

DEPARTMENT OF AGRICULTURE**Farm Service Agency****7 CFR Parts 761 and 762****Rural Housing Service****Rural Business-Cooperative Service****Rural Utilities Service****Farm Service Agency****7 CFR Parts 1922, 1941, 1943, 1945, 1951, 1955, and 1965**

RIN 0560-AF69

Streamlining of Regulations for Real Estate and Chattel Appraisals

AGENCIES: Rural Housing Service, Rural Business-Cooperative Service, Rural Utilities Service, Farm Service Agency, USDA.

ACTION: Final rule.

SUMMARY: This action eliminates unnecessary and burdensome administrative provisions and procedures from the Agency's regulations governing real estate and chattel appraisals used in conjunction with the Farm Loan Programs, and clarifies the requirement that Agency real estate appraisals must comply with the guidelines and standards contained in the Uniform Standards of Professional Appraisal Practice. The changes to the regulations will allow for the use of appraisal forms and reports based on industry formats rather than requiring the use of specific Agency formats. This action will also move the core appraisal regulations as part of the Agency's overall effort to consolidate its regulations.

EFFECTIVE DATE: December 17, 1999.

FOR FURTHER INFORMATION CONTACT: Chris L. Greenwalt, Senior Loan Officer, Program Development and Economic Enhancement Division USDA/FSA/PDEED/STOP 0521, 1400 Independence Avenue, SW., Washington, DC 20250-0521, telephone (202) 690-0431, facsimile (202) 720-8474, e-mail: Chris_Greenwalt@wdc.fsa.usda.gov.

SUPPLEMENTARY INFORMATION:**Executive Order 12866**

This rule has been reviewed under Executive Order 12866, has been determined to be not significant for the purposes of E.O. 12866, and, therefore, has not been reviewed by the Office of Management and Budget.

Executive Order 12372

The programs to which this Executive Order may apply are listed in the

Catalog of Federal Domestic Assistance under the following:

10.407 Farm Ownership Loans

10.421 Indian Tribes and Tribal Corporation Loans

Programs listed under the numbers 10.407 and 10.421 are subject to, and have complied with, the provisions of Executive Order 12372. (See the Notices related to 7 CFR 3015, subpart V, at 48 FR 29112, June 24, 1983; 49 FR 22675, May 31, 1984; and 50 FR 14088, April 10, 1985.)

Environmental Impact Statement

It is the determination of the issuing Agency that this action is not a major Federal action significantly affecting the environment and, in accordance with the National Environmental Policy Act of 1969, Pub. L. 91-190, an Environmental Impact Statement has not been prepared.

Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988, Civil Justice Reform. In accordance with this rule: (1) All State and local laws and regulations that are in conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings in accordance with 7 CFR parts 11 and 780, as applicable, must be exhausted before bringing suit in court challenging action taken under this rule unless those regulations specifically allow bringing suit at an earlier time.

Regulatory Flexibility Act

The Farm Service Agency (FSA) certifies that this rule will not have a significant impact on a substantial number of small entities as defined under the Regulatory Flexibility Act, Pub. L. 96-534, as amended (5 U.S.C. 601). No actions are being taken under this rule that would favor large entities over small entities. According to the 1992 Census of Agriculture, 1.9 million farmers or over 99 percent of all farms in the United States are small entities as defined by the Small Business Administration (SBA). Under the SBA definition, few if any large entities are operators of family-sized farms who would be eligible for FSA credit. This rule is expected to result in the Agency adopting industry standards for appraisals which should reduce the costs of appraisals and afford faster completion time. Therefore, a Regulatory Flexibility Analysis has not been prepared.

Paperwork Reduction Act of 1995

This rule does not contain reporting or record keeping requirements subject to the Paperwork Reduction Act of 1995.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments or the private sector. Under section 202 of the UMRA, agencies must prepare a written statement, including a cost benefit analysis, before promulgating a notice of proposed rulemaking that includes any Federal mandates that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires agencies to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost effective or least burdensome alternative that achieves the objectives of the rule.

The rule contains no Federal mandates (under the regulatory provisions of 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 the UMRA.

Executive Order 12612

It has been determined that under section 6(a) of Executive Order 12612, Federalism, implications to warrant the preparation of a Federalism Assessment. The provisions of this rule will not have a substantial direct effect on States or their political subdivisions or on the distribution of power and responsibilities among the various levels of government.

