

January 30, 2021
United States Department of Agriculture
Farm Service Agency
Supporting Statement
OMB Control Number 0560-NEW
Land Contract Guarantee Program and EM-Equine Loss Loan Program
Direct Loan Making
7 CFR 764

FSA is requesting an approval to obtain OMB clearance for a new information collection to support the Land Contract Guarantee Program and the Emergency Equine Loss Loan Program (EM). Once this package has been approved and the final rule has been published, the information in this package will be incorporated into FSA existing package approved under OMB control number 0560-0237. In the future, burden information for these programs will be included in the 3 year renewal package for OMB control number 0560-0237.

The 2008 Farm Bill amended Sections 310 F and 321 of the CONACT, authorizing the Secretary to make loans under the Land Contract Guarantee and Emergency Loans (EM) to include equine farmers. Under the Land Contract Guarantee Program the agency will be providing guarantees of loans made by private sellers of a farm on a land contract sales basis. Section 321 of the CONACT expands eligibility for EM loans to equine farmers whose primary enterprise is to breed, raise and sell horses and have suffered production and physical losses due to drought, flooding, other natural disasters, and certain quarantines. No new forms will be created as only existing forms with existing approval through OMB control number 0560-0237 will be used.

The information collection requirements are described below and on the attached form FSA-85-1, Reporting and Recordkeeping Requirements.

Justification

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

FSA's Land Contract Guarantee Program and Emergency Loans (EM) program provide assistance to help beginning farmers and socially disadvantaged farmers to acquire land and producers recover from production and physical losses due to drought, flooding, other natural disasters, or quarantine, respectively. The regulation covered by this information collection package describes the policies and procedures the agency uses to make loans to eligible applicants.

Authority to establish the regulatory requirements contained in 7 CFR 764 is provided under 5 U.S.C. 301, which provides that "The Head of an Executive department or military department may prescribe regulations for the government of his department ... the distribution and performance of its business..." Furthermore, section 339 of the Act (7 U.S.C. 1989) provides that "the Secretary is authorized to make such rules and regulations, prescribe the terms and conditions for making... loans, security instruments and agreements, except as otherwise

specified herein, and to make such delegations of authority as he deems necessary to carry out this title.” The Secretary delegated authority to administer the provisions of the Act applicable to FLP to the Under Secretary for Farm and Foreign Agricultural Services (FFAS) in section 2.16 of 7 CFR part 2. FFAS further delegated this authority to the FSA Administrator in section 2.42 of 7 CFR part 2.

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

Applicants who meet the eligibility requirements for the land contract guarantee program and EM equine loss loan will provide information to the local agency office serving the county in which their business is headquartered. The information is necessary to thoroughly evaluate the applicant’s request for a direct loan and is used by agency officials to:

- Ensure applicants requesting loan assistance meet statutory eligibility requirements.
- Determine the State where the agency must file the financing statements according to the Uniform Commercial Code requirements.

Legislation requires the agency to actively supervise these applicants 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 applicants above those imposed by commercial creditors.

The information collection requirements established in 7 CFR 764 are described below and on the attached form FSA-85-1, Reporting and Recordkeeping Requirements.

FSA-2001, Request for Direct Loan Assistance

7 CFR 764.51(b); 7CFR 765.205(a)(1); 7CFR 765.403(a)(1); 7 CFR 766.102(a)(2)

This form is used for loan making requests. Information collected on FSA-2001 includes name, address, type of operation, marital status, race and ethnicity, citizenship, name and address of employer, as well as certifications pertaining to delinquent Federal debt, prior convictions for controlled substances, disqualification due to Federal crop insurance fraud, restrictions and disclosure of lobbying activities, and previous debt forgiveness by the agency. Further, applicants must provide description of the operation. The application form requires all entity members to provide information about percent of ownership in the entity, citizenship, marital status, ethnicity, race, gender, name and address of employer, as well as read the certifications provided above and sign the form.

The agency estimates that an individual applicant spends approximately 30 minutes completing and signing this form, and entities will spend 60 minutes as all entity members are required to provide information applicable to individuals and certify and acknowledge that they have read the certifications included on the form.

The Agency estimates that it will receive 42 total direct loan requests for equine related Emergencies. The agency estimates that 90 percent of the loans will be from individual applicants and married applicants applying jointly, and 10 percent will be from entity applicants (with an average of 3 members per entity).

For loan servicing purposes the agency anticipates 14 subordination requests, 1 transfer and assumption request, and 6 requests for primary loan servicing per year related to the EM-Equine Loss Loan Program. The agency estimates that 90 percent of the requests will be from individual applicants and married applicants applying jointly, and 10 percent will be from entity applicants (with an average of 3 members per entity).

FSA-2002, Three Year Financial History

7 CFR 764.51(b)(4); 7 CFR 766.102(a)(3); 7 CFR 763.7(b)(7); 7CFR 763.18(b)(6)

Used to document the applicant's past 3 years income and expense history as part of a complete application and is approved under OMB Control Number 0560-0237. The Agency requires applicants to submit the last three years income and expense records as part of a complete application. This information is necessary to ensure that the projected cash flow used to determine loan repayment is based on the actual financial history of the operation.

