

**United States Department of Agriculture
Farm Service Agency
Supporting Statement
OMB Control Number 0560-NEW
Conservation Loan Program-Direct Loan Making
7 CFR 764**

FSA is requesting an emergency approval to obtain OMB clearance for a new information collection on Conservation Loan Program (CL). This information collection will be incorporated into the existing approved information collection package of 0560-0237. FSA will be using the existing forms and the processing of the loans in the information collection request of 0560-0237 for the Conservation Loan Program. FSA will add the conservation loan requirements in some of the existing forms.

This document supports the information collection requirements of the interim rule to be published as part of the Farm Service Agency's (FSA) effort to implement provisions under the Food, Conservation and Energy Act of 2008 (Farm Bill). Section 5002 of the 2008 Farm Bill (Public Law 110-246) authorizes the Secretary to make or guarantee qualified conservation loans to eligible farmers.

The interim rule is part of an effort by the Agency to comply with the 2008 Farm Bill. The Agency will incorporate new provisions of the Conservation Loan (CL) Program that include:

- CL loans will be made available to qualified farmers who intend to implement qualified conservation plans and other conservation projects.
- Eligibility applicants may obtain a direct conservation loan under the new provisions and be extended to persons who are beginning farmers and socially disadvantaged farmers.
- Amend current program requirements under 7 CFR Part 764.
- Incorporate the new instructions into internal handbooks used by State and County Offices in administering agency conservation loan programs.
- Further, as required by Departmental guidance and the Freedom to E-File Act, agency handbooks and forms must be made available in electronic format.

This interim rule will require persons to complete various forms and documents. These include: Application, balance sheet, certifications and conservation plans. In addition, the collected information is needed to evaluate an applicant's eligibility.

Consequently, FSA personnel and guaranteed lenders will underwrite these loans and be processed using existing FSA forms and regulations. The current direct loan procedures are published in 7 CFR part 764. The current guaranteed loan procedures are published in 7 CFR part 764. FSA will incorporate the new provisions into existing regulations after final publication of this interim rule.

Conservation loans will be funded using Natural Resources and Conservation Service (NRCS) allocations. Direct Farm Ownership (FO) loan allocation and funds will be available for each state. Because FO funding is often very limited, and applications will be funded through NRCS appropriations, the agency believes the Conservation Loan Program will allow more farmers to receive loans to promote conservation and enhance conservation practices approved by NRCS.

This analysis includes collection instruments, and provides the information collection requirements contained in the interim rule utilizing current program data and adjusted accordingly to accurately assess the burden it imposes on applicants, borrowers, commercial lenders, as well as agency employees. As provided in question 8, the agency has consulted with applicants, borrowers, commercial lenders, as well as agency employees used in previous burden submissions and revised the information collection accordingly.

The information collection instruments included in this submission are in the interim stage because the Agency needs to obtain OMB's approval of the information collection and be assigned a new control number.

Justification

1. Explain the circumstances that make the collection of information necessary.

FSA's FLP Direct Loans, provides loans to family farmers to purchase real estate, equipment and finance agricultural production, promote soil and water conservation and protection. The regulation covered by this information collection package describes the policies and procedures the agency uses to provide supervised credit to FLP applicants requesting direct loan assistance in accordance with the provisions of the Consolidated Farm and Rural Development Act (Act) (7 U.S.C. 1921 et seq.) (Pub. L. 87-128), as amended. Direct loan making information collection requirements include financial and production records of the operation, as well as information necessary to obtain liens on collateral, provide evidence of the indebtedness, and ensure repayment of the loan.

Authority to establish the regulatory requirements contained in 7 CFR 764 is provided under 5 U.S.C. 301, which provides that "The Head of an Executive department or military department may prescribe regulations for the government of his department ... the distribution and performance of its business..." Furthermore, section 339 of the Act (7 U.S.C. 1989) provides that "the Secretary is authorized to make such rules and regulations, prescribe the terms and conditions for making... loans, security instruments and agreements, except as otherwise specified herein, and to make such delegations of authority as he deems necessary to carry out this title." The Secretary delegated authority to administer the provisions of the Act applicable to FLP to the Under Secretary for Farm and Foreign Agricultural Services (FFAS) in section 2.16 of 7 CFR part 2. FFAS further delegated this authority to the FSA Administrator in section 2.42 of 7 CFR part 2.

2. Indicate how, by whom, and for what purpose the information is to be used. Except for new collection, indicate the actual use the Agency has made of the information received from the current collection.

FSA will adopt similar application requirements as direct and guaranteed loans. However, some of the eligibility requirements for conservation loans will be waived under this interim rule. Exceptions under the new Conservation Loan program for applicants who meet the LO-Doc requirements include; no test for credit, cash flow, historical performance, farm operating plan, year end analysis, graduation to other credit, or meet the definition of family size farmer.

Applicants who meet the eligibility requirements for direct loan assistance will provide information to the local agency office serving the county in which their business is headquartered. The information is necessary to thoroughly evaluate the applicant's request for a direct loan and is used by agency officials to:

- Ensure that when loan funds are used to carry out qualified conservation projects.
- Ensure that a loan is adequately secured.
- Ensure the applicant meets the statutorily established program eligibility requirements.

The Agency estimates 50 percent of the farmers who apply for direct loan annually will meet the eligibility requirements for LO-Doc Conservation loan. For those applicants who do not meet the requirements the general nature of a loan from the agency is very similar to that of any commercial creditor. Legislation requires the agency to actively supervise these applicants and provide credit counseling, management advice, and financial guidance. Thus, the monitoring, reporting, evaluation, and consent requirements of this supervision increase the information collection burden on agency applicants above those imposed by commercial creditors.

The information collection requirements established in 7 CFR 764 are described below and on the attached form FSA-85-1, Reporting and Recordkeeping Requirements.

