

Proposed Rules

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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

Rural Housing Service

Rural Business-Cooperative Service

Rural Utilities Service

Farm Service Agency

7 CFR Parts 1962, 1965 and 1980

RIN 0560-AE92

Subordination of Direct Loan Basic Security to Secure a Guaranteed Line of Credit

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

ACTION: Proposed rule.

SUMMARY: The Farm Service Agency (FSA) proposes to revise its regulations regarding loan security servicing to allow the Agency to enhance the use of subordinations to move direct farm credit program borrowers to the private sector. The first change is to allow subordinations of direct loan basic chattel and real estate security if necessary to secure a guaranteed operating line of credit. This action is intended to encourage the making of guaranteed lines of credit as opposed to direct annual operating loans or subordinations. Secondly, this rule also proposes to revise FCP regulations to allow subordination of Agency loan security so another lender may refinance a borrower's debt. This change is needed because recent legislation places restrictions on the uses of direct loans for refinancing. The proposal is intended to allow the Agency to transfer a portion of a direct loan borrower's government debt to commercial credit.

DATES: Comments on the proposed rule, comments on alternatives to this proposal, and the information collection requirements of this rule must be received on or before November 10, 1997 to be assured consideration.

ADDRESSES: Send comments on, and alternatives to, the proposed rule to:

Director, Farm Credit Programs Loan Servicing and Property Management Division (LSPMD), Farm Service Agency (FSA), U.S. Department of Agriculture (USDA), room 5449-S, 1400 Independence Avenue, SW, STOP 0523, Washington, D.C. 20013-0523.

Comments on the information collection requirements of this proposed rule must be sent to the Office of Management and Budget (OMB) at the address listed in the Paperwork Reduction Act section of this preamble or sent to the Department address listed after the OMB address.

FOR FURTHER INFORMATION CONTACT:

Craig Nehls, Branch Chief, USDA, FSA, Farm Credit Programs Loan Servicing Division, 1400 Independence Avenue, SW, STOP 0523, Washington, D.C. 20013-0523, telephone (202) 720-1984.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been reviewed under E.O. 12866 and has been determined to be a significant regulatory action and has been reviewed by OMB.

Executive Order 12372

1. For the reasons set forth in the Notice related to 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), Farm Ownership Loans, Farm Operating Loans and Emergency Loans are excluded from the scope of E.O. 12372, which requires intergovernmental consultation with State and local officials.

2. The Soil and Water Loan Program is subject to and has met the provisions of E.O. 12372.

Federal Assistance Program

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
- 10.416—Soil and Water Loans

Environmental Impact Statement

It is the determination of the issuing agency that this action is not a major Federal action significantly affecting the environment. Therefore, in accordance with the National Environmental Policy Act of 1969, Pub. L. 91-190, and 7 CFR part 1940 subpart G, an Environmental Impact Statement is not required.

Executive Order 12988

This proposed rule has been reviewed in accordance with E.O. 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 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

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601-602), the undersigned has determined and certified by signature of this document that this rule will not have a significant economic impact on a substantial number of small entities. This rule does not involve a new or expanded program and new provisions included in this rule will not impact a substantial number of small entities to a greater extent than large entities. Although it is the intent of this rule to move direct loans to guaranteed loans, participation is voluntary and requires no action on the part of small entities. Thus, large entities are subject to these rules to the same extent as small entities. Therefore, a regulatory flexibility analysis was not performed.

Unfunded Mandates

Title II of the Unfunded Mandate Reform Act of 1995 (UMRA), Pub. L. 104-4, requires Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments or the private sector. Agencies generally must prepare a written statement, including a cost benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures of \$100 million or more in any 1 year 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.

The 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 UMR.

Paperwork Reduction Act

The amendments to 7 CFR parts 1962, 1965 and 1980 set forth in this proposed rule require no revisions to the information collection requirements that were previously approved by OMB under the provisions of 44 U.S.C. chapter 35. Comments regarding the following issues should be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503 and to Craig Nehls, Branch Chief, USDA, FSA, Farm Credit Programs Loan Servicing Division, Farm Service Agency, USDA, 1400 Independence Avenue, SW, STOP 0523, Washington, D.C. 20013-0523: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments regarding paperwork burden will be summarized and included in the request for OMB approval of the information collection. All comments will also become a matter of public record.