The Agency estimates 42 direct loan requests will be received annually from new applicants who are required to complete all three years of financial information. The agency estimates that it will take one hour for each applicant to complete FSA-2002 as they will provide information for all three years or the time they have been farming, if less than three years.

The Agency estimates 10 requests will be submitted annually for land contract guarantee program. The time to complete and execute the FSA-2002 for this purpose is 60 minutes.

Applicants with outstanding land contract guarantee loans have provided financial history to the agency as part of the previous year's complete application or as part of the year-end analysis process, and are therefore required to provide FSA-2002 covering only the current year. Annual financial history is needed on all Standard Land Contract guarantees, and the agency estimates 2 buyers will provide FSA-2002 for the current year to the agent and it takes 30 minutes to complete it. The buyer will submit information to agent.

Lastly, borrowers requesting primary loan servicing under 7 CFR 766 are required to provide FSA-2002. The agency estimates that 6 borrowers will provide a complete application for primary loan servicing and the time to complete FSA-2002 for this purpose is estimated to be 30 minutes per response.

FSA-2003, Three Year Production History

7 CFR 761.104(c)(3); 7 CFR 764.51(b)(5); 7 CFR 763.7(b)(8); 7 CFR 763.18(b)(6); 7 CFR 766.102(a)(4)

Used to document the applicant's past 3 years production history as part of a complete application and is approved under OMB Control Number 0560-0237. The Agency requires applicants to submit the last three years production history records as part of a complete application. This information is necessary to ensure that the projected cash flow used to determine loan repayment is based on the actual production history of the operation.

The Agency estimates 42 direct loan requests will be received annually from new applicants who are required to complete all three years of production information. The agency estimates that it will take one hour for each applicant to complete FSA-2003 as they will provide information for all three years or the time they have been farming, if less than three years.

The Agency estimates 10 requests will be submitted annually for the land contract guarantee program. The time to complete and execute the FSA-2003 for this purpose is 60 minutes.

Applicants with outstanding land contract guarantee loans have provided production history to the agency as part of the previous year's complete application or as part of the year-end analysis process, and are therefore required to provide FSA-2003 covering only the current year. Annual production history is needed on all Standard Land Contract guarantees, and the agency estimates 2 buyers will provide FSA-2003 for the current year to the agent and it takes 30 minutes to complete it. The buyer will submit information to agent.

Borrowers requesting primary loan servicing under 7 CFR 766 are required to provide FSA-2003. The agency estimates that 6 borrowers will provide a complete application for primary loan servicing and the time to complete FSA-2003 for this purpose is estimated to be 30 minutes per response.

FSA-2004, Authorization to Release Information

7 CFR 763.7; 7 CFR 764.51(b)(8); 7 CFR 764.51(b)(12); 7 CFR 765.205(a)(6);
7 CFR 765.404(b)(1); 7 CFR 766.102(a)(6) & (8)

FSA-2004 is obtained from applicant and borrowers authorizing Agency loan officials to obtain information with respect to non-farm income information as well as allow the agency to verify debts owed to other parties for the purpose of determining eligibility and feasibility and is also approved under OMB Number 0560-0237. Applicants and borrowers complete only one FSA-2004 and the Agency makes copies and provides FSA-2004 to creditors and employers. The Agency estimates 51 requests will be made annually by individual applicants and married applicants applying jointly and 4 entities with each individual being required to complete FSA-2004. For direct loan making purposes the agency estimates that 90 percent of the loans will be from individual applicants and married applicants applying jointly, and 10 percent will be from entity applicants (with an average of 3 members per entity). Each respondent will spend approximately 10 minutes completing and signing this form.

For direct loan servicing purposes the agency anticipates 14 subordination requests, 1 transfer and assumption request, and 6 requests for primary loan servicing per year related to the EM-Equine Loss Loan Program. The agency estimates that 90 percent of the requests will be from individual applicants and married applicants applying jointly, and 10 percent will be from entity applicants (with an average of 3 members per entity). Each respondent will spend approximately 10 minutes completing and signing this form.

The Agency estimates 10 requests will be submitted annually for the land contract guarantee program. The time to complete and execute the FSA-2004 for this purpose is 10 minutes.

FSA-2005, Creditor List

7 CFR 763.7; 7 CFR 764.51(b)(12); 7 CFR 764.51(d)(2); 7 CFR 764.101(d); 7 CFR 765.205(a)(6); 7 CFR 765.404(b)(1); 7 CFR 766.102(a)

The applicants will provide a complete list of their creditors as part of a complete application which is approved under OMB Control Number 0560-0237. The Agency will use this information provided to complete, in part, the form on which creditors will verify borrower/applicants debts and assets. For direct loan making purposes the agency estimates 63 individuals annually will be required to submit form FSA-2005 and it will take each respondent 20 minutes to complete and sign this form.