Direct Forms

FSA-2001 "Request for Direct Loan Assistance" Revised

7 CFR 764.51(b)(1); 7 CFR 765.205(a) (1); 7 CFR 765.403(a)(1); 7 CFR 766.102(a)(2); and 7 CFR 766.204(a)(2)

This form will be used by the applicant to apply for assistance for the Conservation Loan. The agency will utilize FSA-2001 as its application form for both direct loan making and direct loan servicing requests. Each applicant will provide one application form. The application form will be completed for both Lo-Doc and regular conservation loan request. Information collected on FSA-2001 includes name, address, type of operation, marital status, race and ethnicity, citizenship, name and address of employer, as well as certifications pertaining to delinquent Federal debt, prior convictions for controlled substances, disqualification due to Federal crop

insurance fraud, restrictions and disclosure of lobbying activities, and previous debt forgiveness by the agency. The information is used to:

- Ensure applicants requesting direct loan assistance or servicing meet statutory eligibility requirements.
- Determine if the applicant qualifies for funds targeted to socially disadvantaged applicants according to the Act's provisions.
- Determine the State where the agency must file the financing statements according to the Uniform Commercial Code requirements.

The application form requires all entity members to provide information about percent of ownership in the entity, citizenship, marital status, ethnicity, race, gender, as well as read the certifications provided above and sign the form.

Further, applicants must provide description of the operation on the application form instead of providing it separately. Therefore, the agency estimates it will take 30 minutes for individuals to complete the form and one hour for entities, as all entity members are required to provide information applicable to individuals and certify and acknowledge that they have read the certifications included on the form.

The agency estimates that 1807 responses from (individual and husband & wife) annually and 450 responses from entity applicants (average 3 members per entity) annually.

For loan servicing the agency the agency anticipates 224 subordination requests, 16 junior lien requests, 13 transfer and assumption requests, 80 primary loan servicing requests, and 1 request for amortizing shared appreciation, per year related to the conservation loans. The agency assumes that 60.5 percent of the requests are from individual applicants, 9.5 percent are from entity applicants (with an average of 3 members per entity), and 30 percent are from applicants applying jointly.

Lastly, borrowers requesting primary loan servicing under 7 CFR 766 are required to provide FSA-2002. As is the case for applicants with outstanding loans, most borrowers have provided the agency FSA-2002 as part of the year-end analysis and therefore, will only have to provide one year of information.

FSA-2002 “Three-Year Financial History”

7 CFR 764.51(b)(4) and 7 CFR 766.102(a)(3)

Used to document the buyer's past three years income and expense history as part of a complete application and is approved under OMB Control Number 0560-0237. As part of the proposed Conservation Loan Program, the Agency will require applicants to submit the last three year's income and expense records as part of a complete application. This information is necessary to ensure that the projected cash flow used to determine loan repayment is based on the actual financial history of the operation. Applicants who request Lo-Doc loans will not be required to

submit three years of income and expense records as part of the complete application for direct Conservation Loan.

The agency estimates 750 requests will be submitted annually and the applicant will spend approximately 1 hour completing and signing this form. Furthermore, the agency estimates 50% of the applications received will qualify for Lo-Doc and will not be required to submit income and expense history. Estimated total of new applicants annually is 750. Estimated number of new applicants providing 3 years financial history: (750 x 1 hr.)

Borrowers requesting primary loan servicing under 7 CFR 766 are required to provide FSA-2002. The agency requires applicants to submit the last three year's income and expense records as part of a complete loan servicing application. This information is necessary to ensure that the projected cash flow used in loan servicing consideration is based on the actual financial history of the operation. As is the case for applicants with outstanding loans, most borrowers have provided the agency FSA-2002 as part of the year-end analysis and therefore, will only have to provide one year of information. The agency estimates that 80 borrowers will provide a complete application for primary loan servicing on conservation loans and the time to complete FSA-2002 for this purpose is estimated to be 30 minutes.

FSA-2003 “Three-Year Production History”

7 CFR 761.104(c)(3); 7 CFR 764.51(b)(5) and 7 CFR 766.102(a)(4)

Used to document the buyer's past three years of production history as part of a complete application and is approved under OMB Control Number 0560-0237. As part of the proposed Conservation Loan Direct Loan Program, the Agency will require applicants to submit the last three year's of production records as part of a complete application. This information is necessary to ensure that the projected cash flow used to determine loan repayment is based on the actual production history of the operation. Applicants who request Lo-Doc loans will not be required to submit three years of production records as part of the complete application for direct Conservation Loan.

The agency estimates 750 requests will be submitted annually and the applicant will spend approximately 1 hour completing and signing this form. Furthermore, the agency estimates 50% of the applications received will qualify for Lo-Doc and not be required to submit production history. Applicants with outstanding conservation loans have provided production history to the agency as part of the previous year's complete application and are therefore required to provide FSA-2003 covering only the current year. The agency estimates that 750 applicants (50%) are required to provide FSA-2002 for the current year and it takes 30 minutes to complete it. Estimated total of new applicants annually is 750. Estimated number of new applicants providing 3 years production history: (750 x 1 hr.)

Lastly, borrowers requesting primary loan servicing under 7 CFR 766 are required to provide FSA-2003. As is the case for applicants with outstanding loans, most borrowers have provided the agency FSA-2003 for another purpose, such as year-end analysis or loan request, and therefore, will only have to provide one year of information. The agency estimates that 80

borrowers will provide a complete application for primary loan servicing and the time to complete FSA-2003 for this purpose is estimated to be 30 minutes per response.

FSA-2004 “Authorization to Release Information”

7 CFR 764.51(b)(8); 7 CFR 764.51(b)(12); 7 CFR 765.205(a)(6); 7 CFR 765.404(b)(1); 7 CFR 766.102(a)(6) & (8); 7 CFR 766.204(a)(2); and 7 CFR 1956.56

Applicants and borrowers must provide the agency access to employment and non-farm income information as well as allow the agency to verify debts with other creditors. The FSA-2004 is collected from applicants authorizing the Agency to obtain the information needed. Applicants complete only one FSA-2004 and the agency makes copies and provides FSA-2004 to creditors and employers. The agency estimates that 750 conservation loan applications will be received annually. Of those, 50 percent will qualify for Lo-Doc and therefore not be required to obtain the authorization. The agency estimates 750 FSA-2004 will be completed annually. The form is approved under OMB Control number 0560-0237 and will take 10 minutes to complete.

