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DEPARTMENT OF AGRICULTURE

Rural Housing Service

Rural Business-Cooperative Service

Rural Utilities Service

Farm Service Agency

7 CFR Part 1951

RIN 0560–AG56

Prompt Disaster Set-Aside Consideration and Primary Loan Servicing Facilitation

AGENCY: Farm Service Agency, USDA.

ACTION: Final rule.

SUMMARY: Farm Service Agency (FSA) is amending its regulations for the Disaster Set-Aside (DSA) program to provide a disaster set-aside more quickly to those who can most benefit from the program. The changes also will reduce the Government's risk associated with the delay in debt collection by adding security requirements.

DATES: This rule is effective on October 27, 2003.

FOR FURTHER INFORMATION CONTACT: Michael Cumpton, Farm Loan Programs, Loan Servicing and Property Management Division, United States Department of Agriculture, Farm Service Agency, STOP 0523, 1400 Independence Avenue, SW., Washington, DC 20250–0523, telephone (202) 690–4014; electronic mail: *mike_cumpton@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be not significant and has not been reviewed by the Office of Management and Budget under Executive Order 12866.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act, 5 U.S.C. 601, the Agency has determined that there will not be a significant economic impact on a substantial number of small entities. All Farm Service Agency direct loan borrowers and all entities affected by this rule are small businesses according to the North American Industry Classification System, and the United States Small Business Administration. There is no diversity in size of the entities affected by this rule and the costs to comply with it are the same for all entities. FSA stated its finding in the proposed rule at 67 FR 41869, June 20, 2002, that the rule will not have a significant economic impact on a substantial number of small entities, and received no comments on this finding.

In the U.S. there are 86,000 FSA direct farm loan borrowers. In this final rule FSA is streamlining the Disaster Set-Aside (DSA) program, which postpones one delinquent loan installment to the end of the loan term. This rule somewhat limits the DSA program by increasing the security requirements, tightening the application timeframes and authorizing the program only for borrowers whose financial stress was caused by a designated natural disaster. While borrowers whose financial stress had been caused by low commodity prices had at one time been eligible for the DSA program, this authority applied only to low commodity prices in 1999, with an application deadline of August 31, 2000. This rule removes the low commodity price assistance aspect of the program. However, this authority previously expired on its own terms on August 31, 2000.

While the effect of these rule changes is to make fewer individuals eligible for the DSA program, the small entities affected by these changes may be eligible to receive more extensive debt restructuring known as Primary Loan Servicing (PLS), including reduced interest rates and debt writedown, to alleviate financial stress from designated natural disasters and/or low commodity prices. In FY 2002, 5,000 farm borrowers received PLS, the Agency's statutorily mandated debt restructuring tool. The DSA program, which is regulatory only, was used for only 834 farms. With these changes, FSA estimates that 10 percent of these farms may no longer receive DSA assistance. However, without DSA assistance, the farms may then qualify for more wide ranging assistance under the PLS Program. The Agency estimates that the costs of applying for PLS may be greater than applying for DSA. However, Agency employees routinely assist farmers applying for PLS assistance, and the assistance that may be received will more than offset the costs. The eligibility standards for the two programs are similar. However, PLS assistance will more probably result in a farm becoming a viable small business. Therefore, the costs of compliance from this rule are deemed not significant. Accordingly, pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Agency certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Environmental Evaluation

The environmental impacts of this proposed rule have been considered in accordance with the provisions of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.,* the regulations of the Council of Environmental Quality (40 CFR Parts 1500–1508), and the FSA regulations for compliance with NEPA, 7 CFR part 1940, subpart G. FSA completed an environmental evaluation and concluded the rule requires no further environmental review. No extraordinary circumstances or other unforeseeable factors exist which would require preparation of an environmental assessment or environmental impact statement. A copy of the environmental evaluation is available for inspection and review upon request.

Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988, Civil Justice Reform. In accordance with this Executive Order: (1) All State and local laws and regulations that are in conflict with this rule will be preempted; (2) except as specifically stated in this rule, no retroactive effect will be given to this rule; and (3) administrative proceedings in accordance with 7 CFR part 11 must be exhausted before seeking judicial review.

Executive Order 12372

For reasons contained in the notice related to 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), the programs within this rule are excluded from the scope of E.O. 12372, which requires intergovernmental consultation with State and local officials.

The Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments or the private sector of $100 million or more in any 1 year. When such a statement is needed for a rule, section 205 of the UMRA requires FSA to prepare a written statement, including a cost and benefit assessment, for proposed and final rules with ''Federal mandates'' that may result in such expenditures for State, local, or tribal governments, in the aggregate, or to the private sector. UMRA generally requires agencies to consider alternatives and adopt the more cost effective or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates, as defined under title II of the UMRA, for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Executive Order 13132

The policies contained in this rule do not have any substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Nor does this rule impose substantial direct compliance costs on State and local governments. Therefore, consultation with the States is not required.

Paperwork Reduction Act

Notice of this information collection package was published in a Proposed rule (67 FR 41869, June 20, 2002) under the provisions of 44 U.S.C. chapter 35. The information collections required for this regulation have been assigned OMB control number 0560–0164. The Information Collections associated with this rule have been approved by OMB until May 31, 2006.

Federal Assistance Programs

These changes affect the following FSA programs as listed in the Catalog of Federal Domestic Assistance:

10.404—Emergency Loans
10.406—Farm Operating Loans
10.407—Farm Ownership Loans

Discussion of the Final Rule

In response to the proposed rule published June 20, 2002 (67 FR 41869–41872), a total of nine comments were received from FSA employees, farm interest groups, and state government officials. Comments and suggestions focused primarily on the timeframes for DSA application submission and processing. However, most aspects of the proposed rule did receive comments with some commentors disagreeing with all changes. Instead they recommended changes that would expand the program into multiple set-asides on each loan without requiring a designated disaster. All comments were considered and will be addressed. Many of the comments have been adopted. The Agency's obligation to offer and consider eligibility for primary loan servicing, required by statute (section 331D of the Consolidated Farm and Rural Development Act (CONACT)) and 7 CFR part 1951, subpart S, as the applicable method for resolving delinquent account servicing is being considered in the final rule. The public comments are summarized as follows:

Timeframe for Complete DSA Application and Processing of DSA

Since DSA is not required by statute, the Agency must ensure that it does not hinder the statutory primary loan servicing requirements which are codified in 7 CFR part 1951, subpart S. To ensure the future viability of farming operations, save borrower equity and reduce Government losses, FSA proposed to amend the requirements for DSA to require that:

(1) DSA applications must be made prior to the borrower becoming delinquent on the loans;

(2) DSA will not be authorized if the borrower has already submitted an application for primary loan servicing; and

(3) Only primary loan servicing will be considered when a borrower becomes 90 days past due.

All nine commentors indicated that the requirement for a DSA application to be complete prior to the borrower becoming past due allows inadequate time for disaster declarations and borrower consideration of servicing options. One commentor stated that a borrower's need for DSA could span two or more years and that primary loan servicing is cumbersome and time consuming. This respondent did not indicate what timeframe would be appropriate. The Agency notes however, that this amount of time would well exceed all statutory timeframes for the servicing of delinquent loans. Two commentors indicated that the deadline to submit a DSA application should be extended until the borrower is 90 days past due. This suggestion was accepted and adopted in sections 1951.952 and 1951.954(a)(5) of the final rule.

All commentors also felt that some flexibility should be allowed for processing DSA applications after FSA provides delinquent borrowers with initial notification of primary loan servicing and during the processing of the Primary Loan Servicing (PLS) application. It was stated that this would allow the borrower to choose between servicing options and several comments were submitted on this section of the rule. One commentor objected to the affirmative statement made in the rule that the ''DSA will not be used to circumvent the servicing available under subpart S of this part.'' Two comments also indicated that borrowers should have some type of ''safety net'' beyond a strict deadline, if FSA does not meet its time limit for processing a DSA application. One commentor believed that a 120 day time limit should be imposed with SED consideration required beyond that point. In evaluating all the above comments, it must also be considered that PLS is dictated by statute and FSA and the borrower must meet certain timeframes. However, after consideration of these comments, we believe that the extension of the DSA timeframes is warranted. Therefore, to address the PLS processing timeframes and DSA application deadline issues, the final rule provides that DSA consideration may continue until a complete PLS application must be submitted. This will require that DSA consideration and closing be completed prior to the borrower becoming 165 days past due. (FSA notifies a borrower 15 days after the borrower is 90 days past due of all PLS options, and the borrower then has 60 days to submit a complete PLS application. 15 + 90 + 60 = 165). In sections 1951.954(a)(5) and 1951.954(a)(6) of 7 CFR, timeframes for both the borrower and the Agency have been lengthened accordingly beyond those proposed to ensure that adequate time exists for application submission, processing and completion.