Title: 7 CFR 1980-B, Farmer Program Loans.

OMB Control Number: 0560-0155.

Expiration Date: March 31, 1998.

Type of Request: Request for Comments.

Abstract: The information collected under OMB Control Number 0560-0155, as identified above, is needed in order for FSA to effectively administer the regulation relating to the subordination of direct loan security to secure a guaranteed loan line of credit. The information is collected by the loan official in consultation with the lender. The basic objective of the guaranteed loan program is to provide credit to applicants who are unable to obtain credit from lending institutions without a guarantee. The reporting requirements imposed on the public by the regulations set out in 7 CFR part 1980-B are necessary to administer the guaranteed loan program in accordance with statutory requirements listed above and are consistent with commonly

performed lending practices. Collection of information after loans are made is necessary to protect the Government's financial interest.

This rule—to allow for subordinations of direct loan security to secure a guaranteed line of credit—is expected to result in the substitution of guaranteed loans in several cases where direct Operating Loans (OL) or subordinations are being used to fund annual farm operating needs. This is expected to result in a slight increase in the number of guaranteed lines of credit, a decrease in the number of OL's and an increase in the number of subordinations. The respective requirements of subordinations and OL loans will not change. The Agency has determined that the currently approved information collection requirements contain sufficient estimates to absorb this proposed change since the first part of this rule will affect the current burden of these regulations by only 0.3 percent, if at all. Therefore, no request for revision is being made. Subordinations of direct loan security (subordinations) are governed by 7 CFR 1962.30 and 1965.12. Guaranteed Operating loans (OL) are governed by 7 CFR 1980.175.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .71 hours per response.

Respondents: Individuals or households, businesses or other for profit and farms.

Estimated Number of Respondents: 23,150.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 193,343.

Title: 7 CFR 1962-A, has no information collection requirements and does not have an OMB Control Number.

Title: 7 CFR 1965-A, Servicing of Real Estate Security for Farmer Program Loans and Certain Note-Only Cases.

OMB Control Number: 0560-0158.

Expiration Date: April 30, 1998.

Type of Request: Revision and Extension of a Currently Approved Information Collection.

Abstract: The information collected under OMB Control Number 0560-0158, as identified above, is collected by the loan servicing official in consultation with the borrower, another creditor, or other appropriate individuals from whom information is necessary. The information is used in order to process subordination request and effectively administer program policies and procedures in a way that maximize benefits to borrowers and maintains the Government's financial interest.

Section 331 of the Consolidated Farm and Rural Development Act, as amended, authorizes the Secretary of Agriculture to grant releases from personal liability where security property is transferred to approved applicants who, under agreement, assume the outstanding secured indebtedness. That section also authorizes the Secretary of Agriculture to grant partial releases and subordinations of mortgages subject to certain conditions and to consent to leases of security and transfers of security property. FSA county offices must collect information from borrowers requesting subordinations in order to assure that the program is carried out in accordance with the applicable laws and authorities.

The 1996 Act modified the authorized loan purposes for direct Farm Ownership Loans (FO) by eliminating the refinancing of existing indebtedness as well as placing a limit on the number of times a direct Farm Operating Loan (OL) may be used for refinancing. This has unintentionally restricted the Agency's ability to subordinate security since 7 CFR 1965.12 allows subordination for "authorized loan purposes." This causes problems in cases where subordinations are necessary for graduating direct loan borrowers to commercial credit. Graduation to commercial credit is one of the Agency's basic goals. The second part of this rule—to allow for subordinations for refinancing debt—is intended to allow the Agency to meet the need for refinancing created by the Federal Agriculture Improvement Act of 1996 (1996 Act). It will have no effect on currently approved information collection requirements. The public reporting burden under the requirements of the regulation are shown in the following estimates:

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .64 hours per response.

Respondents: Individuals or households, businesses or other for profit and farms.