FSA-2005 – Creditor List

7 CFR 764.51(b)(12); 7 CFR 764.51(d)(2); 7 CFR 764.101(d); 7 CFR 765.205(a)(6); 7 CFR 765.404(b)(1); 7 CFR 766.102(a); 7 CFR 766.151(a)(3); and 7 CFR 766.204(a)(2)

The form is completed by applicants, which provides a complete list of their creditors. The agency will use the information provided to complete, in part, the form on which creditors will verify the applicant’s debts and assets. The agency estimates that 750 conservation loan applications will be received annually. Of those, 50 percent will qualify for Lo-Doc and therefore not be required to complete FSA-2005. The agency estimates 750 FSA-2005 will be completed annually. The form is approved under OMB Control number 0560-0237 and will take 10 minutes to complete.

FSA-2006 – Property Owned and Leased

7 CFR 764.51(b)(9); 7 CFR 764.402(c); 7 CFR 765.205(a)(5); 7 CFR 766.102(a)(7); and 7 CFR 766.204(a)

Applicants must provide information on all land owned, to be owned or leased as well as a list of equipment and livestock to be purchased, is currently leased, or is to be leased and is approved under OMB Control Number 0560-0237. Information collected on FSA-2006 includes the name of the owner of record, brief description of the land and the acreage of the land under lease, the county the land is located in, as well as the terms of the lease. The information is used to determine if FSA-2028 (Security Agreement) reflects accurately the property the applicant owns and leases. The agency estimates that 1500 applicants will spend 30 minutes each reviewing and signing FSA-2026.

FSA-2007 – Statement required by the Privacy Act-Revised

7 CFR 764.402 (a)(4)

This form is being revised to include reference to Conservation Loans. The revisions will have no impact on the estimated response time or the burden currently approved under OMB-Control Number 0560-0237 and will take 10 minutes to complete. If the applicant cannot meet the repayment requirements for the loan requested, or the security offered by the applicant does not meet the agency's requirements, the agency may accept a cosigner to ensure timely loan repayment, or a pledge of security by a third party to meet the security requirements. In those situations, the cosigner or third party is not required to complete FSA-2001, and in the case of third party pledge of security the promissory note does not have to be signed. Therefore, the agency has to provide the statement required by the Privacy Act to meet its requirements under this law. The agency estimates that (1% of the 750) 8 cosigners or third party pledges will complete FSA-2007.

FSA-2014 – Verification of Income

7 CFR 764.51(b)(8); 7 CFR 765.205(a)(4); 7 CFR 765.404(b)(1); 7 CFR 766.102(a)(6); 7 CFR 766.152; and 7 CFR 766.204(a)(2)

Applicants requesting a direct conservation loan must provide FSA-2004 authorizing the agency to obtain verification of their non-farm income and other benefits the applicant may be receiving or entitled to receive, based on state law. The applicant provides employer information or other benefit provider on FSA-2001. The agency partially completes FSA-2014 and sends it to the employer or appropriate agency to verify the applicant's non-farm income. The agency uses the non-farm income information to determine the applicant repayment ability or other sources of income when considering the request. The agency estimates that verification of non-farm income or benefits will be required in 750 cases per year and employers or other benefit providers will spend an average of 15 minutes completing FSA-2014. The form is approved under OMB Control Number 0560-0237.

FSA-2015 - Verification of Debts and Assets

7 CFR 764.51(b)(12); 7 CFR 764.51(d)(2); 7 CFR 765.205(a)(6); 7 CFR 765.404(b)(1); 7 CFR 766.102(a)(8); 7 CFR 766.204(a)(2); 7 CFR 1436(a)(1); and 7 CFR 1956.56

As part of a complete application for a direct conservation loan, applicants must authorize the agency to verify the applicants' assets and debts, as well as the collateral securing such debts. Applicants and borrowers complete FSA-2004 that authorizes the agency to request financial information about the applicant from creditors and financial institutions. Further, applicants provide a list of creditors on FSA-2005. The agency completes FSA-2015 partially and provides it to creditors and financial institutions, along with a copy of FSA-2004.

Information collected from creditors on FSA-2015 is essential in evaluating the applicant repayment ability by ensuring that all debt repayment has been accurately reflected on the farm operating plan. Further, it provides information about the applicant assets invested with financial institutions. Information collected on FSA-2015 includes details regarding the security held by the creditor as well as the unpaid debt, installment amount, and repayment history.

Use of the form for debt verification is not necessary when all needed information can be obtained from a credit report; however, credit reports do not provide information regarding the type and amount of security taken by the creditor. Lastly, if the applicant or borrower does not

have assets invested with financial institutions and the debts can be verified through other means, the form is not completed.

The agency estimates 1200 applications will be received annually and that 2250 creditor/financial institutions will complete an average of 3 FSA-2015 for each applicant. The FSA-2015 will take 20 minutes to be completed by either creditors or financial institutions and is approved under OMB Control Number 0560-0237. (1200 x 3 = 3600)

FSA-2026 – Promissory Note-Revised

7 CFR 764.102(b); 7 CFR 764.402(a)(1), 764.402(b)(2); 7 CFR 766.106; 7 CFR 766.155(c); and 7 CFR 766.204

This form is being revised to include reference to Conservation Loans. The revisions will have no impact on the estimated response time or the burden currently approved under OMB-Control Number 0560-0237 and applicants will spend 20 minutes each reviewing and signing FSA-2026.

When the agency approves a new loan the applicant must sign FSA-2026, which serves as evidence of the indebtedness. FSA-2026 is used to establish the amount, term, interest rate charged on the loan, and repayment schedule. In addition, FSA-2026 contains loan terms and conditions such as the statutorily mandated requirement that the borrower graduate to commercial credit when reasonable rates and terms are available. However, for conservation loans FSA will amend the graduation clause from this form. Further, based on state law, FSA-2026 may contain additional state applicable provisions. Under all circumstances, the agency completes FSA-2026 and applicant reviews the terms and conditions and signs it.

