review and accept the conditions set forth in the Conditional Commitment; therefore, we estimate lenders will review 12,000 conditional commitment's annually. The estimated time to review and execute this document is 0.25 hours per response.

#### **Form FSA-2233 "Lender Certification"**

##### **7 CFR 762.130**

This form is used to document certain conditions and requirements that have been or will be met in closing a farm loan and execution of loan documents required to obtain an FSA Loan Guarantee. The lender is certifying that no major changes have been made in the lender's loan or line of credit conditions since submission of the application. All loans guaranteed require the lender to complete a Lender Certification form; therefore, we estimate lenders will complete 12,000 certifications annually. The estimated time to review and execute this document is 0.25 hours per response.

#### **Form FSA-2222 "Request for Interest Assistance Payment"**

##### **7 CFR 762.150(a)(1)(i)**

This form is used by an FSA Guaranteed Lender to request periodic interest assistance payments for Guaranteed Farm Loans that have an Interest Assistance Agreement in effect. Lenders with existing guarantees will continue to submit their request for interest assistance payment. The Agency estimates that 12,000 requests for payment will be submitted annually. The estimated time to submit this request is 0.33 hours per request.

#### **Form FSA-2211 "Application for Guarantee"**

##### **7 CFR 762.110(a), 762.110(b), 762.142(b)(iv)(A), 762.150(a)(i)**

This form is used by lenders to apply to the FSA Guaranteed Loan program. Standard Eligible Lenders (SEL) and Certified Loan Program (CLP) lenders must perform at least the same level of evaluation and documentation for guaranteed loans as for non-guaranteed loan of a similar type for loans \$125,000 more/less. This request describes the characteristics of the borrower, the purpose for which loan funds will be used, the proposed security for the loan, and the proposed terms and conditions of the loan request. Many items are customary business practice for any loan transaction between a farm business and a lender, for example, a balance sheet, cash flow, financial and production history, and verification of debt and income. Other items are additional requirements for the Agency to determine program eligibility or to comply with laws and executive orders. Application packages will vary depending on the size of the loan, the status of the lender, and the material already available to FSA. The Agency estimates 8,000 applications will be received each year. The estimated time to furnish this information is 3.50 hours per response for lenders and 0.50 hours per response for each loan applicant.

**Form FSA-2261 “Report on Collection Activities on Liquidated Accounts”**

**7 CFR 762.141(f)**

This form is used to update FSA of collection activities made by the Lender on liquidated accounts. The number of annual reports on collection activities estimated to be submitted is 2,700. The time burden required to complete the form is estimated to be 0.16 hours.

**Form FSA-2212 “Preferred Lender Application for Guarantee”**

**7 CFR 762.110(6)(c)**

This form is used by Preferred Lenders (PLP) to apply for a guarantee on proposed loan(s). Since PLP lenders are those with the industry’s best practices and record, FSA only requires an application form and loan narrative to be completed. The remainder of the documentation consists of the lender’s own practices. In 2006, FSA closed approximately 4,000 loans from PLP lenders. The estimated time to furnish this information is 1 hour per response for each lender and 0.25 hours per response for each applicant. With PLP lenders, no additional burden is required of loan applicants other than that required in the normal course of business when applying for a farm loan.

**Form FSA-2242 “Assignment of Guarantee”**

**7 CFR 762.160(2)**

This form is used to assign an existing FSA guarantee to a holder. Once the lender accepts a specific buyer’s offer, the lender notifies FSA that the loan is being assigned. The Agency has approximately 5,500 loans outstanding that have been sold to secondary market investors. FSA projects those 1,400 loans will be sold each year. The Agency estimates that this form requires approximately 0.50 hours completing.

**Form FSA-2201 “Lenders Agreement”**

**7 CFR 762.105(d)(3), 7 CFR 762.106(f)(2), 7 CFR 762.130(3)**

This form is used to establish the Lender as an approved participant in the Guaranteed Loan Program of FSA and the status approved for participation. This agreement sets forth the lenders and agency’s responsibilities regarding loans made under the guaranteed program. Agreements with CLP and PLP are valid for 5 years. Agreements with SEL’s

are valid indefinitely. The agreement does not need to be completed for each loan, rather the lender completes the agreement and it covers all loans made. We estimate that 395 lenders will be required to execute a new lender's agreement every 5 years. The estimated time to review and execute this document is 1 hour per response.

