



FmHA AN No. 2956 (1955-A)
February 10, 1994

SUBJECT: Lifting the Suspension on Acceleration and Foreclosure
of Farmer Programs Loans

TO: State Directors, District Directors and County
Supervisors

ATTN: Farmer Programs Chiefs

PURPOSE/INTENDED OUTCOME:

The purpose of this Administrative Notice (AN) is to lift the temporary suspension on acceleration and foreclosure of Farmer Programs (FP) loans imposed by the unnumbered letters of March 5, 1993, and March 16, 1993. The AN also provides special guidance for reviewing FP problem cases, especially those serviced under FmHA Instruction 1951-S, before proceeding with acceleration and/or foreclosure. This AN is being issued for compliance purposes to assure that all required notices have been provided to the borrower and all required servicing actions completed before acceleration and/or foreclosure.

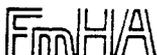
IMPLEMENTATION RESPONSIBILITIES:

Subject to the conditions set forth in this AN, the temporary suspension on acceleration and foreclosure of direct FP loans imposed by the unnumbered letters of March 5, 1993, and March 16, 1993, is lifted, as directed by the Secretary of Agriculture. NOTE: If the case is under the jurisdiction of a bankruptcy court, consult your Regional Office of the General Counsel (OGC) before proceeding with acceleration or foreclosure.

Before accelerating FP problem cases, Section 1955.15(c) of FmHA Instruction 1955-A requires that the District Director review the problem case report to insure that all required servicing notices have been provided to the borrower and all required servicing actions completed. Effective immediately, this review will be expanded to include the problem case loan docket(s). The District Director will use the attached checklist to document this review.

EXPIRATION DATE: February 28, 1995

FILING INSTRUCTIONS:
Preceding FmHA
Instruction 1955-A



In addition, as a condition of lifting the foreclosure suspension, the attached checklist will be used by the District and State Office to document FmHA's servicing actions before continuing with foreclosure on any case. The completed checklist will be placed in position 3 of the case file. If the District or State Office finds that the account has not been properly serviced, the case will be returned to the County Supervisor with instructions on how to correct any deficiencies. Also, in cases reviewed by the Secretary which required corrective actions, the corrective actions must be completed and the attached checklist used before any acceleration or foreclosure. The checklist is not required for the review cases which authorized the continuance of liquidation because the Review Team previously used the checklist and determined that the required notices had been provided and the required servicing actions had been completed.

When a case is referred to the OGC for foreclosure processing, the transmittal memorandum by the State Director must state the following:

"After a thorough review of the case, a determination has been made that all required notices were provided to the borrower and all required servicing actions completed."

If you have any questions regarding this AN, contact Bruce Mair, Farmer Programs Loan Servicing and Property Management Division, at (202) 690-4009.


MICHAEL V. DUNN
Administrator

Attachment

Sent by electronic mail on 2-14 at 2:09 by GSS. State Directors should advise other personnel as appropriate.

ACCELERATION CHECKLIST FOR FARMER PROGRAMS LOANS
SERVICED UNDER FmHA INSTRUCTION 1951-S
(Must be Filed in Position 3)

Borrower's Name _____ Date of Review _____

This case has been reviewed by:

District Director

I concur with this review;
information in the case
file fully documents the
results of this review.

State Director

PART A. Initial Notice

Date Initial 1951-S Notice was sent: _____

Type of Notice(s) sent:

- Exhibit A and Attachments 1 and 2 of FmHA Instruction 1951-S
- Attachments 1, 3 and 4 of FmHA Instruction 1951-S
- Exhibit D of FmHA Instruction 1962-A and Attachments 1 and 2 of FmHA Instruction 1951-S
- Exhibit D-1 of FmHA Instruction 1962-A and Attachments 1 and 2 of FmHA Instruction 1951-S, or Exhibit A of FmHA AN No. 1837(1951) and Attachments 1 and 2 of FmHA Instruction 1951-S.

Each of the statements below should be marked "Yes", "No" or "NA", if not applicable.

1. All liable parties were properly notified. If the certified mail was returned, the material was sent by regular mail in accordance with Section 1951.907(f)(4) of FmHA Instruction 1951-S.
2. If the delinquent borrower was dismissed from bankruptcy, the borrower was properly renotified of 1951-S servicing rights in accordance with Section 1962.47(d)(2) of FmHA Instruction 1962-A.

3. If a partial application was submitted within the mandatory response timeframe (60 days for notices sent on or after November 28, 1990, 45 days for all earlier notices), the borrower was immediately notified of the information needed for a complete application and of the due date for submitting a complete application in accordance with Section 1951.907(f)(1) of FmHA Instruction 1951-S.

Part B: Servicing Complete Applications

1. All liable parties submitted a complete application within the required timeframe (60 days for notices sent on or after November 28, 1990, 45 days for all earlier notices).
2. If a feasible plan was developed:
 - a. The borrower was sent Exhibit F (Offer to Restructure Debt) in accordance with Section 1951.909(h)(1)(i) of FmHA Instruction 1951-S.
 - b. If the borrower did not request debt restructuring within the 45-day response period provided on Exhibit F, the borrower was notified of FmHA's intent to take adverse action with Attachments 9 and 10 or 9-A and 10-A in accordance with Section 1951.909(h)(1)(ii) of FmHA Instruction 1951-S.
 - c. If the borrower returned Attachment 10 or 10-A of FmHA Instruction 1951-S with a request for preservation loan servicing within 30 days from the receipt of the notice, the borrower was sent Exhibit K of FmHA Instruction 1951-S (Notice of Consideration for Preservation).
 - d. After determining that the borrower did not respond to Exhibit K of FmHA Instruction 1951-S, did not qualify for preacquisition preservation servicing, or that FmHA could not accept the offer to convey security, the borrower was notified of appeal rights on Exhibit B-1 of FmHA Instruction 1900-B in accordance with Section 1951.911(a)(5) and Section 1951.911(b)(5) of FmHA Instruction 1951-S.

