UNITED STATES DEPARTMENT OF AGRICULTURE

DEC 22 198

FARMERS HOME ADMINISTRATION

WASHINGTON, D.C. 20250

SUBJECT: Making Insured Economic Emergency (EE) and Emergency (EM) Loans to New Applicants and to Existing Borrowers Who Are Not Problem Cases

TO: All State Directors, Farmer Program Chiefs, District Directors, County Supervisors and Director, National Finance Office

This AN clarifies existing loan making policies applicable to the emergency (EM) and economic emergency (EE) loan programs.

The objective of the EM and EE loan programs is to provide financial assistance and management counsel to those farmers, ranchers and aquaculture operators who, because of conditions beyond their control, such as natural disasters or unfavorable economic conditions, need FmHA assistance to continue their farming operation(s); not to assist other lenders or creditors cut their losses.

In keeping with the stated FmHA program objectives, loans will be made ONLY to eligible applicants who meet the following conditions:

1. Applicants must possess the character (emphasizing repayment ability and reliability), industry and ability to carry out the proposed farming operations; and must honestly endeavor to carry out the required conditions and obligations in connection with the loan. Whether or not the applicant acted in good faith in trying to meet its obligations to other lenders should also be considered in making this determination.

2. Applicants will receive loans over such terms as the approval official may determine, consistent with the purpose of, and the need for the loan, and in accordance with the useful life of the security and the repayment ability of the applicant, as determined by the plan of operation. This means that the equity value and useful life of the security must be based on the current appraised market value of the security. This also requires the approval official to determine that both a REALISTIC current year and typical year Farm and Home Plan show, when applicable, that the applicant has a reasonable chance of success, and that recognized production and financial management practices have been agreed upon prior to approval of an EM or EE loan(s).

EXPIRATION DATE: December 31, 1981

FILING INSTRUCTIONS:
Preceding FmHA Instruction 1945-3 and 1945-C

The following principles must also be followed when developing the plan of operation and processing EM and EE loans:

a. When an applicant is seeking a loan for operating type purposes and no equity value in real estate or chattels are available, and the only collateral available for security are liens on crops and/or livestock, the loans will be limited to the greater of $100,000 or one half the estimated gross farm income planned on Form FmHA 431-2, or other acceptable plan.

b. When preparing a typical year plan of operation, it is usually necessary, to plan for a capital expenditure reserve during typical year planning to realistically reflect the depreciating value of machinery, equipment and other items, which it is prudent to expect will need to be replaced or require major repair.

c. "Repayment ability" may be considered for collateral. When considering "repayment ability" as a form of security, the reserve or margin between the balance available on line 16 of Form FmHA 431-2 and the principal and interest scheduled for payment in Table K of Form FmHA 431-2, of a "typical year" plan, is the "repayment ability" collateral in loan making actions. The "typical year" plan must show that the portion of the loan secured by "repayment ability" can be paid back in a reasonable period of time, thereby reducing the loan balance to a fully secured, no blue sky, basis as soon as possible.

3. The approval official is responsible for seeing that proper and sufficient collateral is pledged and maintained, and that the security instruments have been properly executed and recorded to protect the interests of the Government. The County Supervisor is, therefore, responsible for recommending and, when within the County Supervisor's approval authority, requiring sufficient security to protect the Government's interests. Security may be real estate, chattels, livestock, livestock products, crops, income assignments and any other sources determined necessary by

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the approval official. Approval officials may also require other creditors to modify, waive, or subordinate their liens, compromise their indebtedness or enter into nondisturbance agreements if it is determined that such loan conditions are necessary to protect the interests of the Government.

GORDON CAVANAUGH
Administrator

Sent by electronic mail on DEC 22 1980 at ________.
Please acknowledge No.-Thirteen.