**Form FSA-2241 "Guaranteed Loan Status Report"**

**7 CFR 762.141(b)**

This form is used by FSA Guaranteed Lenders. It is used to update the status of each borrower's loans and to keep data for all guaranteed loans up to date in FSA accounting records. All lenders will submit the appropriate guaranteed loan status reports as of March 31 and September 30 of each year. Therefore, this form will be required approximately 146,000 times annually with each requiring approximately 0.33 hours preparing and submitting. The estimated time to review and execute this document is 48,180.00 hours.

**Form FSA-2248 "Guaranteed Farm Loan Default Status"**

**7 CFR 762.141(a)**

This form is used to inform FSA of the status of borrowers in default. This form is completed when the guaranteed loan becomes 30 days past due and resubmitted every 60 days until the default is cured either through restructuring or liquidation. The overall guaranteed loan delinquency rate measured in loans delinquent as of January 10, 2007 is 1.19 percent. Thus, approximately 1,300 of these forms are submitted every 60 days or roughly 7,800 a year. Each form requires approximately 0.33 hours completing and submitting.

**Form FSA-2221 "Interest Assistance Agreement"**

**7 CFR 762.150(6)**

This form is used by FSA to reduce the interest rate on a Guaranteed Operating Loan. As of December 22, 2006, 7,160 loans with Interest Assistance were outstanding; therefore, we estimate 2,500 Interest Assistance Agreements will be executed each year. The time required by the lender and loan applicant to read and complete this form is estimated to be 0.25 hours each.

**Form FSA-2252 "Farm Loan Programs Guaranteed Writedown Worksheet"**

**7 CFR 762.145(4)(e)**

Lenders use this form to document the decision to write down the guaranteed loan(s) and pay the required loss claim(s). The Agency estimates that this form will be submitted 15 times a year and the time required completing the form and submitting it is estimated to average 2 hours.

**Form FSA-2253 "Shared Appreciation Agreement"**

**7 CFR 762.147**

This form is used to define the agreement between the lender and borrower upon the write down of debt for future recapture of a percentage of the real estate value appreciation. This agreement requires the lender to collect from the borrower a percentage of the value increase in the property if the 5-year period of the agreement expires or another specified action occurs prior to the expiration. The Agency estimates that 5 write downs involving real estate will occur annually. It is estimated that the form will require 1 hour for a lender to complete and submit.

**Form FSA-2236 “Guaranteed Loan Closing Report”**

**7 CFR 762.130(4)**

This form is used to prepare many types of actions on the guarantee. This form must accompany all guarantee fee payments. The lender delivers this form and applicable fee to the Agency representative.

**Form FSA-2251 “Lender’s Guaranteed Loan Payment to USDA”**

**7 CFR 762.144(c)**

This form is used to transmit any funds due USDA when USDA has purchased a part or the entire guaranteed portion of the loan.

**Non-form collections**

**7 CFR 762.105(b) Standard Eligible Lender Eligibility Criteria**

To participate in FSA Guaranteed Farm Loan Programs, the standard eligible lender (SEL) must provide evidence when requested that they have experience making and servicing agricultural loans and have the capability to make and service the loan for which a guarantee is requested. The lender, its officers, or agents must not be debarred or suspended from participation in Government contracts or be delinquent on a Government debt. The Agency estimates that 350 lenders will spend about 0.50 hours providing the evidence requested.

**7 CFR 762.105(c)(2), 762.105(c)(3) Substitution of Lenders – New & Original Lenders**

A new eligible lender may be substituted for the original lender, upon the original lender’s concurrence. The new lender agrees in writing to assume all servicing and other responsibilities of the original lender. The Agency estimates 20 new lender substitutions will require a new agreement and estimates 1 hour to execute a lender’s agreement if one is not in effect.

The original lender will assign their promissory note, lien instruments, loan agreements, and other documents to the new lender. The Agency averages 100 lender substitutions annually. The time the original lender spends submitting this information is estimated at 0.50 hours in each case.