Estimated Number of Respondents: 29,516.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 18,971.

Discussion of Proposed Rule

These changes involve the Farm Credit Programs (FCP) loans of FSA formerly administered by the Farmers Home Administration (FmHA) as Farmer Programs loans.

Section 1980.108 (a)(iii) of Title 7 of the Code of Federal Regulations states that when a borrower is involved with both a direct and guaranteed loan with the Agency, the Agency may subordinate its lien position *only* on crops, feeder livestock or livestock products in order to secure a guaranteed loan and in other limited cases. FCP loan servicing regulations (7 CFR part 1962, subpart A and part 1965, subpart A), provide conditions for the subordination of Agency lien position on basic chattel and real estate security to another lender without mention of when the Agency will be providing the lender a guarantee on the loan to be made.

This proposed rule will allow FSA to grant a subordination of basic chattel and real estate security in connection with a guaranteed line of credit. Such subordinations will be subject to the applicable requirements of 7 CFR 1962.30 and 1965.12 as referenced in 7 CFR 1980.108 in addition to conditions specific to granting a subordination in conjunction with a guaranteed loan. The Agency currently offers subordinations of basic chattel and real estate security under 7 CFR 1980.108 (a)(1)(iii) up to an amount necessary to collateralize a crop loan or a guarantee of up to 90 percent of principal and accrued interest on an operating loan. However, some commercial lenders and Congressional representatives have expressed concerns that this policy is too restrictive in areas where commercial lenders do not normally make loans to farm producers secured only by crops, or livestock products. Real estate and basic chattel security is desired. The Agency does not feel that this is a widespread problem. Furthermore, since the Government will be assuming nearly all of the risk for these combination subordination and guaranteed loans, conditions are proposed to ensure that these loans are made only in those areas that can document problems with credit availability. In addition, the loans will only be made where the Agency will have an extra 25 percent in security value to cover its loan after the subordination to protect the Government from an undue risk of loss.

This rule is also proposing revisions to FCP loan servicing regulations to allow subordination of Agency loan security so another lender may refinance a borrower's debt. This is necessary as a result of a recent modification to Agency loan eligibility criteria made by the 1996 Act. Section 602 of the 1996 Act does not include refinancing as an authorized loan purpose for direct Farm Ownership loans (FO). Section 312 of the 1996 Act

also places a limit on the number of times a direct Farm Operating loan (OL) may be used for refinancing. This has unintentionally restricted the Agency's ability to subordinate security since 7 CFR 1962.30 and 1965.12 allow a subordination only for "authorized loan purposes." This language is not required by statute. The legislation has also caused problems in cases where a subordination is necessary for graduations of direct loan borrowers to commercial credit on some of their loans. Graduation is one of the Agency's basic goals.

To address these problems, the Agency proposes to allow subordinations for loans to refinance a borrower's debts. Subordinations for such purposes are not in conflict with the language or the intent of the 1996 Act. The 1996 Act did not restrict the use of guaranteed FO's and OL's for refinancing purposes, so it is clear that Congress did not intend to prohibit all refinancing.

The Agency also proposes to revise the provision concerning the relationship between direct and guaranteed loans in 7 CFR 1980.108 to delete the requirement limiting combined direct and guaranteed to \$650,000 when an Economic Emergency loan is involved. This requirement of the Emergency Agricultural Credit Adjustment Act of 1978 was repealed by §1851 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Pub. L. 101-624).

This rule also removes administrative provisions from some of the affected sections, leaving only regulatory actions which impact the public in the **Federal Register**. Matters involving internal operating procedures and requirements will be contained in the Agency's instructions and handbooks. This streamlining makes the regulation more concise and easier to read and understand. Handbooks and instructions are available to the public upon request from an FSA office. Daily management of existing programs will not be affected by these administrative deletions.

Also, this rule makes minor wording changes, redesignates some numbered paragraphs and revises references to "FmHA" to reference "FSA" or "Agency."