Discussion of the Final Rule

This rule involves the farm loan programs formerly administered by the Farmers Home Administration (FmHA). The Department of Agriculture Reorganization Act of 1994, abolished FmHA on October 13, 1994, and its Farmer Programs functions, now referred to as Farm Loan Programs, were subsequently transferred by the Secretary to the Farm Service Agency (FSA).

FSA is revising the existing core appraisal regulations, loan servicing regulations, and the loan making regulations regarding real estate and chattel appraisals for several reasons. Most importantly, these changes are being made to eliminate the

requirements that specific Agency appraisal formats must be used for real estate and chattel appraisals required under Farm Loan Programs. This change removes unnecessary administrative burdens and increases the tools available to FSA to complete real estate and chattel appraisals. Elimination of requirements for the use of specific forms for real estate and chattel appraisals provides FSA the opportunity to expand the use of contract appraisers who do not now participate due to the requirement that agency appraisals must be on Agency appraisal forms.

The rule maintains the current requirement that real estate appraisals must comply with the Uniform Standards of Professional Appraisal Practice (USPAP), as developed by the Appraisal Standards Board of the Appraisal Foundation, pursuant to the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, and as applied to Federal agencies by Office of Management and Budget Circular A-129. While the rule allows for different formats for chattel appraisals, the rule maintains the current requirements regarding the information that such appraisals contain.

The rule also eliminates the specific provisions regarding appraisal of real property subject to an easement currently codified at 7 CFR 1922.209. This section is obsolete because it cross references procedures at 7 CFR 1922.209 which was removed from part 1922 without a replacement. Further, USPAP standards already adopted by FSA in its current appraisal regulations codified at 7 CFR 1922.201 address the issues regarding appraisals of real property that are subject to an easement. Therefore, separate regulations on this subject are not necessary.

The rule moves the core FSA appraisal regulations from 7 CFR part 1922 to 7 CFR part 761. This change is part of FSA's overall effort to consolidate the Farm Loan Programs regulations that had been initially promulgated by the former FmHA with FSA's other program regulations into one range of parts in title 7 of the Code of Federal Regulations. The rule also consolidates under § 761.7 the current provisions governing the use of existing real estate appraisals from the Operating Loan Program (7 CFR 1941.25(a)(6)), Farm Ownership Loan Program (7 CFR 1943.25(c)(3)), and Emergency Loan Program (7 CFR 1945.175(c)(1)(iv)) to 7 CFR 761.7(d)).

The Agency is not seeking public comment regarding this rule, because the rule does not change the standards applied to Agency appraisals, it merely

changes the location of the regulations in the Code of Federal Regulations and makes a procedural change to allow the use of any alternative appraisal format that complies with Agency appraisal standards. Therefore, pursuant to 5 U.S.C. 552(b), the Agency has concluded that it is unnecessary to seek public comment before implementing this rule.

List of Subjects

7 CFR Part 761

Accounting, Accounting servicing, Loan programs—Agriculture, Real Property-Appraisals, Rural areas.

7 CFR Part 762

Agriculture, Loan programs—Agriculture

7 CFR Part 1922

Loan programs—Agriculture, Real property-Appraisals, Rural areas

7 CFR Part 1941

Crops, Livestock, Loan programs—Agriculture, Rural areas, Youth

7 CFR Part 1943

Credit, Loan programs—Agriculture, Recreation, Water resources

7 CFR Part 1945

Agriculture, Disaster assistance, Loan programs—Agriculture

7 CFR Part 1951

Accounting servicing, Debt restructuring, Credit, Loan programs—Agriculture

7 CFR Part 1955

Government property, Loan programs—Agriculture.

7 CFR Part 1965

Administrative practice and procedure, Foreclosure, Loan programs—Agriculture, Rural areas.

For the reasons stated in the preamble, 7 CFR part 761 is added, 7 CFR part 1922 is removed and reserved, and 7 CFR parts 1941, 1943, 1945, 1951, 1955 and 1965 are amended as follows:

1. Add part 761 to read as follows:

PART 761—GENERAL AND ADMINISTRATIVE

Subpart A—General Provisions

Sec.

761.1–761.6 [Reserved]

761.7 Appraisals.

Authority: 7 U.S.C. 1989.

§ 761.1–761.6 [Reserved]

§ 761.7 Appraisals.

(a) *General.* This section describes Agency requirements for real estate and

chattel appraisals and reviews made in connection with the making and servicing of direct and guaranteed Farm Loan Program loans and nonprogram loans serviced under part 1951, subpart J of this chapter.