**7 CFR 762.105(d)(3) Lender Name or Ownership Changes**

When a lender begins doing business under a new name or undergoes an ownership change, the lender must notify the Agency. The Agency estimates that 20 lenders per year change the name under which they are doing business or undergo ownership changes. The notification required by this section would require about 0.33 hours for each lender.

**7 CFR 762.106(a) Preferred and Certified Lender Programs – General**

Lenders who desire PLP or CLP status must prepare a written request addressing their desire to receive PLP or CLP status and their branch office which they desire to be considered by the Agency for approval. The lender may include any additional supporting evidence or other information the lender believes would be helpful to the Agency in making its determination. There are presently 332 CLP lenders and 170 PLP lenders. The Agency estimates 15 additional lenders will apply for CLP status and 15 for PLP status this year. The estimated time to furnish the required information for CLP lenders is 15 hours per response and for PLP lenders, 17 hours per response.

**7 CFR 762.106(b)(6)(i) and 762.106(c)(1) CLP and PLP Criteria – Training**

A representative of each CLP and PLP Lender must agree to attend Agency sponsored training once every 12 months. The Agency estimates of the 332 CLP lenders and 170 PLP lenders, that at least two representatives per lender will travel and attend this training. The Agency trainings, including travel time, will require around 8 hours per year for each lender.

**7 CFR 762.106(e) Monitoring CLP and PLP Lenders**

CLP and PLP lenders will provide information and access to records upon Agency request to permit the Agency to audit the lender for compliance with regulations. The Agency reviews 40 percent of each SEL's loans, and 20 percent each of CLP and PLP lender's loans each year. Obtaining files and discussing the annual review with FSA requires each of the Agency's 4,500 lender branches to spend 1 hour each year.

**7 CFR 762.106(f)(2) Renewal of CLP or PLP Status**

PLP or CLP status will expire within a period not to exceed 5 years from the date the lender's agreement is executed, unless a new lender's agreement is executed. Renewal of PLP or CLP status is not automatic. A lender must submit a written request for renewal of a lender's agreement with PLP or CLP status. An average of 140 lenders will need to reapply for status each year. The estimated time to furnish this information is 5 hours per response.

**7 CFR 762.110(f)(1) Conflict of Interest**

When a lender submits the application for a guaranteed loan, the lender will inform the Agency in writing of any relationship which may cause an actual or potential conflict of interest. The Agency estimates approximately 800 applications will require additional information regarding conflict of interest. The estimated time to furnish this information is 0.25 hours per request.

**7 CFR 762.123(a)(1) & 762.123(b) Insurance and Farm Inspection Requirements**



Lenders must require borrowers to maintain adequate property, public liability, and crop insurance to protect the lender and the Government's interests. Loan applicants must obtain flood insurance if buildings are or will be located in a special flood hazard area. Other insurance, including crop insurance, must be obtained as required by the lender or the Agency based on the strengths and weaknesses of the loan. If a lender was making a loan without a guarantee, they would as a general risk management practice, require insurance. Thus, requiring an applicant to obtain insurance is a standard industry practice and no burden is included.

Before submitting an application, lenders must make an inspection of the farm to assess the suitability of the farm and to determine any development that is needed to make it a suitable farm. The Agency estimates 4,500 lenders must make an inspection on approximately 12,000 loan applications and require 1.25 hours for each inspection.

#### **7 CFR 762.124(a)(1) Interest Rates, Terms, Charges, and Fees**

At the request of the Agency, the lender must provide evidence of the rate charged the average agricultural loan customer. This evidence may consist of average yield data, or documented administrative differential rate schedule formulas used by the lender. The average agricultural loan customer does not include low-risk or high-risk farmers. The Agency estimates that 750 loans will require the lender to justify the interest rate charged. The estimate time to furnish this information is 0.25 hours per response.

#### **7 CFR 762.127 Appraiser Requirements**

The Agency may require a lender to obtain an appraisal based on the type of security, loan size, and whether it is primary or additional security. The lender must demonstrate to the Agency's satisfaction that the appraiser possesses sufficient experience or training to estimate the market value of agricultural property. The Agency estimates 1,000 lenders will submit justification of the appraiser's qualifications on an average of 3.75 reports per lender. The estimate time to furnish this documentation is 1 hour per response.

#### **7 CFR 762.128(d)(2) Equal Opportunity and Non-Discrimination**

When the guaranteed loan involves construction, the contractor or subcontractor must file all compliance reports, equal opportunity and non-discrimination forms, and otherwise comply with all regulations prescribed by the Secretary of Labor pursuant to Executive Orders 11246 and 11375. There are few farm construction companies with over 50 employees; however the Agency estimates that this will only affect no more than 25 lenders. The estimated time to furnish this information is 1.25 hours per response.

#### **7 CFR 762.130(xi)(2) Inspections**

The lender must notify the Agency of any scheduled inspections during construction and after the guarantee has been issued. Approximately 20 percent of Farm Ownership (FO) loans are for capital improvements. The Agency estimates 700 loans will involve capital improvements, and require 0.25 hours for each notification.

### **7 CFR 762.130(f) Replacement of Loan Guarantee or Assignment Guarantee Agreement**

If the guarantee or assignment guarantee agreements are lost, stolen, destroyed, mutilated, or defaced, the Agency will issue a replacement to the lender or holder. The Agency estimates that 50 will be reissued annually. The time required to make the request to the Agency is estimated to take 0.50 hours per response.

### **7 CFR 762.141(c) Reporting Requirements – CLP Lenders**

CLP lenders must provide a written summary of the lender's annual analysis of the borrower's operation. This annual analysis may be waived or postponed if the borrower is financially strong. The Agency estimates the 332 CLP lenders will spend 1 hour providing this written documentation.

### **7 CFR 762.141(d) Reporting Requirements – SEL Lenders**

SEL lenders must also provide a written summary of the lender's annual analysis of the borrower's operation. SEL must also provide the borrower's balance sheet and income and expense statement for the previous year, in addition to an annual farm visit report or collateral inspection. The Agency estimates that 2,675 lenders require 2 hours to submit this documentation.

### **7 CFR 762.141(3)(e) Reporting Requirements – PLP Lenders**

PLP lenders will submit additional reports as required in the lender's agreement. A majority of PLP lenders are not required to provide the Agency with any analysis information. The Agency estimates that 20% of the 170 PLP lenders will submit additional information according to their lender's agreement. The Agency estimates 1 hour to provide this information.

### **7 CFR 762.142(b)(2) Partial Releases**

This section allows lenders to release a portion of guaranteed loan security without consideration when certain conditions are met. Based on discussions with lenders and State Specialists, the burden estimate for this provision is 300 requests for concurrence with each request requiring 6 hours to compile and submit the information.

### **7 CFR 762.142(c) Subordinations**

The Agency may subordinate its security interest on a direct loan when a guaranteed loan is being made if the requirements of the regulations government Agency direct loan subordinations are met. The Agency estimates that approximately 25 lenders will submit an average of 4 subordination requests annually. The time required to complete and submit the required documentation is estimated to be 6 hours.

### **7 CFR 762.142(d)(9) Transfer and Assumption**

Transfers and assumptions servicing action must be approved by the Agency in writing for SEL and CLP lenders. The Agency estimates that each year 25 loans that were sold on the secondary market will be assumed by someone else. The estimated time it will take to notify the holder in writing of the assumption is estimated to be 0.33 hours.

### **7 CFR 762.144(b)(1) Repurchase by the Lender**

When a lender is requested to repurchase a loan from the holder, the lender must consider the request according to the servicing actions that are necessary on the loan. It is estimated that 100 lenders will make 3 requests annually, and it will take 0.50 hours per response to make the demand on the lender and provide evidence of ownership.

### **7 CFR 762.144(c)(1) Repurchase by the Agency – Holders and Lenders**

If the lender does not repurchase the loan, the holder must inform the Agency in writing that demand was made on the lender and the lender refused. FSA purchases an average of 10 loans per year for the holders, and 10 loans per year for the lender, under this section. The Agency estimates that each request will require approximately 0.25 hours for the holders and 0.25 hours for the lenders to provide evidence of ownership and to provide loan balance information.