Accordingly, it is proposed that 7 CFR chapter XVIII be amended as follows:

List of Subjects

7 CFR Part 1962

Crops, Government property, Livestock, Loan programs—Agriculture, Rural areas

7 CFR Part 1965

Real Property—Foreclosure, Loan programs—Agriculture, Rural areas

7 CFR Part 1980

General—Agriculture, Loan programs—Agriculture, EM

PART 1962—PERSONAL PROPERTY

1. The authority citation for part 1962 continues to read as follows:

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

Subpart A—Servicing and Liquidation of Chattel Security

2. Section 1962.30 is revised to read as follows:

§ 1962.30 Subordination and waiver of liens on chattel security.

(a) *Purposes.* Subject to the limitations set out in paragraph (b) of this section, the Agency chattel liens may be subordinated to a lien of another creditor in any of the following situations:

(1) The prior lien will soon mature or has matured and the prior lienholder desires to extend or renew the obligation, or the obligation can be refinanced. The relative lien position of the Agency must be maintained.

(2) The subordination will permit another creditor to refinance other debt or lend for an authorized direct loan purpose.

(3) The subordination is necessary to obtain crop insurance. The creditor to whom a subordination is given must consent in writing to payment of the insurance premiums from the crop or insurance proceeds. When a subordination is executed to enable the borrower to obtain crop insurance on Agency security, the borrower will assign the insurance proceeds to the Agency or name the Agency in the loss-payable clause of the policy.

(b) *Conditions.* Agency chattel liens may be subordinated to a lien of another creditor if all of the following conditions are met:

(1) The lien to be subordinated is on crops, livestock increase, feeder livestock, and other normal income security. If the lien is on basic chattel security, the Agency will subordinate only to the extent necessary to provide the lender with the security it requires to make the loan.

(2) The subordination is limited to a specific amount.

(3) Only one subordination to one creditor may be outstanding at any one time in connection with the same security.

(4) The borrower has not been convicted of planting, cultivating, growing, producing, harvesting or storing a controlled substance under Federal or State law. "Borrower" for purposes of this provision, specifically includes an individual or entity borrower and any member stockholder, partner, or joint operator, of an entity borrower and any member, stockholder, partner, or joint operator of an entity borrower. "Controlled substance" is defined at 21 CFR part 1308. The borrower will be ineligible for a subordination for the crop year in which the conviction occurred and the 4 succeeding crop years. Applicants must attest on the Agency application form that it and its members, if an entity, have not been convicted of such a crime.

(5) The loan funds will not be used in such a way that will contribute to erosion of highly erodible land or conversion of wetlands for the production of an agricultural commodity according to subpart G of part 1940 of this chapter.

(6) Subordinations will not be granted to another USDA agency.

(c) *Subordination to make a guaranteed loan.* Notwithstanding the requirements of this section subordinations on chattel security to make a guaranteed loan will be approved in accordance with § 1980.108 of subpart B of part 1980 of this chapter.

(d) *Forms.* Subordinations will be executed on Agency forms available in any FSA office or on another form approved by the Agency.

PART 1965—REAL PROPERTY

3. The authority citation for 7 CFR part 1965 continues to read as follows:

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

Subpart A—Servicing of Real Estate Security for Farmer Program Loans and Certain Note-Only Cases

4. Section 1965.12 is revised to read as follows:

§ 1965.12 Subordination of an Agency mortgage.

(a) A subordination may be granted if all of the following conditions are met:

(1) The subordination is to refinance debt or for any other authorized loan purpose.

(2) The Agency debt cannot be refinanced without a subordination.

(3) The subordination will further the purposes for which the Agency loans were originally made.

(4) Any cooperative stock required in connection with the loan secured by the

subordinated security will be assigned to the Agency.

(5) If the unpaid principal and accrued interest balance of the Agency loan exceeds the value of the loan security, a subordination may be granted only if the value of the security will be increased by at least the amount of the advances to be made.

(6) The Agency loan is still adequately secured after the subordination.

(7) The borrower can document the ability to repay the total amount due under subordination and pay all other debt payments scheduled for the subject operating cycle.

(8) The loan funds will not be used in such a way that will contribute to erosion of highly erodible land or conversion of wetlands for the production of an agricultural commodity according to part 1940, subpart G of this chapter.

