

Proposed Rules

Federal Register

Vol. 71, No. 93

Monday, May 15, 2006

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Farm Service Agency

7 CFR Part 762

RIN 0560-AH41

Guaranteed Loan Fees

AGENCY: Farm Service Agency, USDA.

ACTION: Proposed rule.

SUMMARY: The Farm Service Agency (FSA) proposes to amend the regulations for guaranteed loans to change the amount charged and collected in order for the FSA to provide a guarantee. Except in certain limited cases, FSA currently charges a fee of one percent (1%) of the guaranteed amount on all guaranteed Farm Ownership (FO) loans, and guaranteed Operating Loans (OL). The rule change is necessary for the Agency to be able to offset the cost of the guaranteed loan program so as to maintain program funding at levels that will best service farmers and ranchers.

DATES: Written comments must be received on or before July 14, 2006 in order to be assured of consideration.

ADDRESSES: FSA invites interested persons to submit comments on this proposed final rule. Comments may be submitted by any of the following methods:

- E-mail:

Galen.VanVleet@wdc.usda.gov. Include "Guarantee Fees" in the subject line of the message.

- Fax: Submit comments by facsimile transmission to: 202-690-6797.

- Mail: Send comments to: Galen VanVleet, USDA/FSA, Loan Making Division, 1400 Independence Avenue, SW., Stop 0522, Washington, DC 20250-0522;

- Hand Delivery or Courier: Deliver comments to: FSA, Loan Making Division, 1280 Maryland Ave., SW., Suite 240, Washington, DC 20024.

- Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

All written comments will be available for public inspection at the above address during business hours from 8 a.m. to 5 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Galen VanVleet at the above address or at (202) 720-3889.

SUPPLEMENTARY INFORMATION:

Discussion of the Proposed Rule

FSA guaranteed loans, administered under 7 CFR part 762, provide eligible lenders (*e.g.*, banks, Farm Credit System institutions, credit unions) with a guarantee of up to 95 percent of the loss of principal and interest on a loan. Farmers and ranchers apply to an agricultural lender, which then arranges for the guarantee. The FSA guarantee permits lenders to make agricultural credit available to farmers who do not meet the lender's normal underwriting standards. FSA guaranteed loans may be made for farm ownership and operating purposes. Guaranteed farm ownership (FO) loans generally may be made to purchase farmland, construct or repair buildings and other fixtures, develop farmland to promote soil and water conservation, or refinance debt. Guaranteed operating (OL) loans generally may be used to purchase livestock, farm equipment, feed, seed, fuel, farm chemicals, insurance, and other operating expenses. Operating loans can also be used to pay for minor improvements to buildings, costs associated with land and water development, family living expenses, and to refinance debts under certain conditions. A percentage of guaranteed loan funds is targeted to beginning farmers and ranchers and minority and female applicants.

FSA proposes to amend its regulations governing fees on guaranteed loans. These fees have not been changed since the inception of the program in the early 1980's. Such fees are authorized by 7 U.S.C. 1927(b) and 31 U.S.C. 9701. With a few exceptions, FSA currently charges a one-time, one (1.0) percent fee on guaranteed loans when the loan is made in accordance with 7 CFR 762.130. The fee is charged to and collected from the lender by FSA. However, FSA allows the fee to be passed on to the applicant and, in practice, the expense is almost always passed on to the applicant or borrower. FSA limits fees to loan origination and

currently does not charge any fees for annual renewal, loan servicing, or restructuring actions.

The proposal to revise fees on farm loans is intended to reduce the subsidy cost for such loans, which is reflected in the budget authority needed to support a given loan level. The President's 2007 budget proposes to maintain approximately the same level of farm loans as expected to be made in 2006, and to increase fees so that less budget authority would be needed to support the proposed loan level. This proposal is based on the expectation that there will be sufficient demand to maintain the loan level, which means that borrowers are likely to be willing to pay higher fees to obtain the loans at less cost to the Government.

It is proposed that beginning with fiscal year 2007 (October 1, 2006), the one-time origination fee for a guaranteed farm ownership loan will be increased to 1.5 percent of the loan amount guaranteed (Loan Amount \times percent guaranteed $\times .015$). This fee structure will cover the subsidy cost of the program. The fee on non-subsidized guaranteed operating loans will be increased to 1.5 percent of the loan amount guaranteed (Loan Amount \times percent guaranteed $\times .015$). In addition, beginning with fiscal year 2007 on October 1, 2006, an annual continuation fee of 0.75 percent of the loan will be charged on lines of credit (Line of Credit Ceiling Amount \times percent guaranteed $\times .0075$). This fee structure on operating loans will cover the budgetary shortfall anticipated in the fiscal year 2007 budget preparations. The Agency determined an annual fee was appropriate for lines of credit because additional funds are extended to the borrower annually; loan funds could be made available to pay the continuation fee; and the losses on lines of credit have been higher than on term loans. The continuation fee will be based upon the ceiling amount because this best reflects the amount of credit a borrower will have available.