### **7 CFR 762.144(d) Repurchase for Servicing**

If, due to loan default or imminent loan restructuring, the lender determines that repurchase is necessary to adequately service the loan, the lender may repurchase the guaranteed portion of the loan from the holder, with the written approval of the Agency. The Agency estimates 75 lenders will make 5 requests annually. The time required for the lender to request SED concurrence with the repurchase is estimated to average 0.33 hours per response.

### **7 CFR 762.145(a)(3)(iii); 762.145(b)(e); 762.145(a)(4) Restructuring Guaranteed Loans – SEL, CLP, & PLP Lenders**

To restructure guaranteed loans, SEL and CLP lenders must obtain prior written approval of the Agency for all restructuring actions. All lenders will submit copies of any restructured notes or lines of credit to the Agency. Assuming that future restructuring actions are consistent with previous years, the Agency estimates that 140 SEL lenders will make 4 requests annually. The burden to compile and provide the information, which is a normal business practice, is projected at 3 hours per request. Approximately 230 CLP lenders will make 3 requests annually and the Agency estimates 2 hours per request. PLP lenders will restructure loans in accordance with their lender's agreement. The Agency estimates 70 PLP lenders will submit copies of restructured notes or lines of credit. The Agency estimates that PLP lenders will take 0.33 hours to submit this information and will average 2 requests per year each.

### **7 CFR 762.145(e) Debt Writedown**

The lender may only write down a delinquent guaranteed loan or line of credit in an amount sufficient to permit the borrower to develop a feasible plan. The Agency estimates 10 cases are received annually, which will require an average of 10 hours per case.

### **7 CFR 762.146(a)(2) Other Servicing Procedures – Additional Loans and Advances – SEL and CLP Lenders**

SEL and CLP lenders must not make additional loans or advances without prior written approval of the Agency, except as provided in the borrower's loan or line of credit

agreement. The burden to provide is estimated at 2 hours. This type of analysis is a standard business practice for SEL and CLP lenders. The Agency estimates that there will be an average of 400 requests annually for additional loans or advances.

#### **7 CFR 762.146(c) Release of Liability after Liquidation**

After a final loss claim has been paid on the borrower's account, the lender may release the borrower or guarantor from liability if certain requirements are met. The Agency processes approximately 1,000 loss claims annually and the estimated time is 5 hours per request.

#### **7 CFR 762.146(d) Interest Rate Changes**

The lender may change the interest rate on a performing (non-delinquent) loan with the borrower's consent. To do so, the lender must repurchase the loan or obtain the holder's written consent, obtain a legally effective allonge or amendment to the existing note, and inform the Agency of the rate change. The Agency estimates receiving 300 requests annually, and will require about 1 hour for the lender to comply.

#### **7 CFR 762.147 Servicing Shared Appreciation Agreements**

This section governs collection of Shared Appreciation Agreements (SAA) required for consideration to receive a guaranteed loan writedown. The Agency estimates that 20 SAA's will be triggered annually. The time required to monitor agreements and to provide FSA with the Recapture Reimbursement is 4 hours per response.

#### **7 CFR 762.149(a) Mediation**

This section requires lenders to participate in borrower and creditor mediation when the loan is made in a State with a law that mandates mediation. The Agency estimates that lenders will attend 150 mediation meetings per year as a result of this requirement. The time required to prepare for and attend each meeting is estimated to be 4 hours.

#### **7 CFR 762.149(b) Liquidation Plan**

If a default cannot be cured after considering servicing options and mediation, the lender will proceed with liquidation of collateral. Within 30 days of the decision to liquidate, SEL and CLP lenders will submit a written liquidation plan to the Agency. The Agency estimates that it liquidation will occur on 1,300 cases per year. The estimated time required for a lender to provide the requested information is 6 hours.

#### **7 CFR 762.149(e)(1) Protective Advances**

Prior written authorization from the Agency is required for all protective advances in excess of \$5,000 for CLP lenders and \$3,000 for SEL lenders. The dollar amount of protective advances allowed for PLP lenders will be specified when PLP status is awarded by the Agency or contained in the lender's agreement. Protective advances are estimated to be necessary in about 500 liquidation cases and the time to provide documents to support the request for concurrence is 1 hour.

