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

Notice FLP-174

1945-D

For: State and County Offices

Statutory and Administrative Changes to Emergency (EM) Loan Processing Regulations

Approved by: Deputy Administrator, Farm Loan Programs

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1 Overview

A Background

The Omnibus Consolidation and Emergency Supplemental Appropriations Act (1999 Act), and the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999, required FSA to implement changes that streamline the loan making process and bring FSA into compliance with governing legislation.

B Purpose

This notice:

- provides temporary administrative changes to FmHA Instruction 1945-D
- provides guidance for expediting EM loan processing
- stresses the importance of verifying and cross-checking producer records
- reiterates the importance of following the priority for using records according to FmHA Instruction 1945-D, Section 1945.163(a)
- provides a reminder that producers no longer have to choose between Non-Insured Assistance Program (NAP) payments or Catastrophic Risk Protection (CAT) payments, and an EM loan
- provides guidance when the applicant is using repayment ability as collateral for an EM loan
- suspends the requirement for completing appraisals for EM loans.

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Disposal Date	Distribution
July 1, 2002	State Offices; State Offices relay to County Offices

1 Overview (Continued)

C
National Office Contact

State Offices shall direct questions about this notice to LMD at 202-720-1472.

2 Administrative Changes

A
SED Action

SED's shall:

- monitor all EM loan application activity, as well as the need for resources to assist Loan Approval Officials with the timely processing of EM loans
- make every effort to shift staff resources, if available, to areas that show a need for additional assistance
- provide training, when needed
- ensure that automated EM calculation software has been installed in State and County Offices and that hardware, such as laptops and PC's, is available for FLP staff to run the programs

  request the assistance of Action Teams, through EDSO, if high volume of EM loan applications on hand will adversely affect office operations

  review State underwriting requirements and loan processing timeframes to ensure that this process is not unduly delaying the approval and closing of loans.

Note: SED's may elect to post-review EM loans in cases where they are confident that credit quality will not be jeopardized and when review before approval will unduly delay loan processing. Issue State supplements to implement these decisions.

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2 Administrative Changes (Continued)

B
Loan Approval Official Action

Loan Approval Officials will:

approve EM loans based on a handwritten Farm and Home Plan, if using the automated Farm and Home Plan will adversely delay loan processing timeframes

- complete the automated Farm and Home Plan within 60 calendar days after loan closing

complete all loss calculations using EM software

- verify whether the producer has received any crop insurance payments from the Reinsured Multiperil Crop Insurance Agency or RMA

cross-check and verify:

all producer records using FmHA 1945-29

- all FSA program reports that include production histories, program payments, or both
- any actual producer histories required for participation in other FSA programs, such as CAT and NAP

- carefully review FmHA Instruction 1945-D, Section 1945.163 to be aware of the proper priority source for records used to establish the applicant's normal year production.

Note: If an applicant was producing a particular commodity for all 5 years, but does not have actual reliable records or any other source of records as described above, they must use the disaster year yield for those years they do not have records. Additionally, they may only use county or State averages for the years they did not produce that commodity, because it was part of their normal rotation or a new commodity, if they have not farmed for all 5 years or their records were lost in the disaster.

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2 Administrative Changes (Continued)

B
Loan Approval Official Action (Continued)

- waive appraisals when determining the value of security
- document in the case file, their best estimate of value for all real estate and chattels owned by the applicant when appraisals are not obtained.

Note: The FSA staff appraiser may assist with benchmarks, value trends, and evaluations.

- approve EM loans, if the loan applicant:
  - has adequate security based on the security evaluation criteria in this paragraph, subparagraph 3 B, or both

    meets all eligibility requirements
  - has demonstrated the ability to repay the proposed loan through a properly supported farm plan
- secure loans according to FmHA Instruction 1945-D, Section 1945.169.

3 Statutory Changes

A Multiple Benefits and EM loans

The 1999 Act eliminated the requirement that a producer choose between NAP or CAT payments and an EM loan. Producers may receive CAT, NAP, or both payments for the same loss. However, the amount of those payments will be deducted from the EM loan qualifying loss amount according to FmHA Instruction 1945-D, Section 1945.163(d).

Note: The amount of assistance received is deducted on FmHA 1945-26, Section C, item 3.

B Applicant's Repayment Ability as Collateral

The statutory provision supporting the requirements of FmHA Instruction 1945-D, Section 1945.169 (g)(2) has been eliminated. Therefore, it is no longer required that the portion of the EM loan secured by repayment ability be repaid within 3 years. However, the Loan Approval Official must verify and document that:

- the primary security is not available because of the disaster
- a portion or all of the security has depreciated because of the disaster
- all available security has been pledged
- their confidence of the applicant's ability to repay is based on a sound, thoroughly supported "typical plan"
- the applicant's "typical plan" shows that the loan will be paid in full by the final maturity date of the loan considering the maximum available term.

C Receiving EM Loans After Debt Forgiveness

An applicant for EM assistance may receive a loan if they:

- received debt forgiveness on no more than 1 occasion before April 4, 1996
- have not received any debt forgiveness on a direct or guaranteed loan after April 4, 1996.