Fees will not be imposed on loans where imposition is statutorily prohibited, including where the loans are to beginning farmers or ranchers involved in the direct beginning farmer downpayment program or made through a qualified State Beginning Farmer Program under 7 U.S.C. 309. To encourage refinancing, FSA will

continue its policy of not charging fees where a majority of the guaranteed loan funds are used to refinance an Agency direct loan. In addition, fees on loans under the interest assistance program will be addressed under separate rulemaking and are not included in this rule.

This proposed rule provides that the level of fees charged for a guarantee may change in the future without promulgation of a rule to amend the guaranteed loan regulations. The fee schedule, however, will be published as a Notice in the **Federal Register**. It is not possible to accurately predict future fee requirements, and the change in fee may be required quickly after adoption of a budget. When making adjustments in the guarantee origination or continuation fees, the Agency will consider a number of economic and budgetary factors in accordance with OMB Circular No. A-25, including guaranteed loan portfolio performance, the economic outlook of agriculture, the costs of the program, and Federal budget rules and requirements. A fee schedule will apply to all loans obligated during a particular fiscal year or budget cycle and will not apply retroactively to loans made before the increase was effective. Guarantee fee schedules will be available from any FSA office as well as on the Internet at <http://www.fsa.usda.gov/dafll/guaranteed.htm>.

Notice and Comment

This rule is issued as a proposed rule. Upon completion of the public comment period and consideration of the comments received, FSA will issue a final rule addressing the comments, announcing the final determinations, and making the provisions effective.

Executive Order 12866

The Office of Management and Budget (OMB) has determined this rule is not significant for the purposes of Executive Order 12866; therefore, this rule has not been reviewed by OMB.

Paperwork Reduction Act of 1995

The information collections to which this rule applies have reviewed by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), approved, and assigned OMB control number 0560-0155. This rule involves no change to the collection of information currently approved.

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 and the private sector. This 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. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order 12612

It has been determined under section 6(a) of Executive Order 12612, Federalism, that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in 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.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act, 5 U.S.C. 601, FSA has determined that there will not be a significant economic impact on a substantial number of small entities. This rule may make a few individuals ineligible for FSA guaranteed loans and it will increase the costs of compliance with program regulations for all participants who must pay a guarantee fee. However, the number of applicants who will be severely impacted due to increased fees is expected to be minimal. Further, all persons or entities affected by this change are small. The agency will continue to waive fees for those applicants who have the greatest needs—those who need interest assistance subsidy, those graduating from FSA direct credit, and those who are beginning farmers in need of a downpayment loan or a State Beginning Farmer Program loan. Otherwise, changes will be applied to all applicants equally without regard to their size. 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.

Executive Order 12372

These regulations are not subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, on Civil Justice Reform. The provisions of this rule are

not retroactive. The provisions of this rule preempt State and local laws to the extent such State and local laws are inconsistent. Generally, all administrative appeal provisions, including those published at 7 CFR part 11, must be exhausted before any action for judicial review may be brought in connection with the matters that are the subject of this rule.

Environmental Evaluation

The environmental impacts of this rule have been considered consistently with the provisions of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, the regulations of the Council on Environmental Quality, 40 CFR parts 1500–1508, and the FSA regulations for compliance with NEPA, 7 CFR part 1940, subpart G. FSA concluded that the rule is categorically excluded in accordance with 7 CFR 1940.310(e)(3) and does not require preparation of an environmental assessment or environmental impact statement.

List of Subjects in Part 762

Agriculture, Loan programs—Agriculture.

Accordingly, 7 CFR chapter VII is proposed to be amended as follows:

PART 762—GUARANTEED FARM LOANS

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

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

2. Amend § 762.130 by revising paragraphs (d)(4)(ii) and (d)(4)(iii)(C) to read as follows:

§ 762.130 Loan approval and issuing the guarantee.

* * * * *

(d) * * *

(4) * * *

(ii) Guaranteed fees are established by the Agency at the time the guarantee is obligated. The current fee schedule is available at any FSA office and will be published periodically as a Notice in the **Federal Register**. Loan guarantee fees may be adjusted annually, based on factors which affect program costs. The nonrefundable fee is paid to the Agency by the lender. The fee may be passed on to the borrower and included in loan funds. The origination fee for the loan type will be calculated as follows:

(A) FO: Loan Amount × % guaranteed × (FO factor established by FSA).

(B) OL: Loan Amount × % guaranteed × (OL factor established by FSA).

(iii) * * *

(C) Loans to beginning farmers or ranchers involved in the direct

beginning farmer downpayment program or a qualified State Beginning Farmer Program.

* * * * *

3. Amend § 762.140 by adding a new paragraph (e) as follows:

§ 762.140 General servicing responsibilities.