#### **7 CFR 762.149(g)(3) Acceleration**

If the borrower is not in bankruptcy, the lender will submit a copy of the acceleration notice or other document to the Agency. The Agency estimates 1,000 loans annually will be accelerated and the estimated time to provide a copy of the notice to the Agency is 0.17 hours.

**7 CFR 762.160 Assignment of Guarantee**

Subject to Agency concurrence, the lender may assign all or part of the guaranteed portion of the loan to one or more holders at or after loan closing. The lender will provide the Agency copies of all appropriate forms used in the assignment. FSA estimates 1,400 loans are sold each year. The information to be submitted to comply with this provision will require a lender an estimated 0.25 hours to complete.

**7 CFR 1940.4(c) Market Placement Program**

In the Market Placement Program, direct loan applications are processed under the standard direct loan procedures. If the loan applicant is eligible and may qualify to receive a guaranteed loan, the Authorized Agency Official shall present the completed guaranteed loan application to 1 or more lenders, selected by the loan applicant, who have expressed an interest in the Market Placement Program. The Agency estimates that 25 applications will be received annually through the Market Placement Program. The information submitted to comply with this provision will require 1 hour to complete.

**Information Collections Approved Under Other Control Numbers**

**Form RD-449-30 “Loan Note Guarantee Report of Loss”**

**7 CFR 762.148(2)(c), Section 762.149(3)(d)**

This form is used to provide for reporting estimated losses, and interest loss payments. The lender prepares with consultation with the respective USDA Agency. The burden for this form has been cleared under OMB Control Number 0676-0137.

**7 CFR 762.128(a) Environmental and Special Laws**

This is covered under 7 CFR part 1940, subpart G, therefore no additional burden is required of the lender.

**7 CFR 762.148(c)(1) Estimated Loss Claims in Reorganization**

The lender may submit an estimated loss claim upon confirmation of the reorganization plan with supporting documentation for the loss claim, and additional information requested by the Agency. The burden associated with FSA loss claims is included in 0575-0137.

**7 CFR 762.149(d) Estimated Loss Claims**

This burden is included in 0575-0137.

**7 CFR 762.149(i)(1) Final Loss Claims**

This burden is included in 0575-0137.

**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 lenders submit forms electronically. 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 lenders 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 lenders reside in rural areas, which often do not have access to high speed internet connection. Moreover, applicants and lenders 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 lenders 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 lender to review and execute. In turn, when this option becomes available, the agency may initiate interactions and transactions that only require the applicant or lender's

review and approval or disapproval, as in those situations the applicant or lender 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 lenders 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 lenders who have obtained and activated a USDA account with Level 2 access. Therefore, all parties that provide information to the agency on behalf of the applicant or lender 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.**

Information collected through this regulation duplicates some of that required of other Agency procedures. 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 applicant or borrower; however, financial information that is collected at another time may be dated and not useful for the specific action being considered. Also, lenders are permitted to use their own forms to the maximum extent possible. The information collections pertain primarily to the securing and documenting decisions regarding FSA guaranteed farm loans. 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 other small entities. The Agency only requires the information collections when necessary to act on an applicant's or borrower's request for guaranteed loan assistance; therefore, it is unable to further reduce the frequency of the collections. Collections are limited to those that are essential in determining that loan applicants meet statutory requirements and have adequate repayment ability and security for the requested loan. 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 relies on current information to carry out the business of the program as intended and to protect the government's interest. If the information were not collected, or collected less frequently, the Agency would be unable to meet the congressionally mandated mission of the guaranteed loan program.

**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 reporting more frequently than quarterly.

b. Requiring written responses in less than 30 days. There are no information 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. Lenders are expected to retain records of loan transactions for at least the life of the loan. This is necessary to provide documentation in the event of a loss claim. It is standard business practice for a financial institution to keep loan records for the life of the loan in a customer file.

e. Not 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 a 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.**

**Federal Register notices summarizations of comments and consultation with persons outside the Agency.**



The proposed rule was published on June 22, 2005 (70 FR 36055) requesting for public comments on the information collection. No comments were received on the paperwork burden estimates.