For direct loan servicing purposes the agency anticipates 14 subordination requests, 1 transfer and assumption request, and 6 requests for primary loan servicing per year related to the EM-Equine Loss Loan Program. The agency estimates that 90 percent of the requests will be from individual applicants and married applicants applying jointly, and 10 percent will be from entity applicants (with an average of 3 members per entity).

The Agency estimates 10 requests will be submitted annually for the land contract guarantee program. Each respondent will spend approximately 20 minutes completing and signing this form.

FSA-2006, Property Owned and Leased

7 CFR 764.51(b); 7 CFR 764.402(c); 7 CFR 765.205(a); 7 CFR 766.102(a)

Applicants must provide information on all land owned, to be owned, or leased as well as a list of equipment and livestock to be purchased, is currently leased, or is to be leased. Borrowers applying for primary loan servicing have to provide the same information also. Form FSA-2006 is approved under OMB Number 0560-0237. Information collected on FSA-2006 includes the name of the owner of record, brief description of the land and the acreage of the land under lease, the county the land is located in, as well as the terms of the lease. The information is used to determine if FSA-2028 reflects accurately the property the applicant or borrower owns and leases.

For direct loan making purposes the agency estimates 63 individuals annually will be required to submit form FSA-2006 with 90 percent from individual and married applicants applying jointly, and 10 percent will be from entity applicants (with an average of 3 members per entity).

For direct loan servicing purposes the agency anticipates 14 subordination requests, 1 transfer and assumption request, and 6 requests for primary loan servicing per year related to the EM-Equine Loss Loan Program. The agency estimates that 90 percent of the requests will be from individual applicants and married applicants applying jointly, and 10 percent will be from entity applicants (with an average of 3 members per entity).

Each respondent will spend approximately 30 minutes completing and signing this form.

FSA-2014, Verification of Income

7 CFR 763.7(b)(9); 7 CFR 764.51(b)(8); 7 CFR 765.205(a)(4); 7 CFR 765.404(b)(1); 7 CFR 766.102(a)(6)

The Agency will require applicants requesting assistance, to complete FSA-2014 authorizing the Agency to obtain verification of their non-farm income and other benefits the applicant may be receiving, based on state law. Form FSA-2014 is also approved under OMB Number 0560-0237. The applicant provides employer information or other benefit provider on FSA-2001 (Request for Direct Loan Assistance). The Agency partially completes FSA-2014 and sends it to the employer or appropriate agency to verify the applicant's non-farm income.

The Agency uses the non-farm income information to determine the applicant's repayment ability or other sources of income when considering request. The agency estimates that verification of non-farm income or benefits will be required in 90 percent of the cases. The agency estimates 57 per year for direct loan making. For direct loan servicing, 14 subordination requests, 1 transfer and assumption request, and 6 requests for primary loan servicing per year related to the EM-Equine Loss Loan Program and employers or other benefit providers will spend an average of 15 minutes completing FSA-2014.

The Agency estimates that verification of non-farm income or benefits will be required in 15 cases per year for the land contract guarantee program. (6 individual applicants, 3 married applicants and 1 entity applicant with average of 3 members) Employers or other benefit providers will complete one form and spend an average of 15 minutes completing and signing FSA-2014.

FSA-2015, Verification of Debts and Assets

7 CFR 763.7(b)(10); 7 CFR 764.51(b)(12); 7 CFR 764.51(d)(2); 7 CFR 765.205(a)(6); 7 CFR 765.404(b)(1); 7 CFR 766.102(a)(8);

As part of a complete application for loan requests, applicants must authorize the Agency to verify the applicant's assets and debts, as well as the collateral securing such debts. Applicants will complete FSA-2004 (Authorization to Release Information) that authorizes the Agency to request financial information about the buyer/applicant from creditors and financial institutions. Further, applicants provide a list of creditors on FSA-2005 (Creditors List). The Agency

completes FSA-2015 partially and provides it to creditors and financial institutions, along with a copy of FSA-2004.

Information collected from creditors on FSA-2015 is essential in evaluating the applicant's repayment ability by ensuring that all debt repayment has been accurately reflected on the farm operating plan. Further, it provides information about the applicant's assets invested with financial institutions. Information collected on FSA-2015 includes details regarding the security held by the creditor as well as the unpaid debt, installment amount and repayment history. Use of the form for debt verification is not necessary when all needed information can be obtained from a credit report; however, credit reports do not provide information regarding the type and amount of security taken by the creditor. Lastly, if the applicant does not have assets invested with financial institutions and the debts can be verified through other means, the form is not completed. The form is approved under OMB Number 0560-0237.

For direct loan making purposes the Agency estimates 66 individuals annually will be required to submit form FSA-2015. For direct loan servicing purposes the Agency estimates 14 subordination requests, 1 transfer and assumption request, and 6 requests for primary loan servicing per year will require completion of the form. The agency estimates on average 3 reports will be submitted for all application or servicing requests, including individual, married and entity. It will take each respondent approximately 20 minutes to complete and sign this form.