Additional Security Requirements

Additional security requirements were proposed to ensure the availability of collateral throughout the term of the loan if the borrower is not current at the time of the DSA. This is consistent with the requirements of 7 CFR 1951.910(b) and, since payments can be set aside for

the full term of the loan (which could be up to 40 years on a real estate loan or 15 years on a chattel loan), it is essential that the Government take all measures possible to ensure the continued adequacy and availability of security during the entire term of the loan.

Three commentors disagreed with the requirement for additional security while five others supported the requirement. Two commentors disagreed because they believed this would add psychological burden on the borrowers in a time of natural disaster. This comment related mainly to the proposed short timeframes which coincided with the occurrence of a disaster. The final rule lengthens these timeframes to allow the borrowers ample time to be considered for DSA without interfering with statutory requirements regarding PLS. However, the same commentors believed that the security requirement would adversely affect other creditors and local communities by circumventing lien priority considerations and payments to other creditors. The Agency believes that the rule has no effect on lien priorities. State laws will continue to govern perfected liens. Also, Agency regulations requiring the release of normal income proceeds for essential family living or farm operating expenses remain unchanged. Finally, commentors felt that local Agency officials would abuse their discretion in the determination of required security. In drafting this rule the Agency included specific security requirements in section 1951.957(b)(4) which lessen the possibility that local offices will abuse their discretion. However, the rule allows enough flexibility in security requirements to minimize disruptions to the farm operation while protecting the Agency from an inordinate amount of financial risk.

Two of the supportive commentors advocated reducing the additional security requirement to a maximum of 150 percent of the outstanding loan amount (although one of the two thought the requirement for additional security should include non-delinquent borrowers). Another supporter wanted to use the 150 percent requirement but increase the amount required to 150 percent of the total debt (including prior liens) on the residence instead of just the FSA debt. After considering these comments, the additional security requirements contained in section 1951.957(b)(4) will not be revised. These requirements are the same as the existing security requirements for delinquent borrowers serviced under the primary loan servicing program contained in 7 CFR 1951.910(b). That regulation requires that delinquent borrowers provide the best lien obtainable on all assets that the borrower owns but adopts the exclusions contained in 7 CFR 1941.19(c). Generally items excluded from the FLP security are real or chattel property which would prevent the borrower from obtaining credit from other sources; could subject the Agency to additional costs as creditor; or are used for subsistence purposes. These security requirements and their exceptions have been contained in FPL's regulations since 1992 and are well understood by borrowers and FLP employees. Adopting these security requirements in the 1951–T process will assure consistency in FPL's loan servicing programs.

Submission of Historical Information

While two commentors supported the historical information requirements and development of a farm business plan, three other commentors disagreed with the requirement for submission of 5 years of financial records, including records from the time period of the disaster. Although clarified, these requirements were contained in the previous regulation by 7 CFR 1951.953(c)(2) and 1951.954(a)(6). Section 1951.953(c)(2) of the proposed rule simply clarified these requirements, which ensures that cash flow projections are supported by adequate historical data. This policy is consistent with FSA's current loan making (7 CFR 1910.4(b)(6)) and loan servicing regulations (7 CFR 1951.906, definition of a feasible plan) which generally require production and expense records for the previous five years, if the borrower has been farming during that time period.

Submission of Information as Required for Agency Consideration

Two commentors do not agree with the requirement that the borrower provide ''any documentation required to support the cash flow projection.'' However, this language is in section 1951.954(a)(6) of the current regulation. It is essential for the development of an accurate farm business plan, as the Agency has no way to foresee any and all financial and production aspects of all operations that could need assistance. This language simply allows FSA to obtain documentation on aspects of an operation that are unique and cannot be foreseen or codified in the regulation. In order to ensure the future viability of the farming operation, save borrower equity, and reduce government losses, eligibility requirements for DSA continue to require borrowers to develop a cash flow projection. The authority to request applicable documentation will, therefore, be retained.

