UNITED STATES DEPARTMENT OF AGRICULTURE
Farm Service Agency
Washington, DC 20250

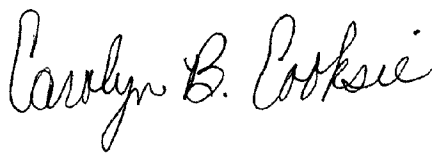
Notice FLP-10

1951-S, 1945-D, 1901-A, 1924-B

For: State and County Offices

Statutory Changes Because of FY 1999 Appropriations Legislation

Approved by: Deputy Administrator, Farm Loan Programs



1 Overview

A Background

The Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Omnibus Act), became law on October 21, 1998. Provisions of the Omnibus Act included several revisions to the statute governing FSA loan making and loan servicing programs.

B Purpose

This notice provides information and guidance for immediate implementation of changes resulting from provisions of the Omnibus Act. These changes became effective on October 21, 1998.

C Contacts

Refer questions about this notice to:

- Bob Zimmerman at 202-690-4011 for subparagraphs 2 A and 2 B
- Mike Hinton at 202-720-1472 for subparagraphs 2 C through 2 E, and 2 I
- Bob Bonnet at 202-720-3889 for subparagraphs 2 F through 2 H.

Disposal Date	Distribution
October 1, 1999	State Offices; State Offices relay to County Offices

2 Statutory Changes and Implementation

A Changes in Cash Flow Margin Requirement for 1951-S Processing

The Omnibus Act changed the statutory borrower cash flow requirement from 110 percent to 100 percent for certain types of borrower indebtedness servicing.

Field Offices shall:

- immediately stop approval of all DALR$ programs, based on a cash flow margin exceeding 100 percent, that would result in writedown of debt
- continue to process writedowns that were approved by SED on the DALR$ program before October 22, 1998
- continue to process 1951-S loan servicing requests that involve writedown of borrower indebtedness when the cash flow margin used in DALR$ is not greater than 100 percent

  Note: Use the existing 6.2 Version of DALR$, capping the cash flow margin at 100 percent until DALR$ Version 6.3 is available.

- continue to process 1951-S loan servicing requests that do not involve writedown of borrower indebtedness under the existing 6.2 Version of DALR$ until Version 6.3 becomes available.

  Note: DALR$ Version 6.3 is expected by January 1999.

B Notice of Shared Appreciation Agreement (SAA) Expiration

Beginning in FY 2000, FSA officials are required to provide written notification to all SAA borrowers of:

- their forthcoming SAA expiration
- the potential for shared appreciation recapture.

The Omnibus Act requires that the notice be provided at least 12 months before the expiration date of SAA. Therefore, FSA officials should:

- review all SAA's that will mature in FY 2000
- provide the required advance notice of SAA maturity.

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2 Statutory Changes and Implementation (Continued)

B
Notice of SAA Expiration (Continued)

Although notices that will meet this requirement are being provided and should continue to be provided based on the language of FmHA Instruction 1951.914, county FSA officials must:

- review existing SAA cases
- take appropriate action to ensure delivery of the required notification.

The 12-month notification required herein does not notify the borrower of recapture amount. Rather, it is a reminder of SAA expiration and potential government recapture of a portion of value increase in SAA security.

C
Notifying Borrowers on Direct Loan Ineligibility

Beginning on October 1, 1999, at least 12 months before a borrower whose eligibility for direct Farm Ownership (FO) loans expires under term limitations, FSA officials must notify the borrower of such impending ineligibility. All borrowers whose eligibility expires before January 1, 2000, must be notified in writing by December 31, 1998.

D
Multiple Benefits on Emergency Loans

Effective immediately, Notice FC-207, Multiple Benefits on Emergency (EM) Loans, is rescinded. Producers no longer must choose between NAP or CAT payments and an EM loan. Any CAT or NAP payments received for the same loss will be deducted from the EM loan qualifying loss amount according to FmHA Instruction 1945-D, section 1945.163(d).