In the case of an individual applicant, only one signature is required; however, in the case of an entity, the entity's officers as well as all entity members have to sign FSA-2026. The agency estimates that 1350 individual and married applicants (90%) and 150 entity members will sign FSA-2026 for loan making purposes.

When the agency services loans, a new FSA-2026 is required to be taken to reflect any changes made to the amounts, terms, interest rates, or repayment schedules of serviced loans. Also, if a borrower requests amortization of shared appreciation, this form is required. For serviced conservation loans, the graduation clause shall remain amended from the form. The agency estimates that 49 borrowers will complete this form as part of loan servicing and 150 borrowers will complete it as part of shared appreciation amortization.

FSA-2027 “Supplemental Payment Agreement”

7 CFR 764.254(b) and 7 CFR 766.109 (c)(1)

Applicants for OL loans may be required to agree to make supplemental payments on their loans when income is projected to be available. Further, borrowers receiving a deferral under 7 CFR 766, whose repayment ability increases during the deferral period, are required to make supplemental payments on their loans. The agency completes FSA-2027 based on information provided by the applicant or borrower during the loan making or servicing process. The applicant or borrower reviews the form before it is executed. The agency estimates that 30 FSA-2027 will be executed and the time is estimated to be 15 minutes.

FSA-2028 “Security Agreement” Revised

7 CFR 764.103(b)(1); 7 CFR 764.103(c); 7 CFR 764.103(e); 7 CFR 764.255(b)(1); 7 CFR 764.305; 7 CFR 764.402(a)(5); 7 CFR 765.303; 7 CFR 766.112(a); 7 CFR 766.204(a)(5)

This form is being revised to include reference to Conservation Loans. The revisions will have no impact on the estimated response time or the burden currently approved under OMB-Control Number 0560-0237 and applicants will spend 20 minutes each reviewing and signing FSA-2026.

When a conservation loan will be secured by a lien on chattels the applicant must execute FSA-2028. The applicant is only required to read and sign FSA-2028, as the agency completes it from information provided during the loan making or servicing process. The agency estimates that 10 percent of the 1500 conservation loans or 150 FSA-2028’s will be executed every year for loan making purposes. For loan servicing purposes, the agency estimates that 49 borrowers will complete FSA-2028 in order to meet agency security requirements for serviced loans.

**FSA-2029D “Deed of Trust”and
FSA-2029M “Mortgage”-Revise**

7 CFR 764.103; 7 CFR 764.104; 7 CFR 764.155; 7 CFR 764.205; 7 CFR 764.353; 7 CFR 764.402; 7 CFR 765.205(a)(12); 7 CFR 766.106

This form is being revised to include reference to Conservation Loans. The revisions will have no impact on the estimated response time or the burden currently approved under OMB-Control Number 0560-0237. The agency estimates that applicants will spend an average of 30 minutes each reviewing and executing FSA-2029D or FSA-2029M.

The agency uses FSA-2029D or FSA-2029M to obtain a security interest in real estate it is financing with agency funds. Both forms contain uniform covenants that address borrower responsibilities such as payments towards the loan, application of payments received, taxes, assignment of proceeds from the real estate, insurance requirements, advances the agency makes on behalf of the borrower, protection of lien, hazardous substances, graduation requirements, forfeiture provisions, false statements, highly erodible land and wetland provisions, and successors and assigns, among others. However, for conservation loans FSA will amend the graduation clause from this form. Further, both forms contain non-uniform covenants such as default, death, incompetence and bankruptcy, foreclosure, and assignment of leases and rents. Lastly, based on state law, FSA-2029D or FSA-2029M may contain additional state applicable provisions.

The agency requires that FSA-2029D or FSA-2029M, as appropriate under State law, be executed to establish the agency’s lien against the property when a loan will be secured by real estate. When the agency makes an operating loan and the applicant does not have chattel security of up to 150 percent of the loan amount, the agency will obtain a lien on real estate. In addition, when the applicant does not have the required amount of security for the proposed loan, the agency accepts real estate pledged by a third party as security for the loan.

In most cases, the applicant is the owner of the property. In limited cases, the property may be jointly owned by the applicant and another party, in which case both the applicant and the third party are required to execute FSA-2029D or FSA-2029M for the agency to obtain a valid lien on the property.

It is estimated that 1350 FSA-2029D or FSA-2029M will be executed for loan making purposes. The agency estimates that applicants will spend an average of 30 minutes each reviewing and executing FSA-2029D or FSA-2029M and approved under OMB Control Number 0560-0237.

**FSA-2041 “Assignment of Proceeds from the Sale of Products” and
FSA-2042 “Consent to Payment of Proceeds from Sale of Products”**

7 CFR 764.402; 7 CFR 765.303; and 7 CFR 766.106(a) & (b)

At, or before loan closing or closing the servicing action requested, the agency requires all necessary signatures to obtain the required security interest in the collateral. In addition to executing a financing statement or real estate mortgage/deed of trust, as appropriate, the agency may require an assignment or consent to payment from proceeds to ensure that proceeds from the sale of security or products is submitted to the agency.

FSA-2041 is executed by applicants or borrowers to provide an assignment of proceeds from the sale of products to the agency when the agency does not have a lien on the products. FSA-2041 enables the purchaser of the products to directly submit sale proceeds to the agency. FSA-2042 is executed by applicants or borrowers to provide consent to payment of proceeds from the sale of products to the agency when the agency has a perfected lien on the products.

Information collected on both FSA-2041 and FSA-2042 includes the applicant’s name and address, the purchaser’s name and address and provides a written record of the agreement reached between the parties for the disposition of the proceeds. The agency uses the information provided on both forms to ensure the applicant has adequate repayment ability for the loan or servicing request. It is estimated that 1500 applicants or borrowers will complete either FSA-2041 or FSA-2042, as appropriate, and each of 500 purchasers will complete three FSA-2041s or FSA-2042. The agency estimates that it takes 20 minutes each applicant, as well as purchaser, to complete the required form.

