KENTUCKY USDA FRM SERVICE AGENCY

Guaranteed Lender News

FarmLoanPrograms

November 2010

Deputy Secretary Kathleen Merrigan Visits Kentucky

Kathleen A. Merrigan, the Deputy Secretary of the U.S. Department of Agriculture, spoke at the 2010 Kentucky Women in Agriculture Conference held in Grayson KY in October. Merrigan oversees the day-to-day operation of USDA's many programs and spearheads the $149 billion USDA budget process.

Dr. Merrigan was named among the "100 Most Influential People in the World" in 2010 by Time magazine for the history and scope of her work.

During the conference, Deputy Secretary Merrigan spoke on the Know Your Farmer, Know Your Food initiative. This is a USDA-wide effort to create new economic opportunities by better connecting consumers with local producers. It is also the start of a national conversation about the importance of understanding where your food comes from and how it gets to your plate. Know Your Farmer, Know Your Food wants to empower consumers to be able to make smart decisions when they eat. USDA provides programs all across the Department that can cultivate local capacity to strengthen local and regional food systems. The Farm Service Agency provides loan guarantees to farmers and ranchers working through eligible lending institutions and also makes direct loans to qualifying farmers and ranchers through local FSA offices.

Deputy Secretary Kathleen Merrigan (5th from left) with FSA employees who attended the 2010 Kentucky Women in Agriculture Conference.

Inside this issue:

Real Estate Appraisals

Appraisals are not part of a complete application and guarantees may be approved by FSA, subject to the lender obtaining an acceptable appraisal. The lender is responsible for obtaining an acceptable appraisal before loan closing and FSA issuing the loan guarantee. Standard Eligible Lenders (SEL) must provide FSA with a copy of the appraisal

A current real estate appraisal is required when real estate will be primary security.

A current appraisal must not be more than 12 months old for primary chattel security.

Appraisals are not required on property to be taken as additional security that is clearly in excess of what is needed to fully secure the loan. The lender shall provide an estimate of value on the application.

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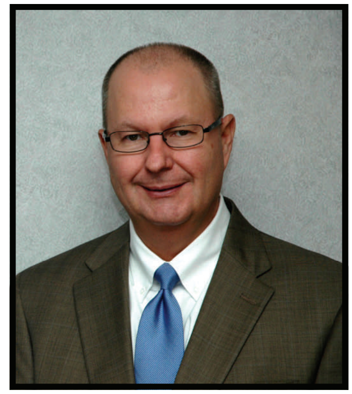
From the State Executive Director's Desk . . .

My first year as the State Executive Director for Kentucky has passed very quickly. From 167 county office visits to the many agricultural events across the Commonwealth, I have truly enjoyed this endeavor. The spring flooding, frothy bloat and the current drought created many problems for our farmers. Our Farm Program Team worked hard in getting support to our farmers for disaster assistance, conservation and commodity programs. Our Farm Loan Team approved close to $125 million in loans and was ranked 6th nationally for loans made. The dedication of the Kentucky FSA employees impresses me each time I have the opportunity to work with them. They truly have the best interest of the farmers in mind. I look forward to the opportunities that this next year will bring.



John W. McCauley

The KY Farm Loan Program ranked in the national top ten list in loans made for the fifth consecutive year. Kentucky ranked 2nd in Youth loans, 4th in Direct Operating and all SDA loans, 5th in all Beginning Farmer loans, 6th in all Direct and Guaranteed loans, and 10th in Direct Farm Ownership loans.

Programmatic Consultation with U.S. Fish and Wildlife Service *(KY Notice EQ-10)*

In accordance with the National Environmental Policy Act, the Farm Service Agency consults with U.S. Fish and Wildlife Service to determine the effect of program activities on endangered and threatened species. The U.S. Fish and Wildlife Service Kentucky Field Office has recognized that certain categories of FSA funded projects typically result in insignificant or no adverse effects to fish and wildlife resources, and that a detailed review by them is not warranted for such projects.

In an effort to reduce paperwork and unnecessary review of FSA/CCC funded projects, U.S. Fish and Wildlife Service and FSA have entered into an agreement through programmatic consultation to temporarily suspend review for specific categories of work. This programmatic consultation is effective for one year, beginning May 1, 2010. This applies to both Farm Programs and Farm Loan Programs.

The following categories of work are included in the programmatic consultation. Project-specific consultations will be required for all projects which do not meet the requirements of these categories.