E
Receiving Loans After a Debt Forgiveness

Several of the debt forgiveness restrictions implemented on April 4, 1996, have been eased. Borrowers who:

- have received debt forgiveness on no more than 3 occasions on or before April 4, 1996, may be considered eligible for guaranteed loans, as long as they did not receive any debt forgiveness on a direct or guaranteed loan after April 4, 1996

- have received debt forgiveness on no more than 1 occasion before April 4, 1996, may be considered eligible for **EM** loans, as long as they did not receive any debt forgiveness on a direct or guaranteed loan after April 4, 1996

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2 Statutory Changes and Implementation (Continued)

E
Receiving Loans After a Debt Forgiveness (Continued)

- are current on all payments under a confirmed bankruptcy reorganization plan may be eligible to receive direct or guaranteed annual operating loans.

Other than the items noted in this paragraph, all debt forgiveness provisions that were established by law on April 4, 1996, remain in effect.

F
Maximum Guaranteed Loan Limits

Guaranteed loan limits have been revised. The individual limits of $300,000 FO and $400,000 Operating Loan (OL) have been eliminated. It will now be possible for a producer to receive up to a $700,000 Guaranteed FO or a $700,000 Guaranteed OL. The maximum total outstanding combined Guaranteed FO and OL principal balance **cannot** exceed $700,000. Direct and guaranteed loans of the same type (such as FO and OL) are still considered together in the loan limits. However, the revised statute permits a direct loan up to $200,000 from the subtitle not authorizing the guaranteed loan. Maximum Direct loan limits of $200,000 for either FO or OL remain the same.

The maximum total principal balance outstanding:

- combined Guaranteed FO and OL is $700,000
- combined Guaranteed and Direct FO is $700,000
- combined Guaranteed and Direct OL is $700,000
- combined Guaranteed and Direct OL and FO balance is $900,000.

SED's approval authority in FmHA Instruction 1901-A, Exhibit C, is revised to $700,000 for Guaranteed OL and Guaranteed FO loans. Until further notice, all loan requests that would result in a borrower having combined direct and guaranteed loans outstanding in excess of $700,000 shall be submitted by overnight delivery to DAFLP for review **before** SED approval.

G
Borrower Training Requirements for Guaranteed Loans

The borrower training requirements for guaranteed loans found in the following FmHA Instructions, have been eliminated:

- 1980-B, section 1980.191
- 1924-B, section 1924.74(a)(2).

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2 Statutory Changes and Implementation (Continued)

G
Borrower Training Requirements for Guaranteed Loans (Continued)

Lenders may continue to require borrowers to participate in FSA-approved or other training programs at their discretion, but FSA will not be a party to the requirement and will consider it as any other provision in the loan agreements between the lender and the borrower.

Borrower training agreements in place before October 21, 1998, are still valid. However, failure to comply with the terms of the training agreement will not be a basis to deny guaranteed loan assistance.

The borrower training requirements and existing agreements for direct loans are unaffected.

H
Education, Training, and Experience Requirements for Guaranteed Loans

The education, training, and experience requirements for guaranteed loans in the following sections of FmHA Instruction 1980-B have been eliminated:

- 1980.175 (b)(1)(iii)
- 1980.180(b).

An applicant's training, education, or experience will no longer be considered in determining whether an applicant is eligible for a guaranteed loan.

The projected production levels, income, and expenses in the farm business plan must reflect the applicant's level of training, education or experience in the proposed operation.

I
Collateral Requirements for Emergency Loans

The requirement that the portion of an EM loan secured by repayment ability be repaid within 3 years is eliminated. The last sentence of FmHA Instruction 1945-D, paragraph 1945.169(g)(2), shall be disregarded. The basis for the approval official's confidence in the producer's repayment ability instead of adequate collateral will be documented in the file and supported by a farm business plan developed according to FmHA Instruction 1924-B, section 1924.56.