(b) Definitions.

Administrative appraisal review means a review of an appraisal to determine if the appraisal:

(1) Meets applicable Agency requirements; and

(2) Is accurate outside the requirements of standard 3 of USPAP.

Agency means the Farm Service Agency, including its employees and state and area committee members, and any successor agency.

Farm Loan Programs (FLP) loans refers to Farm Ownership (FO), Soil and Water (SW), Recreation (RL), Economic Opportunity (EO), Operating (OL), Emergency (EM), Economic Emergency (EE), Softwood Timber (ST), and Rural Housing loans for farm service buildings (RHF).

Technical appraisal review means a review of an appraisal to determine if such appraisal meets the requirements of USPAP pursuant to standard 3 of USPAP.

USPAP (Uniform Standards of Professional Appraisal Practice) means standards governing the preparation, reporting, and reviewing of appraisals established by the Appraisal Foundation pursuant to the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

(c) *Appraisal standards.* (1) *Real estate.* Real estate appraisals, technical appraisal reviews of real estate appraisals, and their respective forms must comply with the standards contained in USPAP, as well as applicable Agency regulations and procedures for the specific Farm Loan Program activity involved. A current copy of USPAP along with other applicable appraisal procedures and regulations is available for review in each Agency State Office.

(2) *Chattel.* An appraisal of chattel property may be completed on an applicable Agency form (available in each Agency State Office) or other format containing the same information.

(d) *Use of an existing real estate appraisal.* The Agency may use an existing real estate appraisal to reach loan making or servicing decisions if:

(2) The Agency determines the appraisal meets the requirements of this section and applicable Agency loan making or servicing requirements;

(3) The appraisal was completed within the previous 12 months; and

(4) Current market values have remained stable since the appraisal was complete.

(e) *Appraisal reviews.* (1) *Real estate appraisals.* With respect to a real estate appraisal, the Agency may conduct a technical appraisal review or an administrative appraisal review, or both.

(2) *Chattel appraisals.* With respect to a chattel appraisal, the Agency may conduct an administrative appraisal review.

PART 762—GURANTEED FARM LOANS

2. The authority citation for part 762 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989; 42 U.S.C. 1480.

§ 762.127 [Amended]

3. Amend § 762.127 to remove the second sentence in introductory text of paragraph (d).

PART 1922 [Removed and Reserved]

4. Remove and reserve part 1922.

PART 1941—OPERATING LOANS

5. The authority citation for part 1941 is revised to read as follows:

Authority: 5 U.S.C. 301 and 7 U.S.C. 1989.

§ 1941.25 [Amended]

6. Amend § 1941.25 to remove the second sentence of the introductory text in paragraph (a) "Forms FmHA 440-21, 'Appraisal of Chattel Property,' FmHA 1922-1, 'Appraisal Report-Farm Tract' and FmHA 1922-11, 'Appraisal for Mineral Rights,' respectively" and add in its place "forms in accordance with § 761.7 of this title and, in the case of an appraisal of mineral rights' the appropriate Agency form (available in each Agency State Office) or other format that contains the same information".

PART 1943—FARM OWNERSHIP, SOIL AND WATER AND RECREATION

7. The authority citation for part 1943 continues to read as follows:

Authority: 5 U.S.C. 301 and 7 U.S.C. 1989.

§ 1943.25 [Amended]

8. Amend § 1943.25 as follows:
a. Remove from paragraph (c)(1) "Forms FmHA 1922-1 or FmHA 1922-8, 'Uniform Residential Appraisal Report,' for farm real estate or residential farm real estate, respectively" and add in its place "forms in accordance with § 761.7 of this title, and in the case of an appraisal of residential real estate, the appropriate Agency form (available in each Agency

State Office) or other format that contains the same information";

b. Remove paragraph (c)(3);

c. Redesignate paragraphs (c)(4), (c)(5), and (c)(6) as paragraphs 9c)(3), (c)(4), and (c)(5), respectively.

d. Remove from the first sentence in newly designated paragraph (c)(3) "subpart E of part 1922 of this chapter" and add in its place "§ 761.7 of this title";

e. Add at the end of the last sentence before the period of newly designated paragraph (c)(3) "or other format that contains the same information"; and

§ 1943.75 [Amended]

9. Amend § 1943.75 as follows:

a. Remove from paragraph (c)(1)