FSA-2044 “Assignment of Income from Real Estate Security”

7 CFR 764.402; 7 CFR 765.252

Applicants and borrowers may assign to the agency income derived from a lease of real estate security when all or part of the proceeds will be collected over a period of time. The agency uses FSA-2044 to set forth the terms and conditions applicable to the assignment. It is estimated that 75 applicants and borrowers will execute FSA-2044 and the time it takes is estimated to be 20 minutes per response

FSA-2302 “Description of Training and Experience”

7 CFR 764.51(a)(3)

For conservation loan applicants a complete direct loan application includes a description of the applicant's farm training and experience, including each entity member that will be involved in managing or operating the farm. Information provided on FSA-2302 is used to ensure that the applicant has the necessary training and experience to carry out the planned operation. It is estimated that 1500 applicants will be received annually. Of those, it is estimated that 25 percent will be existing borrowers and therefore will not be required to submit the FSA-2302. The agency estimates 1125 applicants will provide the needed information and will spend 20 minutes each completing FSA-2302. The form is approved under OMB Control Number 0560-0237.

FSA-2313 “Notification of Loan Approval and Borrower Responsibilities”

7 CFR 764.401(a)

When the agency approves a loan request, the applicant must read and agree to the loan approval conditions by executing FSA-2313. Information contained on FSA-2313 includes the amount of the loan, loan term, interest rate and any other conditions required for loan approval. It is estimated that FSA-2313 will be executed by 1500 applicants annually. Each will spend 20 minutes reviewing and executing FSA-2313. The form is approved under OMB Control Number 0560-0237.

FSA-2319 “Agreement with Prior Lienholder”

7 CFR 764.104(a)(2)

When the agency approves a real estate loan subject to an existing prior lien, the agency requires the prior lienholder to execute FSA-2319, if state law does not require the lienholder to provide notice of foreclosure to junior lienholders. FSA-2319 provides the prior lienholder is required to notify the agency if the borrower defaults on the prior lienholder's loan, so the agency can protect its financial interest. The agency completes FSA-2319 and the prior lienholder reviews and executes it. FSA estimates 1% of the 1500 conservation loan applications received annually that 15 prior lien holders will spend 10 minutes each reviewing and executing the form and approved under OMB Control Number 0560-0237.

FSA-2340 “Selection of Attorney/Title Agent”

FSA-2341 “Certification of Attorney”

FSA-2342 “Certification of Title Insurance Company”

7 CFR 764.402(d)(3) and 7 CFR 765.205(b)(13)

Conservation loan applicants select the closing agent to perform loan closing and other legal services to ensure they obtain good and marketable title to the security. The agency will use FSA-2340 to document that applicants selected the agent, and that the applicant understands that the agency does not assume any liability or responsibility for the closing agent's fees. The agency estimates 90 percent of the 1500 completed applications or 1350 applicants who apply annually for conservation loans will be secured by real estate and complete FSA-2340. The agency estimates that each FSA-2340 will take 10 minutes to review and complete and approved under OMB Control Number 0560-0237.

Closing agents for agency loans have to be licensed in the state where the loan will be closed; must not be debarred or suspended from participation in Federal programs; must maintain liability insurance as well as fidelity bond to cover employees with access to loan funds; have knowledge of the requirements of state law to close the loan; provide title clearance; and act promptly to provide the required services. The agency estimates that one third of applicants will use the same closing agent to perform loan closing; therefore, a total of 450 closing agents will complete FSA-2341 or FSA-2342, as appropriate. The agency estimates it will take 20 minutes per response and approved under OMB Control Number 0560-0237.

FSA-2344 “Preliminary Title Opinion”

7 CFR 764.402(b) and 7 CFR 765.205(b)(13)

The agency will not close a loan secured by real estate until it is certain that good and marketable title can be vested in the applicant, subject only to encumbrances, exceptions, and reservations authorized by the agency in writing, and ensure the agency can obtain a valid lien on the security. The applicant-selected closing agent prepares FSA-2344 after examination of real estate records to determine if the requested action can be closed and provide the agency with a valid lien and the applicant with good and marketable title. Information contained in FSA-2344 is used by the agency to prepare the loan closing instructions. It is estimated that 450 closing agents will complete FSA-2344 and each will take one and 90 minutes to complete and approved under OMB Control Number 0560-0237.

FSA-2350 “Loan Closing Instructions”

7 CFR 764.402(e)

When a loan will be secured by real estate, or a subordination of real estate security is approved, the agency utilizes FSA-2350 to provide loan closing instructions to the closing agent. The closing agent must review the instructions, and after closing the loan, sign and return FSA-2350 certifying the loan was closed according to the instructions provided. It is estimated that 450 closing agents will review and complete FSA-2350 and each will take 30 minutes to complete. The FSA-2350 is approved under OMB Control Number 0560-0237.

FSA-2352 “Final Title Opinion”

7 CFR 764.402(d) and 7 CFR 765.205(b)(13)

The agency will not close a loan secured by real estate until the closing agent can issue a policy of title or final title opinion showing title vested as required, the agency lien and security position and any exceptions. This information is necessary to ensure the agency can obtain the desired lien position and that there are no flaws or encumbrances on the title that would adversely impact the agency’s financial interest in the security property. FSA-2352 is prepared by the closing agent to provide the final title opinion. It is estimated that 450 number of closing agents will complete FSA-2352 and each will take 30 minutes to complete. The FSA-2352 is approved under OMB Control Number 0560-0237.

FSA-2360 “Report of Lien Search”

7 CFR 764.402(c)

For loans that will be secured by chattels, the agency requires that a lien search be completed to ensure the agency will obtain the required lien priority. In most cases, agency employees complete the lien search; however, attorneys may be used to conduct the lien search. The agency estimates that 2 attorneys will each complete one FSA-2360 and it will take 30 minutes to complete it.

