

Proposed Rules

Federal Register

Vol. 68, No. 50

Friday, March 14, 2003

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 770

RIN 0560-AG87

Revision of Indian Tribal Land Acquisition Program Loan Regulations

AGENCY: Farm Service Agency, USDA.

ACTION: Proposed rule.

SUMMARY: This rule proposes to clarify and revise the Indian Tribal Land Acquisition Program (ITLAP) regulations for borrowers who apply for a rental value write-down. The rule proposes to change the method for determining the rental value of security for purposes of a write-down, adds a definition of "rental value," clarifies other write-down eligibility provisions, and limits new loan eligibility for borrowers who have received a write-down in the past. These changes are intended to reduce the borrower's costs of applying for a rental value write-down, and reduce the burden on Agency employees in processing requests.

DATES: Comments on the proposed rule must be received on or before May 13, 2003, to be assured of consideration.

ADDRESSES: Mail comments on the proposed rule to: Veldon Hall, Director, Farm Loan Programs, Loan Servicing and Property Management Division, Farm Service Agency, USDA, 1400 Independence Avenue, SW., Stop 0523, Washington, DC 20250-0523, or hand deliver to Suite 500, 1250 Maryland Avenue, SW., Washington, DC 20024 during normal business hours. All comments and supporting documents on this rule may be viewed by contacting the information contact listed below. All comments received, including names and addresses, will become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Mel Thompson, Senior Loan Officer, Farm Service Agency; telephone: 202-720-7862; facsimile: 202-690-1196; e-mail:

mel_thompson@wdc.fsa.usda.gov.

Persons with disabilities who require alternative means for communication (Braille, large print, audio tape, etc.) should contact the USDA Target Center at (202) 720-2600 (voice and TDD).

SUPPLEMENTARY INFORMATION:

Executive Order 12866

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

Regulatory Flexibility Act

The Agency certifies that this rule will not have a significant economic effect on a substantial number of small entities, because it does not require additional actions by the borrower. The Agency, therefore, is not required to perform a Regulatory Flexibility Analysis as required by the Regulatory Flexibility Act, Pub. L. 96-534, as amended (5 U.S.C. 601). This rule does not impact small entities to a greater extent than large 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 on Environmental Quality (40 CFR Parts 1500-1508), and the FSA regulations for compliance with NEPA, 7 CFR parts 799, and 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 E.O. 12988, Civil Justice Reform. In accordance with that Executive Order: (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 requesting judicial review.

Executive Order 12372

As stated in the Notice related to 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983) the programs and activities within this rule do not require consultation with state and local officials under the scope of Executive Order 12372.

Unfunded Mandates

Title II of the Unfunded Mandates 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 of expenditures of \$100 million or more in any one year. This rule contains no Federal mandates, as defined by title II of the UMRA; therefore, this rule is not subject to sections 202 and 205 of the 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

The amendments to 7 CFR part 770 contained in this proposed rule require no revisions to the information collection requirements that were previously approved by OMB and assigned OMB control number 0560-0198 under the provisions of 44 U.S.C. chapter 35, nor do they significantly affect the aggregate information collection burden of the Agency. Removing the requirement for an appraisal and replacing it with a market value rent study report, which is much smaller in scope, reduces the amount of information provided by the appraiser at the expense of the borrower. The number of estimated annual respondents and the time burden to provide a copy of the report is the same.

Federal Assistance Program

The proposed changes affect the following program listed in the Catalog of Federal Domestic Assistance:

10.421—Indian Tribes and Tribal Corporation Loans.

Discussion of the Proposed Rule

This proposed rule revises and clarifies the write-down servicing policies of the Farm Service Agency's Indian Tribal Land Acquisition Loan Program. The first proposed change is to clarify "rental value". Applicants and borrowers have misunderstood this term. Therefore, a definition is added in the proposed rule at § 770.2(b). A second revision changes the current appraisal needed to apply for a rental value write-down. An appraisal provides a substantial amount of information at the borrower's expense that is not necessary for calculating rental value write-downs. The information FSA needs can be provided by a rental value market study report prepared by a certified general appraiser. This change will dramatically reduce the borrower's costs. Also, since it requires less work for the appraiser, it reduces the appraiser's delay in completing the report, thus reducing FSA's processing time.

