



United States
Department of
Agriculture

Farmers
Home
Administration

Washington
D.C.
20250

FmHA AN No. 2342 (1965)

August 9, 1991

SUBJECT: ASCS Conservation Reserve Program (Farmer Programs)

TO: State Directors, District Directors, and County Supervisors

PURPOSE/INTENDED OUTCOME:

The purpose of this AN is to provide guidance for servicing Farmer Programs borrowers' accounts when FmHA real estate security has been accepted into the ASCS Conservation Reserve Program (CRP). The intended outcome is to protect FmHA's security interest in real estate and document the use of CRP proceeds in the farm operation.

COMPARISON WITH PREVIOUS AN:

This AN replaces FmHA AN 2131(1965) dated August 13, 1990, which expires on July 31, 1991.

IMPLEMENTATION RESPONSIBILITIES:

County Supervisors will contact ASCS for a list of persons who offer a bid or have been enrolled in the CRP. A copy of this list will be forwarded to their respective District Director. The County Supervisor will contact borrowers whose bids are accepted and those who offer bids for future sign-up periods to discuss the borrowers' plans for the farming operation. Borrowers who have placed all or a portion of their farms into the CRP will be considered to be operating the farms for purposes of servicing under FmHA Instruction 1965-A.

If an FmHA loan was made to plant a protective cover required by the CRP contract or if necessary to assure debt repayment to FmHA, loan applicants and borrowers will be required to assign CRP cash payments and any cost share proceeds to FmHA through ASCS. The Security Agreement (Crops and Chattels) in Item 4 of part II on Form FmHA 440-4 will be modified to state that FmHA has taken an assignment on CRP cash payments.

EXPIRATION DATE: July 31, 1992

FILING INSTRUCTIONS:
Preceding FmHA
Instruction 1965-A



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Complaints of discrimination should be sent to:
Secretary of Agriculture, Washington, D.C. 20250

The borrower's use of CRP payments for operating expenses, whether in cash or certificates, will be documented as per Section 1924.57(b)(1)(vi) of FmHA Instruction 1924-B on Form FmHA 431-2, "Farm and Home Plan," and Form FmHA 1962-1, "Agreement for the Use of Proceeds/Release of Chattel Security." This will also serve as documentation of the use of the proceeds to pay any Commodity Credit Corporation overdue loan prior to payment to FmHA.

ASCS regulations do not allow the assignment of commodity certificates. However, the documentation of these certificates on the above mentioned FmHA forms creates a contract between the borrower and FmHA. Unauthorized disposition of these certificates will be considered as conversion of FmHA security property. No third party conversion action will be taken against ASCS or purchasers of these certificates.

FmHA cannot accept voluntary transfers of commodity certificates to FmHA, unless the requirements outlined in Section 1955.20(b) of FmHA Instruction 1955-A are met. The County Supervisor will make every effort to encourage the borrower to market the certificates and apply the proceeds to his/her accounts. If the borrower insists on transferring the certificate to FmHA, FmHA will prepare Form FmHA 455-4, "Agreement for Voluntary Liquidation of Chattel Security."

The above mentioned form and method of liquidation will be undertaken only if the certificate is listed on Form FmHA 1962-1, with FmHA shown as the recipient of the income from the sale of the certificate. Further, this must be documented to show that the certificate will be marketed prior to its expiration, as well as the broker who will purchase the certificate.

To complete Form FmHA 455-4, the following language will be added by the County Supervisor in item 1: "(1) The borrower chooses to sell Certificate No. _____ to _____. (2) The borrower accepts the market price on the date of disposal of Certificate No. _____. (3) Proceeds from the sale of Certificate No. _____ will be used as set forth on Form FmHA 1962-1." No minimum price will be listed. -

The County Supervisor will dispose of the certificate the same day, but no later than 5 working days from receipt of Form FmHA 455-4.

District Directors will review all files, based on the list provided by the County Supervisor of borrowers enrolled in the CRP program, to ensure that these payments are documented as per FmHA Instructions and this AN. Should this documentation be missing, a followup report will be submitted by the County Supervisor to the District Director within 10 working days stating that this has been accomplished. The District Director will also inform the State Director of the deficiencies noted and the plan of action implemented to resolve the problem. The District Director will then review these files on the next visit to insure compliance.

If you have any questions, please contact Gary West of Farmer Programs Loan Servicing and Property Management Division, at FTS 382-1976.



LA VERNE AUSMAN
Administrator

Sent by Time Delay Option to States at 1:30 on 8/12/91; to Districts at 3:30 on 8/12/91; and Counties at 8:00 on 8/13/91 by ASD.