(9) When a non-farm tract secures a single family housing (SFH) loan, the other lender's funds will only be used for the same purposes and with the same limitations that would be applicable if a SFH loan were made.

(10) When the subordination will be used to acquire land, the FSA county committee has made a favorable recommendation.

(11) Any planned development performed in a manner directed by the creditor and agreed to by the Agency which reasonably attains the objectives of part 1924, subpart A of this chapter.

(12) Funds to be used to develop or to acquire land will be deposited in a supervised bank account that is subject to signature by the Agency and the borrower or in a similar arrangement to ensure that funds will be spent for the planned purposes.

(13) In cases of land purchase or exchange of property, the Agency will obtain a valid mortgage on the acquired land. Title clearance and loan closing will be required as for an initial or subsequent FO loan, as appropriate.

(14) The borrower has not been convicted of planting, cultivating, growing, producing, harvesting or storing a controlled substance under Federal or State law. "Borrower" for purposes of this provision, specifically includes an individual or entity borrower and any member stockholder, partner, or joint operator, of an entity borrower and any member, stockholder, partner, or joint operator of an entity borrower. "Controlled substance" is defined at 21 CFR part 1308. The borrower will be ineligible for a subordination for the crop year in which the conviction occurred and the four succeeding crop years. Applicants must attest on the Agency application form

that it and its members, if an entity, have not been convicted of such a crime.

(b) *Subordination on real estate owned by an entity member.* When the borrower is an entity and the Agency has taken real estate as additional security on property owned by an entity member, a subordination for any authorized Farm Credit Programs loan purpose may be approved when it is needed for the entity member to finance a separate operation. The subordination, however, may be approved only if it does not cause the unpaid principal and accrued interest balance of the Agency loan to exceed the value of the loan security or otherwise adversely affect the security.

(c) *Request for subordination.* A borrower must complete an application provided by the Agency to receive consideration for a subordination.

(d) *Notice of foreclosure.* The lienholder requesting the subordination will agree to give notice of foreclosure as required by the Agency.

(e) *Reamortizing existing Agency debts.* The Agency may consent to a reamortization of an existing Agency debt, other than an SFH debt, when a subordination is granted to the debt of another lender. The reamortization will be allowed only when the borrower cannot reasonably be expected to meet all currently scheduled installments when due and the conditions of part 1951, subpart S, of this chapter are met.

(g) *Subordination to make a guaranteed loan.* Notwithstanding the requirements of this section, subordinations of liens on real estate security to make a guaranteed loan will be in accordance with § 1980.108 of this chapter.

PART 1980—GENERAL

5. The authority citation for 7 CFR part 1980 continues to read as follows:

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

Subpart B—Farmer Programs Loans

6. Section 1980.108 is amended to add paragraphs (a)(1)(v) and (vi) and to revise paragraphs (a)(1)(iii) and (d) to read as follows:

§ 1980.108 General provisions.

(a) ***

(1) ***

(v) The Agency may subordinate its security interest on a direct loan when a guaranteed loan is involved in any of the following circumstances:

(A) To permit a guaranteed lender to advance funds and perfect a security interest in crops, feeder livestock, or

livestock products, (milk, eggs, wool, etc.).

(B) When the lender requesting the guarantee needs the subordination of the Agency's lien position to maintain its lien position when servicing or restructuring.

(C) When the lender requesting the guarantee is refinancing the debt of another lender and the Agency's position on real estate security will not be adversely affected.

(vi) The Agency may subordinate its security interest in chattels and real estate, or both to permit a Contract of Guarantee—Line of Credit to be advanced for annual operating needs in accordance with §1980.175 (c)(2) only when the following conditions are met:

(A) The value of the total security for the direct loan or loans exceeds the total unpaid balance of the direct loan that it secures by at least 25 percent of the amount of the proposed line of credit after the subordination.

(B) The applicant cannot obtain sufficient credit through a conventional guaranteed loan.

(C) The subordination is limited to a specific amount.

(D) The loan funds will not be used in such a way that will contribute to erosion of highly erodible land or conversion of wetlands for the production of an agricultural commodity according to part 1940, subpart G of this chapter.

