

## Farm Service Agency, USDA

## § 792.17

that such action is in the best interest of FSA.

### § 792.12 Administrative appeal.

If the opportunity to appeal the determination has not previously been provided under part 24 of this title or part 780 of this chapter or any other appeal procedure, a debtor may obtain an administrative review under part 780 of this chapter, or other applicable appeal procedures, of FSA's determination concerning the existence or amount of a debt, if a request is filed with the authority who made the determination within 15 days of the date of FSA's initial demand letter, unless a longer period is specified in the initial demand letter.

### § 792.13 Additional administrative collection action.

Nothing contained in this part shall preclude the use of any other administrative or contractual remedy which may be available to FSA to collect debts owed to the Government.

### § 792.14 Contact with debtor's employing agency.

When a debtor is employed by the Federal Government or is a member of the military establishment or the Coast Guard, and collection by offset cannot be accomplished in accordance with 5 U.S.C. 5514, FSA may contact the employing agency to arrange for payment of the debt by allotment or otherwise, in accordance with section 206 of Executive Order No. 11222, May 8, 1965, 30 FR 6469, 3 CFR, 1964-1965 Comp., p 306.

### § 792.15 Prior provision of rights with respect to debt.

FSA will not provide an administrative appeal with respect to issues which were raised or should have been raised at any administrative review requested by the debtor as provided under another statute or regulation before:

- (a) Effecting administrative offset;
- (b) Referring the debt to private collection or credit reporting agencies;
- (c) Referring the debt for salary offset against the current pay of a present or former Government employee; or

(d) Referring the debt to IRS for tax refund offset.

### § 792.16 Discharge of debts.

(a) Except as required by other applicable regulation or statute, a debt or part thereof owed FSA shall be discharged with the concurrence of the Department of Justice, if applicable, and the records and accounts on that debt closed in the following situations:

- (1) When an obligation or part thereof is discharged in bankruptcy;
  - (2) When an obligation or part thereof is the subject of a final judgment entered by a court of competent jurisdiction which is adverse to FSA and no appeal will be taken by FSA;
  - (3) When a debt or part thereof is compromised and paid, the amount of such compromise;
  - (4) When collection of a debt by administrative offset is barred in accordance with § 792.7(b)(5).
- (b) Debts discharged in accordance with this section may be reported to the Internal Revenue Service pursuant to § 792.20.

### § 792.17 Referral of delinquent debts to credit reporting agencies.

(a) This section specifies the procedures that will be followed by FSA and the rights that will be afforded to debtors when FSA reports delinquent debts to credit reporting agencies.

(b) Before disclosing information to a credit reporting agency in accordance with this part, FSA shall review the claim and determine that it is valid and delinquent.

(c) Before a debt may be referred to a credit reporting agency, the debtor must be notified, pursuant to § 792.4, of FSA's intent to make such a report. Such notification shall include:

- (1) FSA's intent to disclose to a credit reporting agency that the debtor is responsible for the debt, and that such disclosure will be made not less than 60 days after notification to such debtor.
- (2) The information intended to be disclosed to the credit reporting agency under paragraph (g)(1) of this section.
- (3) The debtor's right to enter a repayment agreement on the debt, including, at the discretion of FSA, installment payments, and that if such

**§792.18**

**7 CFR Ch. VII (1-1-02 Edition)**

an agreement is reached, the debt will not be referred to a credit reporting agency.

(4) The debtor's right to review of this action in accordance with paragraph (i) of this section.

(d) The debtor shall be notified, in writing at the debtor's last known address, when FSA has reported any delinquent debt to a credit reporting agency.

(e)(1) FSA shall notify each credit reporting agency to which an original disclosure of delinquent debt information was made of any substantial change in the condition or amount of the claim.

(2) FSA shall promptly verify or correct, as appropriate, information about the debt on request of a credit reporting agency. The records of the debtor shall reflect any correction resulting from such request.

(f) Information reported to a credit reporting agency on delinquent debts shall be derived from the system of records maintained by FSA.

(g) FSA shall limit delinquent debt information disclosed to credit reporting agencies to:

(1) The name, address, taxpayer identification number, and other information necessary to establish the identity of the debtor;

(2) The amount, status, and history of the claim; and

(3) The program under which the claim arose.

(h) Reasonable action shall be taken to locate a debtor for whom FSA does not have a current address before reporting delinquent debt information to a credit reporting agency.

(i)(1) Before disclosing delinquent debt information to a credit reporting agency, FSA shall, upon request of the debtor, provide for a review of the debt in accordance with §792.12. This review shall only consider defenses or arguments which were not available or could not have been available at any previous appeal proceeding permitted under §792.12.

(2) Upon receipt of a request for review within 30 days from the date of notice to the debtor of intent to refer delinquent debt information to a credit reporting agency, FSA shall suspend its schedule for disclosure to a credit

reporting agency until a final decision regarding the appropriateness of disclosure to a credit reporting agency is made.

(3) Upon completion of the review, the reviewing official shall transmit to the debtor a written notification of the decision. If appropriate, the debtor shall be notified of the scheduled date on or after which the debt will be referred to the credit reporting agency. The debtor will also be notified of any changes from the initial notification in the information to be disclosed.

(j)(1) In accordance with guidelines established by the Administrator, FSA, the responsible claims official shall report to credit reporting agencies delinquent debt information specified in paragraph (g) of this section.

(2) The agreements entered into by USDA and credit reporting agencies shall provide the necessary assurances to FSA that the credit reporting agencies to which information will be provided are in compliance with the provisions of all the laws and regulations of the United States relating to providing credit information.

(3) FSA shall not report delinquent debt information to credit reporting agencies when: (i) The debtor has entered a repayment agreement covering the debt with FSA, and such agreement is still valid; or

(ii) FSA has suspended its schedule for disclosure of delinquent debt information pursuant to paragraph (i)(2) of this section.

(k) Disclosures made under this section shall be in accordance with the requirements of the Privacy Act, as amended (5 U.S.C. 552a).

(l) The provisions of paragraphs (a) through (k) of this section apply to commercial debts owed by farm producers and all personal debts. All commercial debts owed by debtors other than farm producers may be reported to credit reporting agencies without following the provisions of paragraphs (a) through (k) of this section.

**§792.18 Referral of debts to Department of Justice.**

(a) Debts that exceed \$100,000.00 exclusive of interest, penalties, and administrative charges, or such higher amount as may be prescribed, shall be