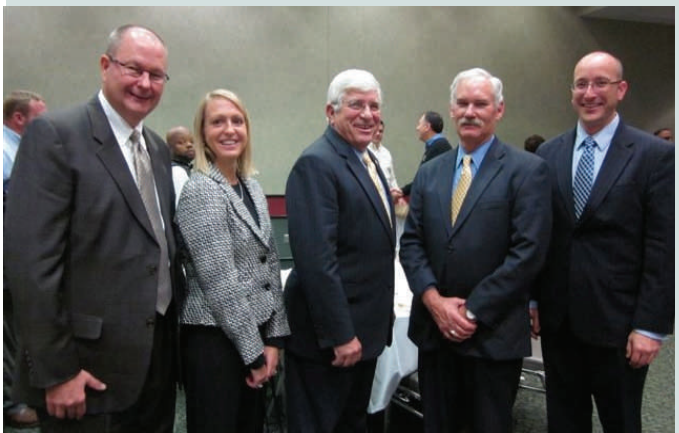
- Guaranteed or direct loans, which result in no changes of current land use or new construction.
- Construction or renovation of typical farm structures, such as grain storage bins, poultry houses, barns, or fencing, which are located entirely within an area that has been previously cleared of trees and other natural vegetation. (Example: Construction of a new grain storage bin, which would be entirely located within a previously cleared portion of the property.)

Make a Note...

The 2008 Farm Bill suspended the enforcement of the 15-Year OL time limit until December 31, 2010. We will keep you informed of updates regarding this suspension. 2-FLP Par. 108 (L)

In the News!

Michael Scuse, USDA Deputy Under Secretary for Farm and Foreign Agricultural Services was the keynote speaker at the Louisville Ag Club Luncheon that kicked off the 2010 North American International Livestock Exposition. "I was very excited to have Michael visit Kentucky," stated John McCauley, KY FSA State Executive Director. "Michael and I have been friends and have worked together since his days as Secretary of Agriculture for the State of Delaware. He has a true passion and understanding of agriculture and continues to farm 1700 acres when he is not making the commute to Washington DC. Michael is very supportive of our Farm Loan Program in Kentucky and appreciates the tremendous job that our farm loan team has done this past year."



Pictured with Deputy Under Secretary Scuse (2nd from right) are from the left, John McCauley, KY State Executive Director of the USDA Farm Service Agency; Angela Blank, Governor's Office of Agricultural Policy; Roger Thomas, Executive Director of the Governor's Office of Agricultural Policy, and Joel Neaveill with the Governor's Office of Agricultural Policy.

Did You Know? **The loan narrative must contain information and analysis of any loan application data that are out of the ordinary, or at variance with normal practices for the type of operation and region. The narrative must be an evaluation and not just a summary of the data. It may be less detailed for a borrower who already has a guaranteed loan or an FSA direct loan.** ***2-FLP Par. 66 (C)***

Personal Liability of Guarantees

A review of guaranteed files has indicated that some guaranteed applications for entities are incorrectly signed.

In all cases, Form FSA-2211 "Application for Guarantee" and FSA-2212 "Preferred Lender Application for Guarantee" as well as all debt instruments (including all security agreements, real estate mortgages, promissory notes, etc.) must be signed by the individual or individuals authorized to bind the entity and **all** entity members must also sign in their individual capacity to evidence personal liability for the debt.

Some lenders in the past have accomplished this end by having the individuals sign a personal guaranty agreement, rather than the note itself. The guaranty agreement alone is no longer acceptable. **Each liable party must sign all debt instruments including the promissory note in order to allow FSA to offset their government payments under the Federal Debt Collection Act.** This offset can only take place after payment of a final loss claim on an FSA guarantee.

Conflict of Interest

Occasionally we have guarantee applications involving loan applicants who are either tenants or relatives of the farm loan officer employed by the proposed guaranteed lender.

2-FLP Par. 32 (A) states that "When a lender submits the application for a guaranteed loan, the lender will inform the Agency in writing of any relationship which may cause an actual or potential conflict of interest."

We can deal with these situations, but must stipulate that the affected loan officer have no dealings with the guaranteed loan(s) in question. There can be no cases of the loan officer personally benefitting from the FSA guarantee.

Conservation Loan Program

On September 2, 2010, Agriculture Secretary Tom Vilsack announced the new Conservation Loan (CL) program which was authorized by the 2008 Farm Bill. This program allows the Farm Service Agency (FSA) to provide direct or guarantee conservation loans to eligible borrowers to cover the cost of implementing qualified conservation projects.

The CL program contains several specific differences from many of FSA's traditional loan programs, such as family farm size, test for credit, and graduation requirements. These differences effectively replace FSA's traditional role as a "safety net" for America's farmers with the objective to encourage natural resource conservation. These exceptions will allow FSA to provide access to conservation financing to more farmers and ranchers who are not our typical customers.