(E) The borrower has not been convicted of planting, cultivating, growing, producing, harvesting or storing a controlled substance under Federal or State law. "Borrower" for purposes of this provision, specifically includes an individual or entity borrower and any member stockholder, partner, or joint operator, of an entity borrower and any member, stockholder, partner, or joint operator of an entity borrower. "Controlled substance" is defined at 21 CFR part 1308. The borrower will be ineligible for a subordination for the crop year in which the conviction occurred and the 4 succeeding crop years. Applicants must attest on the Agency application form that it and its members, if an entity, have not been convicted of such a crime.

(F) No subordination will exist in favor of another creditor on the same security.

(G) The subordination is not in favor of another USDA agency.

(H) Any stock required in connection with the loan secured by the subordinated security will be assigned to the Agency.

(I) The borrower can document the ability to repay the total amount due

under subordination and pay all other debt payments scheduled for the subject operating cycle.

(J) The borrower will complete an application provided by the Agency to receive consideration for a subordination, and

(K) The lienholder requesting the subordination will agree to give notice of foreclosure as required by the Agency.

* * * * *

(d) *Relationship between Agency loans, direct and guaranteed.* A guaranteed FO or OL loan may be made to an insured borrower with the same type of direct loan provided:

(1) The outstanding combined direct and guaranteed FO or OL principal balance owned by the loan applicant or owed by anyone who will sign the note as cosigner may not exceed the authorized guaranteed loan limit for that type of loan.

(2) Chattel and real estate collateral must be separate and identifiable so as to be discernible from the collateral pledged to the Agency for a direct loan. Different lien positions on real estate are considered separate and identifiable collateral.

7. Section 1980.175 is amended to add paragraph (h)(3) as follows:

§1980.175 Operating Loans.

* * * * *

(h) *Special security requirements.* (1) * * *

(3) Subject to the requirements of this section, the Agency may approve a Contract of Guarantee for a line of credit to be secured by basic chattel or real estate security in which the Agency has subordinated its lien position in accordance with § 1980.108.

* * * * *

Signed in Washington, DC, on September 2, 1997.

Dallas Smith,

Acting Under Secretary for Farm and Foreign Agricultural Services.

Jill Long Thompson,

Under Secretary for Rural Development.

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BILLING CODE 3410-05-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 911

[Docket No. 970725178-7178-01]

Policies and Procedures Regarding Use of the NOAA Space-Based Data Collection Systems

AGENCY: National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) proposes regulations revising its policies and procedures for authorizing the use of its space-based Data Collection Systems which operate on NOAA's Geostationary Operational Environmental Satellites (GOES) and Polar-orbiting Operational Environmental Satellites (POES). These proposed regulations revise the current policy on the use of the GOES Data Collection System (DCS), and formalize a new policy for the use of the Argos Data Collection and Location System (Argos DCS) which flies on the POES. The regulations are intended to harmonize, as much as practicable, the system use policies for the two systems which in the past have been disparate. The fundamental principle underlying these regulations is that the Government will not allow its space-based data collection systems to be used where there are commercial services available that fulfill users' requirements.

DATES: Comments must be received by November 10, 1997.

ADDRESSES: Comments should be sent to Mr. Dane Clark, NOAA National Environmental Satellite, Data, and Information Service, Direct Services Division (E/SP3), 4700 Silver Hill Road, Stop 9909, Room 0158, Washington, D.C. 20233-9909.

FOR FURTHER INFORMATION CONTACT: Dane Clark at (301) 457-5678, e-mail: satinfo@nesdis.noaa.gov or Kira Alvarez at (301) 713-0053, e-mail: Kira.Alvarez@noaa.gov.

SUPPLEMENTARY INFORMATION: NOAA operates environmental data collection systems on its GOES and on its POES.

The GOES DCS consists of: U.S. Government instruments on NOAA geostationary satellites; user Data Collection Platforms (DCP); data receipt and data dissemination systems. With the exception of the DCP, which are managed by the individual users, the GOES DCS is managed by NOAA. The