A third change is proposed in the eligibility requirements for both ITLAP land value and rental value write-downs. The eligibility requirements currently in the reamortization paragraph at § 770.10(a)(1) are being proposed for the write-down sections as well in §§ 770.10(e)(3)(v) and (e)(4)(v). These standards would require borrowers to submit complete application forms and establish that the delinquency is beyond the borrowers' control which cannot be brought current within one year and borrowers cannot meet the annual loan payments. These eligibility requirements will help assure that write-downs will be provided only to those financially distressed borrowers who are faced with circumstances outside their control. Several FSA loan servicing programs contain similar eligibility requirements. See 7 CFR 1951.909(c).

For *rental value write-downs*, the current rule at § 770.10(e)(4)(iv) prevents additional write-downs only when the specific ITLAP loan has received a rental value write-down previously and the specific loan has received a land value write-down within the last 5 years. The proposed rule would modify this paragraph to preclude an additional rental value write-down when *any loan* has ever received a rental value write-down or any loan has received a land value write-down within the last 5 years. The proposed revisions will limit FSA's losses when it provides rental value write-downs.

Similarly, the proposed rule seeks to add an additional loan eligibility requirement to § 770.3. Since write-downs are the consequence of a borrower's seriously deteriorating financial condition, the proposed rule adds a requirement for additional ITLAP loan eligibility requiring that borrowers must not have received an ITLAP rental value or land value write-down within the last five years. The additional eligibility requirement will enable FSA to make more creditworthy loans and decrease the possibility of further Agency losses.

The proposed rule will result in better service and substantial monetary and time savings for borrowers who apply for a write-down based on rental value. In addition, it will increase the protection of the taxpayers from potential loss and reduce the agency official's burden in administering the servicing of the Indian Tribal Land Acquisition Program Loans.

List of Subjects in 7 CFR Part 770

Agriculture, Credit, Indians, Rural areas, Loan Programs.

Accordingly, for the reasons stated in the preamble, 7 CFR part 770 is proposed to be amended as follows:

PART 770—INDIAN TRIBAL LAND ACQUISITION LOANS

1. The authority citation for part 770 continues to read as follows:

Authority: 5 U.S.C. 301, 25 U.S.C. 490.

2. Amend § 770.2 by adding an abbreviation in paragraph (a) and a definition in paragraph (b) to read as follows:

§ 770.2 Abbreviations and definitions.

(a) *Abbreviations.*

* * * * *

USPAP: Uniform Standards of Professional Appraisal Practice.

(b) *Definitions.*

* * * * *

Rental Value is the potential annual rental income of a parcel of real estate as determined by a market analysis of annual rental incomes of like real estate in the subject property area.

* * * * *

3. Amend § 770.3 by adding paragraph (h) to read as follows:

§ 770.3 Eligibility requirements.

* * * * *

(h) Have not received a write-down as provided in § 770.10(e) within the preceding 5 years.

4. Amend § 770.10 by adding paragraph (e)(3)(v), revising paragraphs (e)(4)(iii) and (e)(4)(iv) and adding paragraph (e)(4)(v) to read as follows:

§ 770.10 Servicing.

* * * * *

(e) *Debt Write-down.*

* * * * *

(3) Land Value Write-down.

* * * * *

(v) The borrower must meet the eligibility requirements of paragraphs (a)(1)(ii), or (iii) of this section.

(4) Rental Value Write-down.

* * * * *

(iii) The borrower provides a current market value rent study report for the land for the preceding 5 years, which identifies the average rental value. The report must be prepared by a Certified General Appraiser and meet the requirements of USPAP.

(iv) The borrower has not previously received a write-down under this paragraph on any loan and has not had a loan written down within the last 5 years under paragraph (e)(3) of this section.

(v) The borrower must meet the eligibility requirements of paragraph (a)(1)(ii), or (iii) of this section.

Signed in Washington, DC, on February 26, 2003.

James R. Little,

Administrator, Farm Service Agency.

[FR Doc. 03-6162 Filed 3-13-03; 8:45 am]

BILLING CODE 3410-05-P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1205

[Doc. No. CN-03-002]

Cotton Board Rules and Regulations: Adjusting Supplemental Assessment on Imports, (2003 Amendments)

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Agricultural Marketing Service (AMS) is proposing to amend the Cotton Board Rules and Regulations by lowering the value assigned to imported cotton for the purpose of calculating supplemental assessments collected for use by the Cotton Research and Promotion Program. An adjustment is required on an annual basis to ensure that the assessments collected on imported cotton and the cotton content of imported products remain similar to those paid on domestically produced cotton.

DATES: Comments must be received on or before April 14, 2003.

ADDRESSES: Interested persons are invited to submit written comments