This is a revision of the information collections required by 7 CFR 762. The information requested is standard throughout the credit industry and the Agency has the expertise to make the required determinations. However, the estimate is based on the experience and expertise of the national experts on FSA Farm loans and agricultural lending. Also, the Agency consults with its borrowers, representatives of private lending institutions, Agency and other USDA employees, representatives of the Farm Credit Administration and employees of the legislative branch on a frequent basis as part of ongoing program administration, national oversight and national internal reviews.

The Agency has contacted the following individuals to obtain their views on this collection. They responded to questions used to develop and verify information required on the Reporting and Recordkeeping Requirements (FSA 85-1) in this collection.

(1) Greg Beachy  
Vice President – Risk Management  
Farm Credit Services of Mid America  
Louisville, Kentucky  
(502) 420-3787

(2) Jimmy D. Hicks  
Vice President  
Heritage Bank  
Murray, Kentucky  
(270) 753-7921

(3) Doug Dostal  
Vice President  
Peoples Bank  
Lynden, Washington  
(360) 354-7278

(4) William M. Primm  
Senior Vice President  
Lafayette State Bank  
Mayo, Florida 32066  
(386) 294-1901

(5) Don Ashley  
Vice President  
Madison County Community Bank  
Madison, Florida  
(850) 973-2400

All parties contacted responded positively regarding the Agency’s efforts to reduce the information collections of this program. There were no major problems which could not be resolved through consultations.

**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 respondents and the basis for the assurance in statute, regulation, or Agency policy.**

No assurance of confidentiality is provided. Requests for information received by the Agency will be handled in accordance with the provisions of the Freedom of Information Act and the Privacy Act.

**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 of the receipt of program assistance, respondents must provide total disclosure of income data, debts and assets, and history of business dealings that may be considered sensitive. Respondents interviewed indicated no problems or concerns with providing the information requested on this collection. They understand the necessity due to the nature of the assistance and realize this is standard practice when requesting credit assistance. Disclosure is governed by the Privacy Act.

**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.....	15,500
Reports Filed Per Person.....	19.7
Total Annual Responses.....	305,350
Total Annual Burden Hours.....	204,584
Average Burden Per Collection.....	0.67
Per Applicants (Farmers).....	1.66
Per Lenders.....	0.68

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

Respondent’s Cost Per Hour – Applicants (Farmers).....	\$16.41*
- Lenders.....	\$28.53*
Total Annual Respondent Cost – Applicants (Farmers).....	\$3,357,223
- Lenders.....	\$5,836,781
- Total.....	\$9,194,004

\*Cost per hour for applicants was derived from the U.S. Department of Labor Bureau of Labor Statistics 2005 Occupational Employment Wages, May 2005.

The public reporting burden for the collection of information in this regulation as revised is estimated to average 0.67 (total burden hours/total annual responses) hours per response. The respondents are commercial banks, the Farm Credit System, farmers and ranchers. The Agency estimates the number of respondents to be 12,000 loan applicants and 3,500 lenders annually.

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

There are no burden costs on respondents for capital, start-up, total operation, maintenance or purchase of services other than what is usual and customary for normal business operations.

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

The estimated annual cost to the Federal Government is \$6,009,986.86. Agency employees spend 2,500 hours processing collections included in this docket. Averaging the GS-9 through GS-12 (2007 Salary Table) salaries indicates an average employee salary of \$46,214 per year. Standard adjustments recommended by FSA's Budget Division is 33.3% are added for benefits and miscellaneous expenses, for a total average cost for an FLP employee salary of \$61,603 per year, which divided by 2,080 hours equals an hourly salary of \$29.62.

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

The program change has increased 3,344 hours. The program hours previously approved were 201,240, and the current burden hours are 204,584. The additional increase of 3,344 stems from changes made to the Agency's Interest Assistance Program. The Agency therefore believes the small increase does not impose any additional hardship to program participants.

**\*\* For more specific reference, see attached FSA-85-1.**

**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 increase printing costs for the Agency and results in the need to revise forms posed 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 items in the certification statement to which the Agency can not certify.

**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 lender, 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.