FSA-2361 “Lender Subordination Agreement”

7 CFR 764.255(b)

The agency requires a first lien on all property or products acquired or produced with conservation loan funds. If another creditor holds the first lien position, the agency may require the creditor to subordinate its security position to the agency to close the loan. The agency estimates that (1%) or 15 creditors will complete and execute FSA-2361 and it will take 30 minutes for each. The FSA 2361 is approved under OMB Control Number 0560-0237.

FSA-2370 “Request for Waiver of Borrower Training”

7 CFR 764.453

The applicant must submit evidence of successful completion of financial or production courses, or evidence which demonstrates to the agency’s satisfaction the applicant’s experience and training necessary for a successful and efficient operation to request waiver of borrower training requirements. Applicants for initial loan only may request waiver of borrower training. Applicants requesting an initial loan from the agency complete FSA-2370 and provide appropriate documentation needed for the agency to determine training needs. The agency estimates that 1500 conservation loan applicants will apply annually and of those 25 percent will be existing borrowers and 50 percent will be Lo-Doc and therefore will request waiver of borrower training. It is estimated that 1125 applicants will spend 30 minutes each completing FSA-2370 and submitting the documentation required. The FSA-2370 is approved under OMB Control Number 0560-0237.

FSA-2371 “Agreement to Complete Borrower Training”

7 CFR 764.452(b), (c), and (d); 7 CFR 764.454

When the agency determines, based on the evaluation of the applicant’s documentation of training and experience, the applicant will benefit by attending borrower training, the agency requires applicants to execute FSA-2371 agreeing to complete financial management, production, or both training, as appropriate. All applicants executing FSA-2371 must complete the training within 2 years. It is estimated that 375 applicants will each spend 15 minutes reviewing and executing FSA-2371.

FSA-2376 “Borrower Training Course Evaluation”

7 CFR 764.454(d)

Upon completion of a required borrower training course, the borrower completes an evaluation of the course using FSA-2376. The borrower submits the completed form to the vendor for

submission to the agency. This evaluation is used by the agency to ensure that the training course is meeting the planned objective and that the vendor is fulfilling the requirements established in their agreement with the agency. It is estimated that 375 borrowers will each spend 15 minutes completing the evaluation. It is estimated that 100 businesses will complete the form, 10 reports for total annual responses 1000.

Non-Forms

Entity Information with Direct Conservation Loan Application

7 CFR 764.51(b)(2)

Entities applying for agency loans must provide copy of the entity's charter, articles of incorporation and bylaws, evidence of current registration and a resolution adopted by the Board of Directors or entity members authorizing the entity to apply for and obtain the loan. Only new entities that have not obtained a loan from the agency are required to provide this information. The agency estimates that 10 % or 150 new entities apply for loans every year and it takes 15 minutes each entity to provide copies of the above documents.

Copy of Legal Description of Property to be Purchased, Leases, or Other Agreements

7 CFR 764.51(b)(10)

As part of a complete application, the applicant must submit a copy of the legal description of the property to be purchased, leases for rented land or other agreements that are needed to effectively evaluate the loan request. For example, a copy of the lease is needed if the applicant is requesting a conservation loan to finance improvements to leased land to ensure the term of the lease exceeds the proposed loan term. The legal description of the property to be purchased is needed for the agency to obtain the appraisal and file the security instrument. It is estimated that 1500 applicants will spend 15 minutes each submitting copies of this information.

Additional Information Needed to Evaluate Loan Application

7 CFR 764.51(b)(13)

In some instances, the agency may require any additional information needed to effectively evaluate the loan application. It is impossible to list all potential information that would be needed from each and every applicant. In most cases, this will be limited to providing the agency with a copy of documents, such as a divorce decree, information pertaining to child support or alimony paid or received, or copy of driver's license or other documents if required under State law.

Collection of information under this requirement will be limited to only those items that potentially impact the applicant's cash flow projections or are needed to ensure the agency obtains a legally enforceable lien on the proposed loan security. It is estimated that 10% or 150 applicants will spend 15 minutes each providing copies of the appropriate documentation to the agency.

Copy of Property or Hazard Insurance, Flood Insurance, or Crop Insurance Policies

7 CFR 764.108(a), (b), (c), and (d)

Prior to loan closing, the applicant must provide copies of property or hazard insurance, flood insurance, or crop insurance policies, as appropriate, covering loan security, as loss or damage to the security property would jeopardize repayment of the loan and adversely impact the agency's financial interest. As crops will not be taken as security for Conservation Loans, copies of crop insurance policies will not be necessary. A copy of the applicable insurance policy is necessary to ensure the agency is listed as loss payee or beneficiary on the insurance policy.

It is estimated that:

- 338* applicants will submit a copy of property or hazard insurance policy
- 203* applicants will submit a copy of flood insurance policy

Note: * The agency estimates that applicants may have to provide copies of one or two types of insurance, based on the loan requested and the security offered.

Further, the agency estimates it will take 15 minutes to provide the appropriate copy.

Citizenship Status Documentation

7 CFR 764.101(c)

Applicants certify as to their citizenship status on FSA-2001, or FSA-2301 for youth loan applicants. Sections 302, 311, and 321 of the Act provide that applicants for agency loans must be United States citizens. Further, provisions of the Personal Responsibility and Work Opportunity Act of 1996 (8 U.S.C. 1611) require that recipients of Federal benefits be U.S. citizens, U.S. non-citizen nationals, or qualified aliens. Applicants who identify themselves as non-citizen nationals or qualified aliens must submit copies of supporting documentation to establish their eligibility. It is estimated that 10 applicants will spend 15 minutes each submitting copies of the required documentation to the agency.

Approved NRCS Conservation Plan

7 CFR 764.51

FSA will rely on the expertise of NRCS as related to conservation practices, and ultimately, conservation plans. NRCS provides national leadership in the conservation of soil, water, and related natural resources. An approved NRCS conservation plan will provide evidence to support the eligibility of the applicant's proposed conservation measure. A complete loan application will require applicants for a CL only to obtain an approved NRCS conservation plan. The agency estimates that 1500 direct conservation loan making requests will be completed annually with each spending 15 minutes submitting the required documentation to the agency.