The Agency estimates 10 requests will be submitted annually for the land contract guarantee program, therefore the FSA-2015 will be required in 30 cases per year. The agency estimates on average 3 reports will be submitted for all application requests, including individual, married and entity. FSA-2015 will take 20 minutes to complete by either creditors or financial institutions and signing this form.

FSA-2026, Promissory Note

7 CFR 763.21; 7 CFR 764.102(b); 7 CFR 764.402(a)(1); 7 CFR 766.106

When the agency approves a new loan the applicant or borrower must sign FSA-2026, which serves as evidence of the indebtedness. Form FSA-2026 is approved under OMB Number 0560-0237. FSA-2026 is used to establish the amount, term, interest rate charged on the loan, and repayment schedule. In addition, FSA-2026 contains loan terms and conditions such as the statutorily mandated requirement the borrower graduate to commercial credit when reasonable rates and terms are available. Further, based on state law, FSA-2026 may contain additional state applicable provisions. Under all circumstances, the agency completes FSA-2026 and the applicant or borrower reviews the term and conditions and signs it.

In the case of an individual applicant, only one signature is required. However, in the case of an entity, the entity's officers as well as the entity members have to sign FSA-2026. The Agency considers a husband and wife to be an entity. The agency estimates that 15 individual applicants and 28 entity members will sign FSA-2026 for loan making purposes and 3 individual borrowers and 3 entity members will sign FSA-2026 for loan servicing purposes.

The agency estimates that applicants and borrowers will spend 20 minutes each reviewing and signing FSA-2026.

When the Agency pays any amount on the buyer's behalf to the seller, a Federal debt is established and is immediately due and payable by the buyer. The buyer will sign FSA-2026, which serves as evidence of the indebtedness. The Agency estimates one buyer will spend 20 minutes each reviewing and signing FSA-2026 for loan servicing purposes. The form is approved under OMB Number 0560-0237.

FSA-2028 – Security Agreement

7 CFR 763.21; 7 CFR 764.103(b)(1); 7 CFR 764.103(c); 7 CFR 764.103(e); 7 CFR 764.255(b)(1); 7 CFR 764.305; 7 CFR 764.402(a)(5); 7 CFR 765.303; 7 CFR 766.112(a)

When a loan will be secured by a lien on chattels, the applicant or borrower must execute FSA-2028. Form FSA-2028 is approved under OMB Number 0560-0237. The applicant or borrower is only required to read and sign FSA-2028, as the agency completes it from information provided during the loan making process. It is estimated that 4 FSA-2028's will be executed every year for direct loan making purposes. For direct loan servicing it is estimated that 4 respondents will be required to complete the form. The agency estimates it will take 20 minutes for each applicant or borrower to read and sign FSA-2028.

When the Agency pays any amount on the buyer's behalf to the seller under the prompt payment, a Federal debt is established and is immediately due and payable by the buyer. Before any payment plan can be approved, the buyer must provide the Agency with the best lien obtainable on all of the buyer's assets. The agency completes the form and the buyer is only required to read and sign the FSA-2028. It is estimated that one FSA-2028 will be executed every year for loan servicing purposes and the Agency estimates it will take 20 minutes for each applicant or borrower to read and sign FSA-2028. The form is approved under OMB Number 0560-0237.

FSA-2029D – Deed of Trust and FSA-2029M – Mortgage

7 CFR 763.20; 7 CFR 764.103; 7 CFR 764.104; 7 CFR 764.155; 7 CFR 764.205; 7 CFR 764.353; 7 CFR 764.402; 7 CFR 765.205(a)(12); 7 CFR 766.106

The Agency uses FSA-2029D or FSA-2029M to obtain a security interest in real estate needed to fulfill security requirements for loan.

Both forms contain uniform covenants that address borrower responsibilities such as payments towards the loan, application of payments received, taxes, and assignment of proceeds from the real estate, insurance requirements, advances the Agency makes on behalf of the borrower, protection of lien, hazardous substances, forfeiture provisions, false statements, highly erodible land and wetland provisions, and successors and assigns, among others. Further, both forms contain non-uniform covenants such as default, death, incompetence and bankruptcy, foreclosure, and assignment of leases and rents. Lastly, based on state law, FSA-2029D or FSA-2029M may contain additional state applicable provisions. Forms FSA-2029D and FSA-2029M are approved under OMB number 0560-0237.

The Agency requires that FSA-2029D or FSA-2029M, as appropriate under State law, be executed to establish the Agency's lien against the property when a loan will be secured by real estate.

It is estimated that 30 FSA-2029D or FSA-2029M will be executed for direct loan making purposes. The Agency estimates that one borrower/applicant will spend an average of 30 minutes each reviewing and executing FSA-2029D or FSA-2029M.

When the Agency pays a Standard Land Contract Guarantee loss claim under 7 CFR 763, and the seller retains the property through the appraisal method liquidation option, the sellers are required to provide the Agency with a lien on the subject real estate to secure the Land Contract Recapture Agreement. When the Agency pays a Prompt Payment Land Contract loss claim under 7 CFR 763, the buyers are required to provide the Agency with a lien on all their assets; therefore, FSA-2029D or FSA-2029M will be used to secure the Promissory Note signed by the buyer to repay the loss paid by the Agency to the seller.

A lien on real estate is necessary to ensure that the Agency can collect the debt owed by the borrower should the borrower default on the debt established by the Promissory Note or the Land Contract Recapture Agreement as applicable. The Agency completes FSA-2029D or FSA-2029M to provide the terms and conditions on which the debt was established. Borrowers are only required to review and sign.

It is estimated that one FSA-2029D or FSA-2029M will be executed for Land Contract loan servicing loss claim purposes. The Agency estimates that one buyer or seller, when required, will spend an average of 30 minutes each reviewing and executing FSA-2029D or FSA-2029M.

FSA-2302 Description of Training and Experience

7 CFR 764.51(a)(3); 7 CFR 763.7(b)(6)

A complete emergency loan application includes a description of the applicant's farm training and experience, including each entity member that will be involved in managing or operating the farm. Information provided on FSA-2302 is used to ensure that the applicant has the necessary training and experience to carry out the planned operation. It is estimated that 40 individuals will be required to submit the FSA-2302 and will spend 20 minutes each completing the form. The form is approved under OMB Control Number 0560-0237.

The agency estimates 10 requests will be submitted annually for the land contract guarantee program. The time to complete and execute the FSA-2302 for this purpose is 20 minutes.

FSA-2309 - Certification of Disaster Losses

7 CFR 764.51(b)(14)

As part of a complete application for emergency loans, applicants must complete FSA-2309. The information collected provides details regarding the losses suffered by the applicant and is used to calculate whether or not the applicant suffered a qualifying loss necessary to meet the statutorily-mandated emergency loan eligibility requirements. The form is approved under OMB

Control Number 0560-0237. The agency estimates that 42 applicants will complete FSA-2309 annually and it will take 90 minutes to complete.

FSA-2310 –Lender’s Verification of Loan Application

7 CFR 764.352(e)

Individual applicants, as well as entity members, requesting an emergency loan must document whether they can obtain needed credit from commercial lenders. Applicants partially complete FSA-2310 to allow the lenders to whom they have applied for a loan to provide information to the agency pertaining to their request. In turn, lenders complete the remaining parts of FSA-2310, which consist of debts owed by the applicant, the lender’s willingness to continue extending credit to the applicant, and the amount, interest rate, terms, purpose and security offered by the applicant for the proposed loan. Lastly, lenders indicate if they would be willing to provide the needed credit to the applicant through an agency guaranteed loan.

The form is approved under OMB Control Number 0560-0237. The agency estimates that 38 individuals and 4 entity applicants will partially complete FSA-2310 and it will take each 5 minutes to complete. Further, the agency estimates that 42 lenders will take 30 minutes to complete the remainder of FSA-2310.

FSA-2313 Notification of Loan Approval and Borrower Responsibilities

7 CFR 764.401(a)

When the agency approves a loan request, the applicant must read and agree to the loan approval conditions by executing FSA-2313. Information contained on FSA-2313 includes the amount of the loan, loan term, interest rate and any other conditions required for loan approval. It is estimated that FSA-2313 will be executed by 34 applicants annually. Each will spend 20 minutes reviewing and executing FSA-2313. The form is approved under OMB Control Number 0560-0237.

FSA-2340 Selection of Attorney/Title Agent

FSA-2341 Certification of Attorney

FSA-2342 Certification of Title Insurance Company

7 CFR 764.402(d)(3) and 7 CFR 765.205(b)(13)

Emergency loan applicants securing their loan with real estate security will select the closing agent to perform loan closing and other legal services to ensure FSA obtains good and marketable title to the security. The agency will use FSA-2340 to document that applicants selected the agent, and that the applicant understands that the agency does not assume any liability or responsibility for the closing agent’s fees. The agency estimates 90 percent of the 34 approved loan requests or 31 requests annually will be secured by real estate and complete FSA-2340. The agency estimates that each FSA-2340 will take the applicant 10 minutes to review and complete. This form is approved under OMB Control Number 0560-0237.

Closing agents for agency loans have to be licensed in the state where the loan will be closed; must not be debarred or suspended from participation in Federal programs; must maintain

liability insurance as well as fidelity bond to cover employees with access to loan funds; have knowledge of the requirements of state law to close the loan; provide title clearance; and act promptly to provide the required services. The agency estimates that one third of these applicants will use the same closing agent to perform loan closing; therefore, a total of 10 closing agents will complete FSA-2341 or FSA-2342, as appropriate. The agency estimates it will take 20 minutes per response and approved under OMB Control Number 0560-0237.

FSA-2350 Loan Closing Instructions

7 CFR 764.402(d)

When a loan will be secured by real estate, or a subordination of real estate security is approved, the agency utilizes FSA-2350 to provide loan closing instructions to the closing agent. The closing agent must review the instructions, and after closing the loan, sign and return FSA-2350 certifying the loan was closed according to the instructions provided. It is estimated that 10 closing agents will review and complete FSA-2350 and each will take 30 minutes to complete. The FSA-2350 is approved under OMB Control Number 0560-0237.

FSA-2360 – Report of Lien Search

7 CFR 764.402(c)

For loans that will be secured by chattels, the agency requires that a lien search be completed to ensure the agency will obtain the required lien priority. In most cases, agency employees complete the lien search; however, attorneys may be used to conduct the lien search. The agency estimates that 1 attorney will complete one FSA-2360 and it will take 30 minutes to complete it. The FSA-2360 is approved under OMB Control Number 0560-0237.

FSA-2370 Request for Waiver of Borrower Training

7 CFR 764.453

The applicant must submit evidence of successful completion of financial or production courses, or evidence which demonstrates to the agency's satisfaction the applicant's experience and training necessary for a successful and efficient operation to request waiver of borrower training requirements. Applicants for initial loan only may request waiver of borrower training. Applicants requesting an initial loan from the agency complete FSA-2370 and provide appropriate documentation needed for the agency to determine training needs.

Applicants requesting an initial loan from the agency complete FSA-2370 and provide appropriate documentation needed for the agency to determine training needs. The agency estimates that there will be 42 new applicants, and one third will request waiver of borrower training. It is estimated that 14 applicants will spend 30 minutes each completing FSA-2370 and submitting the documentation required.

FSA-2371 Agreement to Complete Borrower Training

7 CFR 764.452(b), (c), and (d); 7 CFR 764.454

When the agency determines, based on the evaluation of the applicant's documentation of training and experience, the applicant will benefit by attending borrower training, the agency requires applicants to execute FSA-2371 agreeing to complete financial management, production, or both training, as appropriate. Further, the agency may require applicants for a loan to add a new enterprise to attend borrower training, even if the training requirement had been waived or completed under previous loan requests. Lastly, if agency supervision indicates the applicant needs to attend borrower training, the agency will require the applicant to complete the appropriate courses. All applicants executing FSA-2371 must complete the training within 2 years. It is estimated that 36 applicants will each spend 15 minutes reviewing and executing FSA-2371.

FSA-2376 Borrower Training Course Evaluation

7 CFR 764.454(d)

Upon completion of a required borrower training course, the borrower completes an evaluation of the course using FSA-2376. The borrower submits the completed form to the vendor for submission to the agency. This evaluation is used by the agency to ensure that the training course is meeting the planned objective and that the vendor is fulfilling the requirements established in their agreement with the agency. It is estimated that 16 borrowers will each spend 15 minutes completing the evaluation. The FSA-2376 is approved under OMB Control Number 0560-0237.

Non-Forms

Entity Information - Loan Application

7 CFR 764.51(b)(2); 7 CFR 763.7(b)(3)(iv)

Entities applying for agency loans must provide copy of the entity's charter, articles of incorporation and bylaws, evidence of current registration and a resolution adopted by the Board of Directors or entity members authorizing the entity to apply for and obtain the loan. Only new entities that have not obtained a loan from the agency are required to provide this information. The agency estimates that 4 new entities will apply for loans every year and it takes 15 minutes each entity to provide copies of the above documents.

The agency estimates that one new entity applicant will apply for land contract guarantee loan annually and it takes 15 minutes for each entity to provide copies of the above documents.

Documentation that Other Credit is Not Available

7 CFR 764.51(b)(6)

A statutory eligibility requirement that must be met by applicants is that other credit at reasonable rates and terms, including a loan guaranteed by the agency, is not available.

Applicants, including individual entity members, must submit documentation that other credit is not available. It is estimated that 63 individuals will spend one hour gathering and submitting this documentation.

To obtain this documentation, the applicant must contact local agricultural lenders. It is estimated that 20 lenders will meet with an average of 3.14 applicants for an average of one hour to provide the documentation required

Copy of Legal Description of Property to be used as Security for Loan

7 CFR 764.51(b)(10)

As part of a complete application, the applicant must submit a copy of the legal description of the property to be used as security for loan. The legal description of the property to be used as security for the loan is needed for the agency to obtain an appraisal if needed and file the security instrument. It is estimated that 31 applicants will spend 15 minutes each submitting copies of this information.

Additional Information Needed to Evaluate Loan Application

7 CFR 764.51(b)(13)

In some instances, the agency may require any additional information needed to effectively evaluate the loan application. It is impossible to list all potential information that would be needed from each and every applicant. In most cases, this will be limited to providing the agency with a copy of documents, such as a divorce decree, information pertaining to child support or alimony paid or received, or copy of driver's license or other documents if required under State law.

Collection of information under this requirement will be limited to only those items that potentially impact the applicant's cash flow projections or are needed to ensure the agency obtains a legally enforceable lien on the proposed loan security. It is estimated that 2 individuals will spend 15 minutes each providing copies of the appropriate documentation to the agency.

Copy of Property or Hazard Insurance, Flood Insurance, or Crop Insurance Policies

7 CFR 764.108(a), (b), (c), and (d)

Prior to loan closing, the applicant must provide copies of property or hazard insurance, flood insurance, or crop insurance policies, as appropriate, covering loan security, as loss or damage to the security property would jeopardize repayment of the loan and adversely impact the agency's financial interest. Copy of the applicable insurance policy is necessary to ensure the agency is listed as loss payee or beneficiary on the insurance policy.

It is estimated that:

- 31 applicants will submit a copy of property or hazard insurance policy
- 31 applicants will submit a copy of flood insurance policy

Note: * The agency estimates that applicants may have to provide copies of one, two, or all three types of insurance, based on the loan requested and the security offered.

Further, the agency estimates it will take 15 minutes to provide the appropriate copy.

Written Declination of Credit for Emergency Loan Applicants

7 CFR 764.352(e)

Regulations mandate that an applicant for an EM loan be unable to obtain the necessary credit from other sources. Applicants requesting a loan in excess of \$300,000 must provide two written declinations; applicants requesting a loan less than \$300,000 must submit one written declination; and, in the case of applicants requesting a loan less than \$100,000, the agency may waive the requirement if it determines that it poses undue burden on the applicant. It is estimated that 83 percent of EM loan requests are for less than \$100,000; therefore, 83 percent of applicants will provide either one or none written declination. The agency estimates it will approve 34 EM Equine Loss loan applications per year. Of those, only 6 applicants will have to provide multiple written declinations. It will take each applicant 15 minutes to request it from a commercial lender.

In addition to the burden imposed on applicants, the commercial lender denying the applicant's EM loan request must provide the written declination. It is estimated that 4 commercial lenders will spend one half hour each providing the written declination.

Documentation of Inventory for Losses of Livestock/Livestock Products

7 CFR 764.353(d)(3) and 764.356(a)

Regulations require that an applicant suffer a 30 percent loss to be eligible for an EM loan; therefore, when an EM loan is requested for physical losses to livestock, the applicant must provide written documentation of the inventory on hand immediately preceding the loss, and records of livestock product sales sufficient for the agency to determine the level of loss. The information is necessary to ensure the applicant suffered a qualifying loss as well as establish the value of the livestock and livestock products just prior to the loss. The agency estimates that 34 applicants will provide written documentation and it will take 15 minutes to provide it.

Direct Travel Time

The agency estimates that applicants and borrowers required to provide information under this information collection docket will travel twice, once to the agency office to complete the application process and a second time to the closing agent's office to complete loan closing, or if loan closing is completed by an agency employee to the agency office. Therefore, the agency estimates that each visit will require one hour per visit (52 x 1 hr per visit x 2 visits) and this information collection docket imposes on the respondents 104 hours of travel time.

Note: There is no travel time imposed on: (1) lenders or financial institutions providing information on behalf of the applicant or borrower; (2) purchasers of agricultural products; (3) closing agents or title companies; or (4) borrower training vendors.

Collections contained in 7 CFR 764 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 764, 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.

CFR citation	Description	Approved under
764.51	Financial information to process loan making request	7 CFR 761*
764.51	Production information to process loan making request	7 CFR 761*
764.51	Operating plan	7 CFR 761*
764.51	Copies of tax returns	7 CFR 761*
764.51	Evidence that environmental requirements have been met to process loan request	0575-0094
764.402	Use of supervised bank account to deposit loan funds when other options are not available	7 CFR 761*

* New information collection package for the above CFR part has been submitted to OMB for approval. However, a new OMB Control Number has not yet been assigned.

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

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

Non-form information collections require providing copies of documents in the applicant’s possession or providing written replies to agency requests or offers. Non-form collections, as well as all agency forms, may be submitted in person at the local agency office, by mail, or by facsimile. Further, applicants with established Level 2 accounts may provide non-form information collections as any kind of non-executable attachments, such as PDF, doc, xls, or text formats.

Even though forms are available on the e-Gov forms website, previous input by public on this information collection package indicated that very few applicants and borrowers utilize this

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

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, providers of borrower training, etc.) that provide information to the agency on behalf of the applicant or borrower do so in paper format, as they cannot submit information electronically nor is there the ability to provide all third parties with a USDA account with Level 2 access.

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

Agency personnel with expertise in making loans have reviewed the information collections required under this CFR 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 applicant. 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 the agency share data; however, information collections established in this regulation would typically not be available from another agency. Therefore, the potential to share data with other USDA agencies is limited.

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

The agency has made every effort to minimize burden on small businesses and small entities. The agency only requires collection of information when necessary to act on an applicant or borrower's request for assistance. The information required by this regulation is financial in nature and similar to that required to complete Federal tax returns, make business decisions or to

obtain a loan from any commercial lender. Thus, it places no additional burden on small businesses above that required in the normal course of business.