"Forms FmHA 1922-1 or FmHA 1922-8, 'Uniform Residential Appraisal Report' for farm real estate or residential farm real estate, respectively" and add in its place "forms in accordance with § 761.7 of this title, and in the case of an appraisal of residential real estate, the appropriate Agency form (available in each Agency State Office) or other format that contains the same information";

b. Remove paragraph (c)(3);

c. Redesignate paragraphs (c)(4), (c)(5), and (c)(6) as paragraphs (c)(3), (c)(4), and (c)(5), respectively.

d. Remove from the first sentence in newly designated paragraph (c)(3) "subpart E of part 1922 of this chapter" and add in its place "§ 761.7 of this title";

e. Add at the end of the last sentence before the period of newly designated paragraph (c)(3) "or other format that contains the same information"; and

PART 1945—EMERGENCY

10. The authority citation for part 1945 continues to read as follows:

Authority: 5 U.S.C. 301, 7 U.S.C. 1989, and 42 U.S.C. 1980.

§ 1945.169 [Amended]

11. In § 1945.169 remove from paragraph (p)(1)(iii) "in the comments section of Form FmHA or its successor agency under Public Law 103-354 1922-1, 'Appraisal Report-Farm Tract'" and add in its place "on the real estate appraisal".

§ 1945.175 [Amended]

12. Amend § 1945.175 as follows:

a. Remove from the introductory text to paragraph (c)(1) "Forms FmHA 1922- or FmHA 1922-8, 'Uniform Residential Appraisal Report' for farm real estate or residential farm real estate, respectively" and add in its place "forms in accordance with § 761.7 of this title, and in the case of an appraisal

of residential real estate' the appropriate Agency form (available in each Agency State Office) or other format that contains the same information";

b. Add at the end before the period of paragraph (c)(1)(ii) "or other format that contains the same information";

c. Remove paragraph (c)(1)(iv); and

d. Redesignate paragraphs (c)(1)(v) as paragraph (c)(1)(iv).

PART 1951—SERVICING AND COLLECTION

13. 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, 42 U.S.C. 1480.

14. Amend § 1951.909 as follows:

a. Remove from the second sentence of paragraph (f)(1) "subpart E of part 1922 of this chapter" and add in its place "§ 761.7 of this title"; and

b. Revise paragraph (i)(3)(ii) to read as follows:

§ 1951.909 Processing primary loan service programs requests.

* * * * *

(i) * * *

(3) * * *

(ii) The appraisal report must conform to § 761.7 of this title for real estate and chattels.

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§ 1951.910 [Amended]

15. In § 1951.910 remove from the third sentence of paragraph (a)(1) "subpart E of part 1922 of this chapter" and add in its place "§ 761.7 of this title".

PART 1955—PROPERTY MANAGEMENT

16. The authority citation for part 1955 continues to read as follows:

Authority: 5 U.S.C. 301, 7 U.S.C. 1989, 42 U.S.C. 1480.

§ 1955.10 [Removed]

17. In § 1955.10 remove from the fourth sentence of the introductory text of paragraph (e) "subpart E of part 1922 of this chapter" and add in its place "§ 761.7 of this title".

18. In § 1955.66 revise paragraph (h)(2) to read as follows:

§ 1955.66 Lease of real property.

* * * * *

(h) * * *

(2) The purchase price (option price) will be the advertised sales price as determined by an appraisal prepared in accordance with § 761.7 of this title.

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§ 1955.107 [Amended]

19. In § 1955.107 remove from the second sentence of paragraph (a)(1) "subpart E of part 1922 of this chapter" and add in its place "§ 761.7 of this title".

PART 1965—REAL PROPERTY

20. The authority citation for part 1965 continues to read as follows:

Authority: 5 U.S.C. 301, 7 U.S.C. 1989, 42 U.S.C. 1480.

§ 1965.12 [Amended]

21. In § 1965.12 remove from the first and second sentences of paragraph (e) "subpart E of part 1922 of this chapter" and add in its place "§ 761.7 of this title".

§ 1965.13 [Amended]

22. In § 1965.13 remove from the first sentence of paragraph (d) "subpart E of part 1922 of this chapter" and add in its place "§ 761.7 of this title".

§ 1965.25 [Amended]

23. In § 1965.25 remove from paragraph (d)(1) "subpart E of part 1922 of this chapter" and add in its place "§ 761.7 of this title".

§ 1965.26 [Amended]

24. In § 1965.26 remove from the second sentence of paragraph (a)(2) "subpart E of part 1922 of this chapter" and add in its place "§ 761.7 of this title".