FSA has partnered with the USDA Natural Resource Conservation Service (NRCS) by providing that any conservation practice identified on an approved NRCS conservation plan will qualify for financing under the CL program.

CL uses include, but are not limited to:

- Install structures to address soil, water, and related resource conservation.
- Establish forest cover for: sustainable yield timber management, erosion control, or shelter belt purposes.
- Install water conservation measures.
- Install waste management systems.
- Refinance debt incurred for any authorized CL purpose (Guaranteed Only)
- Adapt any other emerging or existing conservation practices, techniques or technologies, as noted by NRCS, which may require the purchase of equipment.

In an effort to minimize the burden on FSA, producers and lenders, and focus our resources on borrowers exhibiting higher risk, the paperwork and documentation requirements for applicants with a particularly strong financial position has been streamlined. Specifically, the requirement to submit a cash flow budget with its supporting documentation has been waived.

Lenders, whether SEL, CLP or PLP, will follow their normal underwriting standards and only be required to submit the cash flow budget analysis they typically perform for similar loans.

To qualify for Streamlined Conservation Loans, the applicant must meet the following criteria:

- **Debt to Asset ratio** is 40 percent or less
- **Net Worth** of 3 times the requested loan amount or greater
- **FICO Credit Score** is at least 700—For entities, a majority of the members must have a personal FICO score of at least 700
- **Current on all payments** to all creditors, including FSA (if currently a direct borrower)
- For Direct Streamlined CLs, applicants must also **have not received primary loan servicing** on any FLP debt within the last 5 years.

Conservation loan funds will be targeted to:

- Beginning farmers and socially disadvantaged farmers
- Facilitate an operation's transition to organic or sustainable agriculture. To be considered for priority funding, an applicant must submit a transition plan.
- Build conservation structures or establish conservation practices to comply with highly erodible land regulations.

Did You Know? Lenders must submit a copy of the NRCS Conservation Plan for Conservation Loan guarantees. *2-FLP Par. 66 and 70*

Each fiscal year, the Farm Service Agency targets a portion of its direct and guaranteed farm ownership (FO) and operating loan (OL) funds to eligible Socially Disadvantaged farmers (SDA) to buy and operate family-size farms.

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Liquidation Plans

(2-FLP Par. 355 and 358)

Liquidation of a guaranteed loan is not a topic we like to discuss. However, liquidation becomes necessary when a borrower's financial difficulties cannot be solved with loan restructuring options.

If the default cannot be cured, SEL and CLP lenders will submit a written Liquidation Plan to FSA within 150 days after the payment due date. The Liquidation Plan must include a schedule of all projected liquidation activities, and a complete inventory of the security to be sold.

The Liquidation Plan also includes:

- a current balance sheet from all liable parties
- a proposed method of maximizing the collection of debt
- If the borrower has converted loan security, the lender will determine whether litigation is cost effective.
- an independent appraisal report on all collateral securing the loan that meets the requirements of 762.127 and a calculation of the net recovery value of the security. The appraisal requirement may be waived by FSA in some cases such as when there is a purchase offer already received for more than the debt.
- an estimate of time necessary to complete the liquidation
- an estimated loss claim if the liquidation period is expected to exceed 90 days
- an estimate of reasonable liquidation expenses
- an estimate of any protective advances.

Lenders must also submit Form FSA-2248 to FSA every 60 calendar days during liquidation to report on the progress of liquidation. Details on changes in the approved liquidation plan, future planned actions, and their estimated dates, must be identified on the form. The report should also provide information on the disposition of collateral, costs incurred, and specific actions taken by the lender since the previous FSA-2248 submission.

PLP lenders will submit information in accordance with their Credit Management System.

Kentucky Guaranteed Lender News is published by the Kentucky Farm Service Agency State Office, Farm Loan Program Division,
771 Corporate Drive, Ste. 100, Lexington KY 40503-5478.
Telephone (859) 224-7333, Fax (859) 224-7432.

State Office Contacts:
John W. McCauley, State Executive Director
John.McCauley@ky.usda.gov

Mitchell W. Whittle, Farm Loan Program Chief
Mitch.Whittle@ky.usda.gov

Debra V. Hunt, Farm Loan Specialist/Guaranteed Program
Debra.Hunt@ky.usda.gov

Amendments to 2-FLP Handbook

- Amendment 10 dated 9-3-10 included requirements for the Conservation Loan Program and Stream lined CL applicants.
- Amendment 11 dated 9-27-10 updated the statutory loan limits for guaranteed loans.