Elimination of Legacy Language Regarding Low Commodity Prices and Second DSA

The proposed rule stated that language referring to past authority which allowed DSA due to low commodity prices and a second DSA for that purpose would be removed. Two commentors believe that this authority should be retained. One commentor supported the removal of the low commodity price language but preferred that the use of the words ''natural disaster'' be changed to ''disaster'' to allow FSA discretion on its use for economic disasters. FSA's current regulation at 7 CFR 1951.953 provides authorization for the DSA program for economic disasters based on low commodity prices through 1999 only, and requires that applications for that program be received by August 31, 2000. Because this aspect of the DSA program has expired, FSA in implementing the final rule will be deleting an expired authority. FSA believes that adverse economic conditions are more appropriately serviced through the statutorily mandated loan servicing program contained in 7 CFR part 1951, subpart S. That regulation, in section 1951.909(c)(1)(iv), authorizes a sequenced loan servicing program, starting with the least costly rescheduling/reamortization program through the most costly debt writedown program which allows debt restructuring of the present value of the loans to the net recovery value of the security and any non-essential assets, when adverse economic factors, not limited to an individual case, such as low market prices for agricultural commodities as compared to production costs reduce repayment ability. If FSA believes an additional regulatory program for economic disasters is required in future years, it will reactivate the 1951–T authority through the rulemaking process.

Limitation of Installments on Which DSA Can Be Used

The proposed rule stated that the amount that may be setaside would be limited to the amount the borrower is unable to pay the Agency from the production and marketing period in which the disaster occurred. It further limited DSA to the first scheduled annual installment due immediately after the disaster occurred. Three

commentors disagreed with this provision and stated that this would not always allow a borrower to get a DSA if the disaster occurred late in the year or the disaster declaration was delayed. Because the process of declaring a disaster can be lengthy, FSA has modified the final rule in section 1951.954(b)(3) to allow the set-aside of either the first or second installment due after the disaster occurred.

Limitation of DSA to Borrowers Who Are Unable To Pay FSA Debt

The proposed rule stated that the amount set-aside would be limited to the amount that the borrower is unable to pay the Agency. Payments to other creditors were not considered. Three commentors disagreed with this provision and stated that this could cause a borrower to wait until the last minute to pay the FSA debt as the amount of other debt could not be set aside. However, as noted above, provisions of 7 CFR part 1962, subpart A, require the release of normal income security proceeds for essential family living and farm operating expenses until the account is accelerated. Lien priorities remain unchanged. Thus, funds due FSA can be released to other creditors for these purposes. Therefore, this limitation will be retained. It further insures that the amount of debt that is set-aside is minimized, and the resulting balloon payment and interest accrual to the borrowers account are also minimized.

Elimination of Cost Recoverable Set-Aside

The proposed rule would eliminate the set-aside of cost recoverable items. These costs, such as property taxes, are the borrower's responsibility but may have been paid by the Government to protect its lien position. Non-payment of such costs is a violation of loan agreements, including the Promissory Note, and places the account in nonmonetary default, requiring the account to be serviced in accordance with 7 CFR 1951.907(d). Two commentors disagreed with this proposal and stated that farm advocates are concerned that it can take over a year for a non-monetary default to be ''removed from a borrower's record'' even after it is paid. Failure to comply with borrower training requirements was stated as an example. However, the proposed rule deals specifically with cost recoverables, and cost recoverables do not include borrower training requirements. One commentor agreed with the proposal and suggested it be made part of the eligibility requirements instead of the limitations.

Based on the adverse affect on the Agency caused by a borrower's failure to pay the recoverable cost item, and the Agency's continuing need to service these items either by payment or costly servicing under 7 CFR 1951, subpart S, the final rule adopts the proposed rule.

Elimination of Language Regarding Interest Accrual

Two commentors indicated that the last sentence in section 1951.954(b)(5) as proposed duplicates the language already in sections 1951.957(b)(2) and 1951.957(b)(3). However, they preferred the due date being expressed as ''with the final installment'' instead of the current language ''on or before the final due date.'' The duplicative language is removed. However, the Agency believes that all borrowers with a DSA would be well served to pay the set-aside as soon as possible to eliminate additional interest and reduce the final balloon payment even if this occurs prior to the final installment coming due. Therefore, the current language in section 1951.957(b)(3) is retained.

Eligibility Regarding Post-Disaster Primary Loan Servicing

Presently, section 1951.954(a)(11) limits set-aside to those borrowers who have not been restructured using primary loan servicing since the disaster. One commentor indicated that the criteria should be changed to limit eligibility to those who have not been restructured since the disaster designation. Since PLS restructures debt using the latest information from a borrower, and any recent disaster, whether designated or not, would be considered in restructuring loans if it impacted the borrower's operations, no change from existing policy is required.

DSA Notification

While borrower notification of DSA is not contained in the CFR (it is addressed in the Agency internal Instruction section 1951.953), four comments were received indicating some interest in the topic. At present, the Agency provides notification, to any non-accelerated borrower who has not been restructured after a disaster and who may be eligible for DSA, of all disaster designations in effect in that county or a contiguous county in any quarter in which a new designation is established. Two commentors appeared to favor regular quarterly notification to the public about all designations in effect, and stated that the Agency's notification process should be codified in the CFR. However, one of the other commentors stated that an initial notification with no quarterly notification would be adequate. Another commentor favored the initial notification but did not express any opinion regarding the quarterly notification requirements. Based on the range of the four comments received, the Agency has decided that this procedural requirement will not be published in the CFR. The Agency's notification policy is available upon request at any local office. Also, a fact sheet on the DSA program including the notification, is contained on the FSA webpage at: *http://www.fsa.usda.gov/pas/publications/facts/html/debtset02.htm.* Additional guidance to Agency employees on notification will be considered when the Agency instruction is revised.

DSA Expansion

While not specifically addressed in the proposed rule, two commentors indicated that they would favor multiple set-asides on each loan without restructuring and a DSA program for guaranteed loans. The Agency understands the commentors desire to have as many avenues as possible to correct defaults. However, these suggestions exceed the scope of what FSA considered in the proposed rule, and adopting these comments would increase the risk of loss on direct loans. Guaranteed loans are serviced by private lenders under 7 CFR 762 and not by FSA. Lenders utilize the guaranteed program because servicing actions are the lenders' option. FSA does not dictate to lenders how to service the loans, and current guaranteed loan regulations already provide many options including deferral and debt writedown. Further, our experience with lenders indicates that these options provide all the tools that commercial lenders would realistically ever use in servicing the account. Thus, these changes are not under consideration, and they will not be included in the final rule.

Second Set-Aside Payment Application

Two commentors stated that the instructions on payment application when a borrower has obtained two set-asides should be retained for those borrowers that have received two set-asides in the past. As some existing borrowers do have two set-asides, this language will be retained in section 1951.957(b)(7). However, section 1951.954(a)(2) makes it clear that present authority is limited to setting aside one installment on each loan.

List of Subjects in 7 CFR Part 1951

Accounting, Credit, Disaster assistance, Loan programs-agriculture,

Loan programs-housing and community development, Low and moderate income housing.

■ Accordingly, 7 CFR part 1951 is amended as follows:

PART 1951–SERVICING AND COLLECTIONS

■ 1. The authority citation for part 1951 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1932 Note; 7 U.S.C. 1989; 31 U.S.C. 3716; 42 U.S.C. 1480.

Subpart T—Disaster Set-Aside Program

■ 2. Amend § 1951.951 by revising the second sentence to read as follows:

§ 1951.951 Purpose.

* * * The DSA program is available to Farm Loan Program (FLP) borrowers, as defined in subpart S of this part, who suffered losses as a result of a natural disaster. * * *

■ 3. Revise § 1951.952 to read as follows:

§ 1951.952 General.

DSA is a program whereby borrowers who are current or less than 90 days past due on all FLP loans, may apply to move the scheduled annual installment for each eligible FLP loan to the end of the loan term. The intent of this program is to relieve some of the borrower's immediate financial stress caused by a natural disaster. DSA will not be used to circumvent the servicing available under subpart S of this part.

■ 4. Revise § 1951.953 to read as follows:

§ 1951.953 Notification and request for DSA.

(a) [Reserved]

(b) *Deadline to apply.* Subject to § 1951.954(a)(5), all FLP borrowers liable for the debt must request DSA within 8 months from the date the natural disaster was designated in accordance with 7 CFR part 1945, subpart A.

(c) *Information needed for a complete application.* (1) A written request for DSA signed by all parties liable for the debt;

(2) Actual production, income, and expense records for the past five years, including the production and marketing period in which the natural disaster occurred; and

(3) Other information requested by the servicing official when needed to make an eligibility determination.

■ 5. Revise § 1951.954 to read as follows:

§ 1951.954 Eligibility and loan limitation requirements.

(a) *Eligibility requirements.* The following requirements must be met to be eligible for DSA:

(1) The borrower must have:

(i) Operated a farm or ranch in a county designated a natural disaster area or a contiguous county as provided in 7 CFR part 1945, subpart A, and

(ii) Been a borrower and operated the farm or ranch at the time of the disaster period.

(2) A borrower cannot have more than one installment set aside under the DSA program on each loan. If all previously approved set-asides are paid in full, or cancelled through restructuring under subpart S of this part, the set-aside will no longer exist and the loan may again be considered for DSA.

(3) The borrower must have acted in good faith as defined in § 1951.906 of subpart S of this part and the borrowers inability to make the upcoming scheduled FSA payments must be for reasons which are not within the borrower's control.

(4) All nonmonetary defaults must have been resolved. This means that even though the borrower has acted in good faith, the borrower may still be in default for reasons, such as, but not limited to: no longer farming; prior lienholder foreclosure; bankruptcy or under court jurisdiction; not properly maintaining chattel and real estate security; not properly accounting for the sale of security; or not carrying out any other agreement made with the Agency.

(5) The borrower must be current or less than 90 days past due on all FLP loans at the time the application for DSA is complete. Borrowers paying under a debt settlement adjustment agreement in accordance with subpart B of part 1956 of this chapter are not eligible.

(6) The borrower must not be 165 or more days past due when Exhibit A of Agency Instruction 1951–T (available in any FSA office) is executed.

(7) As a direct result of the designated natural disaster, the borrower does not have sufficient income available to pay all family living and operating expenses, other creditors, and FSA. This determination will be based on the borrower's actual production, income and expense records for the disaster or affected year and any other records required by the servicing official. Compensation received for losses shall be considered as well as increased expenses incurred because of the disaster.

(8) For the next business accounting year, the borrower must develop a positive cash flow projection showing that the borrower will at least be able to pay all operating expenses and taxes due during the year, essential family living expenses and meet scheduled payments on all debts, including FLP debts. The cash flow projection must be prepared in accordance with 7 CFR 1924.56. The borrower will provide any documentation required to support the cash flow projection.

(9) After the amount for each loan is set-aside, all FLP and NP farm type loans of the borrower must be current.

(10) The borrower's FLP loans have not been accelerated.

(11) The borrower's FLP loans have not been restructured under subpart S of this part since the natural disaster occurred.

(b) *Loan limitation requirements.* (1) The loan must have been outstanding at the time of the natural disaster.

(2) The term remaining on the loan receiving DSA equals or exceeds 2 years from the due date of the installment being set-aside.

(3) The installment that may be set-aside is limited to the first or second scheduled annual installment due after the disaster occurred and the amount may not exceed the installment set-aside.

(4) The amount set-aside may not exceed the amount the borrower was unable to pay FSA due to the disaster. Borrowers are required to pay any portion of an installment that they are able to pay.

(5) The amount set-aside will equal the unpaid balance remaining on the installment at the time the borrower signs Exhibit A of Agency Instruction 1951–T (available in any FSA office.) This amount will include the unpaid interest and any principal that would be credited to the account as if the installment were paid on the due date taking into consideration any payments applied to principal and interest since the due date. Recoverable cost items may not be set aside and the account must be serviced in accordance with § 1951.907(d).

■ 6. Amend § 1951.957 by revising paragraphs (a) and (b)(4) to read as follows.

§ 1951.957 Eligibility determination and processing.

(a) *Eligibility determination.* (1) Within 30 days of a complete DSA application, the Agency official will determine if the borrower meets the requirements set forth in § 1951.954. Approval shall be contingent upon the borrower's continuing eligibility through the signing of Exhibit A of Agency Instruction 1951–T (available in any FSA office).

(2) The borrower has 45 days to sign Exhibit A of Agency Instruction 1951–T (available in any FSA office) for each loan installment set-aside approved. Subject to § 1951.954(a)(6), the Agency may provide for a longer period of time under extenuating circumstances, such as where the Agency's approval is contingent upon the borrower paying a portion of the FLP payments from proceeds that may not be immediately available.

(b) * * *

(4) If the borrower is not current on all FLP loans when Exhibit A of Agency Instruction 1951–T (available in any FSA office) is executed, the borrower, and all obligors in the case of an entity, must execute and provide to the Agency a best lien obtainable on all of their assets except:

(i) When taking a lien on such property will prevent the borrower from obtaining credit from other sources;

(ii) When the property could have significant environmental problems or costs;

(iii) When the Agency cannot obtain a valid lien;

(iv) When the property is the borrower's personal residence and appurtenances; provided:

(A) They are located on a separate parcel; and

(B) The real estate that serves as collateral for the Agency loan plus crops and chattels are valued at greater than or equal to 150 percent of the unpaid balance due on the loan.; or

(v) When the property is subsistence livestock, cash, special collateral accounts the borrower uses for the farming operation or for necessary living expenses, retirement accounts, personal vehicles necessary for family living or farm operating purposes, household goods and small tools and small equipment such as hand tools and lawn mowers, and other similar items.