Transition to Organic/Sustainable Farming

7 CFR 764.51

Government efforts to boost organic production have focused initially on developing national certification standards to assure consumers of consistent product quality and on streamlining interstate commerce in organically grown products. In 2008, Congress included new provisions

in the Food, Conservation, and Energy Act (2008 Farm Act) that expand support for the organic sector (see [2008 Farm Act Provisions](#)). Also, many USDA agencies have started or expanded programs and pilot projects to help organic producers with production and marketing problems and risks. Adoption of organic farming systems showed strong gains between 2002 and 2008, averaging a 15 percent annual increase in cropland acreage during this period. While the adoption rate remains high, the overall adoption level is still low—only about 0.7 percent of all U.S. cropland and 0.5 percent of all U.S. pasture was certified organic in 2008. It is estimated that 9 applicants will spend 15 minutes each submitting copies of the required documentation to the agency.

Direct Travel Time

The agency estimates that applicants and borrowers required to provide information under this information collection docket will travel twice, once to the agency office complete the application process and a second time to the closing agent's office to complete loan closing, or if loan closing is completed by an agency employee to the agency office. Therefore, the agency estimates that each visit will require one hour per visit (1500 x 1 hr per visit x 2 visits) and this information collection docket imposes on the respondents 3000 hours of travel time.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses, and the basis for the decisions for adopting this means of collection. Also describe any consideration of information technology to reduce burden.

Information collections obtained using agency forms may be submitted electronically provided the applicant has obtained and activated a USDA account with Level 2 access that allows for electronic submissions. All forms that the applicant has to complete in their entirety, or review and execute, are posted on the e-Gov website at <http://www.sc.egov.usda.gov>. For forms the applicant is required to complete in their entirety, the fillable version of the form, as well as detailed instructions on completing the form, are included on the e-Gov website. Forms prepared by the agency, that the public simply reviews and signs, are also provided on the e-Gov website. However, in lieu of detailed instructions for completing those forms, the instructions simply state that the forms are provided on the website for information purposes only.

Non-form information collections require providing copies of documents in the applicant's possession or providing written replies to agency requests or offers. Non-form collections, as well as all agency forms, may be submitted in person at the local agency office, by mail, or by facsimile. Further, applicants with established Level 2 accounts may provide non-form information collections as any kind of non-executable attachments, such as PDF, doc, xls, or text formats.

Even though forms are available on the e-Gov forms website, public input on this information collection package indicated that very few applicants and borrowers utilize this option. Most respondents stated that they obtain and return forms and non-forms to the agency office as they feel a person-to-person meeting is beneficial. The information required from applicants and

borrowers is mainly financial in nature, and farmers are not comfortable with providing it through electronic means, notwithstanding the adequacy of agency security safeguards in place. Most of the agency's applicants and borrowers reside in rural areas, which often do not have access to high speed internet connection. Moreover, applicants and borrowers often seek additional clarification and explanation of the requirements, as well as explanation of the consequences of not complying with the requirements, from agency officials.

Currently, the agency can only accept forms electronically from individual applicants. Electronic signature authentication for entity borrowers is not currently available; however, the agency is anticipating that this option will be available in the near future, provided adequate appropriations are received from Congress to ensure that appropriate system security safeguards are met. Further, the agency is currently exploring options available for applicants and borrowers to respond to, and provide information to, agency-initiated actions. This option will allow the agency to pre-fill forms with information already in its possession, as there are several instances in the loan making process where the agency completes part of the information collection instrument and provides it to the applicant to review and execute. In turn, when this option becomes available, the agency may initiate interactions and transactions that only require the applicant or borrower's review and approval or disapproval, as in those situations the applicant or borrower may not need to visit the agency office to complete the transaction.

Lastly, even though USDA and the agency have publicized and provided information in outreach materials, during stakeholder meetings, as well as agriculture-related meetings and symposiums, on the option to provide information electronically, applicants and borrowers still prefer going to the agency office to obtain forms and information on how to apply for loans and servicing than obtaining forms and information from the internet. Therefore, the agency estimates that less than one percent of responses will be provided through the internet.

As noted above, electronic signature authentication is currently limited to applicants and borrowers who have obtained and activated a USDA account with Level 2 access. Therefore, all third parties (including lenders, providers of borrower training, etc.) that provide information to the agency on behalf of the applicant or borrower do so in paper format, as they cannot submit information electronically nor is there the ability to provide all third parties with a USDA account with Level 2 access.

4. Describe efforts to identify duplication. Show specifically why similar information already available cannot be used or modified for use for the purposes described in Item 2 above.

Agency personnel with expertise in making loans, have reviewed the information collections required under this CFR part to eliminate any duplicative or unnecessary collections of information. The information contained in this collection is made part of the case file and, when reasonably current, may be used in lieu of re-submission by the applicant. However, financial information that is collected at another time may be dated and not useful for the specific action being considered.

Also, lenders are permitted to use their own forms to the maximum extent possible. The information collections pertain primarily to the securing and documenting decisions regarding FSA guaranteed farm loans.

Various program areas within the agency share data; however, information collections established in this regulation would typically not be available from another agency. Therefore, the potential to share data with other USDA agencies is limited.

5. Methods to minimize burden on small businesses or other small entities (Item 5 of OMB Form 83-I), describe any methods to minimize burden.

The agency has made every effort to minimize burden on small businesses and small entities. The agency only requires collection of information when necessary to act on an applicant or borrower's request for assistance. The information required by this regulation is financial in nature and similar to that required to complete Federal tax returns, make business decisions or to obtain a loan from any commercial lender. Thus, it places no additional burden on small businesses above that required in the normal course of business.

6. Describe the consequences to Federal program or policy activities if the collection is not conducted or conducted less frequently, as well as any technical or legal obstacles to reducing burden.