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

Since the agency is mandated to provide supervised credit, failure to collect the information, or collecting it less frequently, could result in the failure of the farm operation or loss of agency security property. The collection of information is required as a result of an applicant's specific request, is obtained on an as-needed basis, and is used to document the applicant's eligibility for the requested loan. Accurate decisions when making a loan depend on current financial information and actual history and potential of the farming operation in order to carry out the program as intended. 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 frequently than quarterly. There are no information collection requirements that require information more frequently than quarterly.
- b. Requiring written responses in less than 30 days. There are no information collection requirements that require written responses in less than 30 days.
- c. Requiring more than an original and two copies. There are no information collection requirements that require more than an original or single copy of a document.
- d. Requiring respondents to retain records for more than 3 years. There are no such requirements.
- e. No utilizing statistical sampling. There are no such requirements.
- f. Requiring the use of statistical sampling which has not been reviewed and approved by OMB. There are no such requirements.
- g. Requiring the pledge of confidentiality. There are no such requirements.
- h. Requiring submission of propriety trade secrets. There are no such requirements.

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

This is a new information collection package.

The 60-day public comment notice has been incorporated into the proposed rule that was published in the Federal Register.

FSA maintains close contact with borrowers through FSA's general field representatives (GFR) and a headquarters' staff. GFR's have direct personal contact with the borrower in connection

with the fulfillment of FSA requirements. GFR's will pass on any substantive comments to the headquarters staff. FSA staff is readily available to the Agency's customers. FSA works closely with lending institutions and a nationwide network of lending institutions as part of the Farm Credit System, which provides supplemental loan funds to borrowers.

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

There are no payments or gifts provided to respondents.

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

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 their business dealings that is often considered sensitive. Regardless, the information is required to properly document FSA's decision pertaining to loan making actions.

12. Provide estimate of the hour burden of the collection of information.

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

Total number of Unduplicated Respondents.....	339
Reports filed Per Person.....	4
Total Annual Responses.....	1,522
Total Annual Burden Hours... (includes 104 hrs travel time).....	823
Average Burden per Collection..... (823/1,522).....	54 Minutes
per Respondent (823/339).....	2.4 Hrs.

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

Respondent's Cost per Hour - Farmers-Applicants	\$20.53
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- Business-Lenders/Agents \$30.39

Total Annual Respondent Cost	Farmers	529 Hrs. x \$20.53 = \$ 10,860
	Business-Lenders	190 Hrs. x \$30.39 = \$ <u>5,774</u>
	Total	= \$16,634

Respondent cost per hour was derived by using U.S. Bureau of Labor Statistics Occupational Employment and Wages, May 2009, Table 11-9012-Farmers and Ranchers. The U.S. mean household income, as measured by the Bureau of Labor is \$49,140 annually or \$20.53 hourly.

Respondent cost per hour was derived by using U.S. Bureau of Labor Statistics Occupational Employment and Wages, May 2009, Table 13-2072-Loan Officers. The U.S. mean for loan officers income, as measured by the Bureau of Labor is \$63,540 annually or \$30.39 hourly.

The proposed rule will govern the processing of direct loans made under the EM-Equine Loss Program and requires these collections. The agency estimates a maximum of 34 loans will be made each fiscal year under the EM-Equine Loss Program. Cost per hour for all respondents was derived from the U.S. Department of Labor's Occupational Employment and Wages, May 2009, tables which are found at the Bureau of Labor Statistics website at <http://stats.bls.gov/oes>.

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

The regulations and associated information collection place no cost burden cost respondents for capital, start-up cost, operation, maintenance, or the purchase of services.

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

The estimated annualized cost to the Federal Government is:
\$182,336.00 (4,928 hrs. x \$37.00)

Agency employees review information provided by applicants and third parties and make eligibility and feasibility determinations. The agency estimates that its employees spend 112 hours reviewing and processing the collections included in this docket. (See attachment B for further explanation and supporting documents)

Averaging the GS-9 through GS-12 (2010 RUS-Salary Table) salaries indicates an average employee salary of \$56,480 per year. Standard adjustments recommended by FSA's Budget Division of 33.3% are added for benefits and miscellaneous expenses (\$18,808), for a total average cost for a Farm Loan Program employee salary of \$75,288 per year, which divided by 2080 hours equals an hourly salary of \$36.19. (Rounded to \$37.00)
<http://www.opm.gov/oca/10tables/pdf/RUS.pdf>

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

This is a new information collection for the Emergency Equine Loss Loan Program.

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

There are no plans to publish the results of the information collected and no public disclosure of the information is anticipated.

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

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

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

There are no exceptions to this certification statement requested.

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

This information is collected through the Service Center. The collection is required from the public for use by Service Center employees who assist the public in gathering and completing required loan documents. FSA State Office personnel will then analyze the information for eligibility and feasibility determinations and processing and closing FSA loans.