* * * * *

§ 1951.1000 [Removed and reserved]

■ 7. Remove and reserve § 1951.1000.

Signed in Washington, DC, on September 17, 2003.

J.B. Penn,

Under Secretary for Farm and Foreign Agricultural Services.

[FR Doc. 03–24177 Filed 9–24–03; 8:45 am]

BILLING CODE 3410–05–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN 3150–AH20

List of Approved Spent Fuel Storage Casks: NAC–MPC Revision, Confirmation of Effective Date

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule: Confirmation of effective date.

SUMMARY: The Nuclear Regulatory Commission (NRC) is confirming the effective date of October 1, 2003, for the direct final rule that was published in the **Federal Register** on July 18, 2003 (68 FR 42570). This direct final rule amended the NRC's regulations to revise the NAC–MPC cask system listing within the ''List of Approved Spent Fuel Storage Casks'' to include Amendment No. 3 to Certificate of Compliance (CoC) No. 1025.

EFFECTIVE DATE: The effective date of October 1, 2003, is confirmed for this direct final rule.

ADDRESSES: Documents related to this rulemaking, including comments received, may be examined at the NRC Public Document Room, located at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. These same documents may also be viewed and downloaded electronically via the rulemaking Web site (*http://ruleforum.llnl.gov*). For information about the interactive rulemaking website, contact Ms. Carol Gallagher (301) 415–5905; e-mail *CAG@nrc.gov.*

FOR FURTHER INFORMATION CONTACT: Jayne M. McCausland, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–6219, e-mail: *jmm2@nrc.gov.*

SUPPLEMENTARY INFORMATION: On July 18, 2003 (68 FR 42570), the NRC published a direct final rule amending its regulations in 10 CFR part 72 to revise the NAC–MPC cask system listing within the ''List of Approved Spent Fuel Storage Casks'' to include Amendment No. 3 to CoC No. 1025. This amendment incorporates changes in support of the Yankee Nuclear Power Station (Yankee Rowe) fuel loading campaign and makes corrections to the Connecticut Yankee technical specifications. Specifically, the amendment incorporates fuel enrichment tolerances; incorporates fuel assemblies with up to 20 damaged fuel rods, recaged assemblies, the Yankee Rowe damaged fuel can, and assembly weights up to 432 kilograms (950 pounds); revises the average surface dose rate limits for the concrete cask; incorporates administrative changes in the ASME Code Alternatives; corrects the Connecticut Yankee tables for fuel assembly limits and intact fuel assembly characteristics; and incorporates editorial and administrative changes in the CoC. In the direct final rule, NRC stated that if no significant adverse comments were received, the direct final rule would become final on October 1, 2003. The NRC did not receive any comments that warranted withdrawal of the direct final rule. Therefore, this rule will become effective as scheduled.

Dated at Rockville, Maryland, this 17th day of September, 2003.

For the Nuclear Regulatory Commission.

Michael T. Lesar,

Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration.

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SOCIAL SECURITY ADMINISTRATION

20 CFR Part 422

[Regulation No. 22]

RIN 0960–AF05

Evidence Requirements for Assignment of Social Security Numbers (SSNs); Assignment of SSNs for Nonwork Purposes

AGENCY: Social Security Administration (SSA).

ACTION: Final rules.

SUMMARY: We are revising our enumeration processes for assigning Social Security Numbers (SSNs). By changing evidence requirements for assignment of SSNs and by defining ''valid nonwork reasons,'' the opportunity for fraud through misuse and/or improper attainment of SSNs will be reduced, and the integrity of our enumeration processes will be enhanced.

We are clarifying our rules regarding when we will assign an SSN to an alien not under authority of law permitting him or her to work in the U.S. We are now defining a ''valid nonwork purpose'' as those instances when a Federal statute or regulation requires an alien to have an SSN in order to receive a federally-funded benefit to which the alien has otherwise established entitlement, or when a State or local law requires an alien who is legally in the U.S. to have an SSN in order to receive general public assistance benefits (*i.e.*, a