The authorized statute does not include requirements of family size farmer or test for credit. Therefore some applicants will have a financial position that is stronger than traditional guaranteed loan applicants.

Since the agency is mandated to provide supervised credit, failure to collect the information, or collecting it less frequently, could result in the failure of the farm operation or loss of agency security property. For those applicants who do not meet the requirements for Lo-Doc, the collection of information is required as a result of an applicant's specific request, is obtained on an as-needed basis, and is used to document the applicant's eligibility for the requested loan. Accurate decisions when making a loan depend on current financial information and actual history and potential of the farming operation in order to carry out the program as intended. There is no regular reporting schedule related to the information collection requirements in this CFR part. If the information were not collected, or collected less frequently, the agency would be unable to meet the congressionally mandated mission of its loan programs.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:

- a. Requiring respondents to report information more frequently than quarterly. There are no information collection requirements that require information more frequently than quarterly.
- b. Requiring written responses in less than 30 days. There are no information collection requirements that require written responses in less than 30 days.
- c. Requiring more than an original and two copies. There are no information collection requirements that require more than an original or single copy of a document.

- d. Requiring respondents to retain records for more than 3 years. There are no such requirements.
- e. No utilizing statistical sampling. There are no such requirements.
- f. Requiring the use of statistical sampling which has not been reviewed and approved by OMB. There are no such requirements.
- g. Requiring the pledge of confidentiality. There are no such requirements.
- h. Requiring submission of propriety trade secrets. There are no such requirements.

8. Describe efforts to consult with persons outside the Agency to obtain their view on the availability of data, frequency of collection, the clarity of instructions and record keeping, disclosure, or reporting format (if any), and on data elements to be recorded, disclosed, or reported.

This is a new information collection package.

The 60 day comment period will be incorporated into the interim rule and published into the Federal Register to solicit public comments.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

There are no payments or gifts provided to respondents.

10. Describe any assurance of confidentiality provided to the respondents and the basis for the assurance in statute, regulation, or Agency policy.

Agency forms that serve as collection instruments contain a Privacy Act statement identifying circumstances under which the information collected may be released. This statement is based on the Privacy Act, the Freedom of Information Act and the Agency's System of Records that has been published in the Federal Register. Agency policies, as well as a copy of the System of Records, are published in FSA handbooks 2-INFO and 3-INFO. No further assurance of confidentiality is provided to applicants or borrowers.

11. Provide additional justification for any question of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

The information collected is of a financial nature. As a condition for the receipt of program benefits, respondents must provide total disclosure of income data and a history of their business dealings that is often considered sensitive. Regardless, the information is required to properly document FSA's decision pertaining to loan making and servicing actions.

12. Provide estimates of the hour burden of the collection of information.

The estimate of hour burden of the information collections is as follows:

Total Number of Unduplicated Respondents.....	5544
Reports Filed Per Person.....	5.8
Total Annual Responses.....	32,240
Total Annual Burden Hours.....	17,183
Average Burden Per Collection.....	32 Minutes
Per Respondent.....	3.10 Hours

The estimate of annual cost for the information collections is as follows:

Respondent’s Cost per Hour -	Farmers-Applicants	\$20.53
-	Business-Lenders/Agents	\$30.39
Total Annual Respondent Cost	Farmers	12,470 Hrs. x \$20.53 = \$256,010
	Business	4,717 Hrs. x \$30.39 = <u>\$143,350</u>
	Total	= \$8,498,752

13. Provide an estimate of the total annual cost burden to the respondents or record keepers resulting from the collection of information.

The regulation and associated information collections place no burden costs on respondents for capital, start-up, operation, maintenance, or the purchase of services.

14. Provide estimates of annualized cost to the Federal Government.

The estimated annual cost to the Federal Government is \$ 6,216,000.

Agency employees review information provided by sellers, buyers/applicants and third parties and make eligibility and feasibility determinations. The agency estimates that its employees spend 168,000 hours reviewing, processing and servicing each direct conservation loan.

Averaging the GS-9 through GS-12 (2010 RUS-Salary Table) salaries indicates an average employee salary of \$56,480 per year. Standard adjustments recommended by FSA’s Budget Division of 33.3% are added for benefits and miscellaneous expenses (\$18,808), for a total average cost for a Farm Loan Program employee salary of \$75,288 per year, which divided by 2080 hours equals an hourly salary of \$36.19. (Rounded to \$37.00) <http://www.opm.gov/oca/10tables/pdf/RUS.pdf>

Averaging the GS-9 through GS-12 (2010 RUS-Salary Table) salaries indicates an average employee salary of \$56,480 per year. Standard adjustments recommended by FSA’s Budget Division of 33.3% are added for benefits and miscellaneous expenses (\$18,808), for a total average cost for an FLP employee salary of \$75,288 per year, which divided by 2,080 hours equals an hourly salary of \$37.00. (<http://www.opm.gov/ocatables/pdf/RUS.pdf>.)

15. Explain the reason for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I.

This is a new information collection for the Conservation Loan Program.

16. For collection of information whose results will be published, outline plans for the tabulation and publication.

The information collections required under this regulation will not be tabulated or published.

17. If seeking approval to not display the expiration date for the OMB approval of information collection, explain the reasons that display would be inappropriate.

While agency forms are available electronically at www.sc.egov.usda.gov/, hard copies of each form are also maintained in State and County Offices. Displaying the expiration date results in the need to dispose of existing supplies and reprinting of the forms with the new expiration date each time the approval is renewed. This increases printing costs for the agency and results in the need to revise forms posted to the website.

18. Explain each exception statement to the certification statement identified in Items 19 and 20 on OMB Form 83-I.

There are no exceptions requested.

19. Explain how this information collection relates to the Secretary of Agriculture's Service Center Implementation Team initiative.

Agency employees collect the required information from the borrower. Information collected is program specific and would not be part of one-stop shopping, except for basic information dissemination between Service Center agencies. Employees utilize information already available at the Service Center and work directly with other FSA programs and USDA agencies to minimize the amount of information collected from borrowers. Information collected is stored at the Service Center.