§ 1965.27 [Amended]

25. Amend § 1965.27 as follows:

a. Remove from paragraph (g)(5) "Forms FmHA or its successor agency under Public Law 103-354 1922-1 or FmHA or its successor agency under Public Law 103-354 1922-8, as appropriate," and add in its place "Real estate appraisals meeting the requirements of 761.7 of this title"; and

b. Remove from the fourth sentence of paragraph (h)(1) "subpart E of part 1922 of this chapter" and add in its place "§ 761.7 of this title".

Signed in Washington, D.C., on October 21, 1999.

August Schumacher, Jr.,

Under Secretary for Farm and Foreign Agricultural Services.

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BILLING CODE 3410-05-M

DEPARTMENT OF AGRICULTURE**Animal and Plant Health Inspection Service****9 CFR Part 52**

[Docket No. 98-123-5]

Pseudorabies in Swine; Receipt of Additional Funds and Extension of Indemnity Program

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of receipt of additional funds and extension of indemnity program.

SUMMARY: In an interim rule published in the **Federal Register** on January 15, 1999, and effective as of January 12, 1999, we established animal health regulations to provide for the payment of indemnity by the United States Department of Agriculture for the voluntary depopulation of herds of swine known to be infected with pseudorabies. In that interim rule, we announced that the indemnity program would end when funds allocated for the program were depleted, but no later than 6 months after publication of the interim rule. On July 12, 1999, we extended the program beyond the initial 6 months until further notice. We are giving notice that additional funds have been allocated for the program and that the indemnity program will continue until funds are depleted or until further notice.

FOR FURTHER INFORMATION CONTACT: Dr. Reed Rollo, Senior Staff Veterinarian, VS, APHIS, USDA, 4700 River Road Unit 46, Riverdale, MD 20737-1231; (301) 734-5286.

SUPPLEMENTARY INFORMATION:**Background**

The Animal and Plant Health Inspection Service's regulations in 9 CFR part 52 govern the payment of indemnity to owners of herds of swine that are depopulated because they are infected with pseudorabies. Pseudorabies is a contagious, infectious, and communicable disease of livestock, primarily swine. The disease, also known as Aujeszky's disease, mad itch, and infectious bulbar paralysis, is caused by a herpes virus and is known to cause reproductive problems, including abortion and stillborn death in neonatal pigs, and, occasionally, death in breeding and finishing hogs.

A Federal eradication program for pseudorabies was implemented in the United States in 1989. The program is cooperative in nature and involves Federal, State, and industry

participation. Industry/State/Federal pseudorabies eradication efforts have been markedly successful. In 1992, for instance, approximately 8,000 herds of swine nationwide were known to be infected with the disease. At the end of 1998, approximately 1,300 herds were known to be infected. This represented slightly less than 1 percent of the herds of swine in the United States. The goal of the cooperative pseudorabies eradication program is the elimination of pseudorabies in the United States in the year 2000.

However, in 1998, market conditions in the swine industry jeopardized the progress of the pseudorabies eradication program. Depressed market conditions caused some producers to eliminate the costs they had been incurring to participate in the eradication program. Continued cessation of eradication efforts, particularly the elimination of herd vaccination, would likely have resulted in an increase in the number of herds infected with pseudorabies. This growth in pseudorabies-infected herds would likely have extended the amount of time necessary to eradicate pseudorabies and would ultimately have cost both the industry and the Federal and State governments additional time and monies in eradication efforts.

In response to this threat to the progress of the pseudorabies eradication program, we published an interim rule in the **Federal Register** (64 FR 2545-2550, Docket No. 98-123-2) on January 15, 1999, to establish an accelerated pseudorabies eradication program. In order to carry out the accelerated pseudorabies eradication program, the Secretary of Agriculture authorized the transfer of \$80 million in funds from the Commodity Credit Corporation.

Under the accelerated program, we began payment of fair market value to owners who depopulated infected herds. In addition to indemnity for the value of the animals, we have been providing funding for trucking costs to disposal, for euthanasia and disposal costs, and for cleaning and disinfection of conveyances used for transporting the swine to disposal.

In our January 15, 1999, interim rule, we stated that the indemnity program would extend 6 months from the date of publication of the interim rule (until July 15, 1999) or until funds allocated for the program were depleted, whichever came first. Based on the time we estimated to be necessary to depopulate all known infected herds should all owners take part, we projected that 6 months would be long enough to complete the program but