* * * * *

(e) *Continuation fee.* For lines of credit with a year or more remaining on their term that will be continued, the lender will remit a continuation fee to FSA as follows:

(1) The fee will be due on the anniversary date of the issuance of the guarantee on a line of credit. Fees will be accepted within 60 days of the anniversary date. Any fee received after 60 days but within 90 days of the anniversary date may be accepted by FSA provided the lender has documented that circumstances existed that were beyond their control to be able to remit the fee in a timely manner. If the annual fee is not received within this time, all advances made after the anniversary date will not be covered by the guarantee.

(2) The fee amount will be established by the Agency at the time the guarantee is obligated.

(3) Fees are nonrefundable and are paid to the Agency by the lender. The fee may be passed on to the borrower and included in loan funds.

(4) The continuation fee will be calculated as follows: Fee = Line of Credit Ceiling Amount × % guaranteed × (continuation factor established by FSA). The current fee schedule is available at any FSA office and will be published periodically as a Notice in the **Federal Register**. The continuation fee may be adjusted annually based on factors which affect program costs.

(5) Loans with interest assistance or loans to beginning farmers or ranchers in the direct beginning farmer downpayment program or a qualified State Beginning Farmer Program will not be charged an annual continuation fee.

Signed at Washington, DC, on April 24, 2006.

Teresa Lasseter,

Administrator, Farm Service Agency.

[FR Doc. E6-7326 Filed 5-12-06; 8:45 am]

BILLING CODE 3410-05-P

DEPARTMENT OF THE TREASURY

31 CFR Part 103

RIN 1506-AA85

Financial Crimes Enforcement Network; Provision of Banking Services to Money Services Businesses

AGENCY: Financial Crimes Enforcement Network, Department of the Treasury.

ACTION: Advance notice of proposed rulemaking; extension of comment period.

SUMMARY: The Financial Crimes Enforcement Network ("FinCEN") is extending the comment period for the referenced advance notice of proposed rulemaking, 71 FR 12308 (March 10, 2006), for an additional sixty (60) days. The original comment period would have expired on May 9, 2006. The new extended comment period will expire on July 10, 2006.

DATES: Comments must be submitted on or before July 10, 2006.

ADDRESSES: You may submit comments, identified by RIN 1506-AA85, by any of the following methods:

- Federal e-rulemaking portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- E-mail: regcomments@fincen.treas.gov. Include RIN 1506-AA85 in the subject line of the message.

- Mail: FinCEN, P.O. Box 39, Vienna, VA 22183. Include RIN 1506-AA85 in the body of the text.

Instructions: It is preferable for comments to be submitted by electronic mail because paper mail in the Washington, DC area may be delayed. Please submit comments by one method only. All submissions received must include the agency name and the Regulatory Information Number (RIN) for this rulemaking. All comments received will be posted without change to <http://www.fincen.gov>, including any personal information provided. Comments may be inspected at FinCEN between 10 a.m. and 4 p.m. in the FinCEN reading room in Washington, DC. Persons wishing to inspect the comments submitted must request an appointment by telephoning (202) 354-6400 (not a toll-free number).

FOR FURTHER INFORMATION CONTACT: Regulatory Policy and Programs Division, FinCEN on (800) 949-2732 (toll-free).

SUPPLEMENTARY INFORMATION: FinCEN issued an advance notice of proposed rulemaking (71 FR 12308) on March 10, 2006 in order to solicit further

information as part of our ongoing effort to address, in the context of the Bank Secrecy Act, the issue of access to banking services by money services businesses. We have received a number of comments to date, including a request to extend the deadline for comments in order to allow interested parties more time in which to comment on the specific issues raised in the advance notice.

In light of the fact that an extension of time will not impede any imminent rulemaking and will allow additional interested parties to respond to the issues raised in the advance notice, we have determined that it is appropriate to extend the comment period until July 10, 2006.

Dated: May 9, 2006.

Robert W. Werner,

Director, Financial Crimes Enforcement Network.

[FR Doc. E6-7327 Filed 5-12-06; 8:45 am]

BILLING CODE 4810-02-P

DEPARTMENT OF EDUCATION

34 CFR Part 76

RIN 1890-AA13

State-Administered Programs

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking; correction.

SUMMARY: On April 27, 2006, we published a notice of proposed rulemaking for State-Administered Programs (NPRM) in the **Federal Register** (71 FR 24824). In the NPRM, we inadvertently included the incorrect OMB Control number for the Department's electronic ED²Facts Data Management System. This notice corrects that error as follows:

On page 24824, column three, second to last sentence in the **SUMMARY** section, replace "1880-0541" with "1875-0240."

FOR FURTHER INFORMATION CONTACT:

Bonny Long, U.S. Department of Education, 400 Maryland Avenue, SW., room 7C110, Washington, DC 20202. Telephone: (202) 401-0325 or via Internet: Bonny.Long@ed.gov.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1-800-877-8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in this section.