- e. If the borrower requested a meeting in response to any adverse decision, and the meeting did not resolve the issue, the borrower was renotified of appeal rights on Exhibit B-2 of FmHA Instruction 1900-B in accordance with Section 1900.53(a)(4) of FmHA Instruction 1900-B.
3. If a feasible plan could not be developed:

- a. The borrower was sent Attachment 1 to Exhibit G (Softwood Timber) if the borrower owned 50 acres or more of marginal land in accordance with Section 1951.909(e)(3)(iii)(C) of FmHA Instruction 1951-S.
- b. In States with USDA Certified Mediation Programs, The borrower was sent Exhibit E (Mediation and Other Options) in accordance with Section 1951.909(h)(3)(i)(A) of FmHA Instruction 1951-S,

OR

In States without a certified mediation program, in accordance with Section 1951.909(h)(3)(i)(B) of FmHA Instruction 1951-S, if applicable, the borrower was sent Exhibit E to inform the borrower about available options or to offer a voluntary meeting of creditors when a substantial part of the borrower's debt was held by unsecured creditors.

- c. DALR\$ was correctly completed and forwarded for State Director approval. Information was input correctly from the Farm and Home Plan, appraisal(s), and the DL (or AI) screen. The correct discount rate was used.
- d. In accordance with Section 1951.909(h)(3)(ii) of FmHA Instruction 1951-S, the borrower was notified of FmHA's intent to take adverse action with Attachments 5 and 6 or 5-A and 6-A of FmHA Instruction 1951-S along with a copy of the DALR\$ printout signed by the State Director.
- e. After all rights offered on Attachments 5 and 6 or 5-A and 6-A of FmHA Instruction 1951-S were exhausted, the borrower was sent Exhibit K of FmHA Instruction 1951-S (Notice of Consideration for Preservation) in accordance with Section 1951.911(a)(1)(i) and Section 1951.911(b)(2) of FmHA Instruction 1951-S.

- f. After determining that the borrower did not respond to Exhibit K of FmHA Instruction 1951-S, did not qualify for preacquisition preservation servicing, or that FmHA could not accept the offer to convey security, the borrower was notified of appeal rights on Exhibit B-1 of FmHA Instruction 1900-B as required by Section 1951.911(a)(5) and Section 1951.911(b)(5) of FmHA Instruction 1951-S.
- g. If the borrower requested a meeting in response to any adverse decision, and the meeting did not resolve the issue, the borrower was renotified of appeal rights on Exhibit B-2 of FmHA Instruction 1900-B as required by Section 1900.53(a)(4) of FmHA Instruction 1900-B.

Part C: Servicing Incomplete Applications

1. Except for borrowers sent Attachments 1, 3 and 4 of FmHA Instruction 1951-S, if the borrower was 180 days delinquent when the initial notice was sent and did not properly respond, the borrower was notified of FmHA's intent to take adverse action with the use of Attachments 9 and 10 or 9-A and 10-A in accordance with Section 1951.907(f)(3) of FmHA Instruction 1951-S. NOTE: Failure to respond properly to Attachments 1, 3 and 4 of FmHA Instruction 1951-S ends the servicing scheme for that borrower. Accounts accelerated prior to October 14, 1988, which have not been subsequently discharged in bankruptcy, should be sent Attachments 7 and 8 of FmHA Instruction 1951-S, instead of Attachments 9 and 10 or 9-A and 10-A.
2. If the borrower returned Attachment 10 or 10-A (or Attachment 8) of FmHA Instruction 1951-S requesting preservation loan servicing within 30 days from the receipt of the notice, the borrower was sent Exhibit K of FmHA Instruction 1951-S (Notice of Consideration for Preservation).
3. After determining that the borrower did not respond to Exhibit K of FmHA Instruction 1951-S, did not qualify for preacquisition preservation servicing, or that FmHA could not accept the offer to convey security, the borrower was notified of appeal rights on Exhibit B-1 of FmHA Instruction 1900-B in accordance with Section 1951.911(a)(5) and Section 1951.911(b)(5) of FmHA Instruction 1951-S.

4. If the borrower requested a meeting in response to any adverse decision, and the meeting did not resolve the issue, the borrower was renotified of appeal rights on Exhibit B-2 of FmHA Instruction 1900-B in accordance with Section 1900.53(a)(4) of FmHA Instruction 1900-B.

PART D: Servicing Other Requests

- Applications for Debt Settlement or Applications for Subordination, Consent or Partial Release have been processed through to completion. The applicant was properly advised of appeal rights concerning any adverse decision.
- Documentation is in the case file to show that FmHA has made EVERY EFFORT required by the regulations to work with the borrower and has offered other alternatives in lieu of foreclosure, such as debt settlement, to peacefully resolve the default.

OTHER COMMENTS: