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

Notice FLP-88

1945-D

For: FSA Employees

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 continued widespread disasters have made it necessary to implement changes that streamline the loan making process and bring FSA into compliance with governing legislation. Notices FLP-7, FLP-9, and FLP-10, that are now obsolete, outlined these statutory and administrative changes.

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 in accordance with 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
- is being issued to correct Notice FLP-86, subparagraph 3 C.

Continued on the next page

Disposal Date	Distribution
October 1, 2000	All FSA employees; State Offices relay to County Offices

1 Overview (Continued)

C
National Office Contact

State Offices shall direct questions about this notice to Chuck Ropp, Senior Loan Officer, Direct Loans Funds Management Branch at 202-690-4017.

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
- use other resources, such as contracting for services and the effective use of in-house resources
- provide training when needed
- in extremely high workload situations, use qualified contractors through the Blanket Purchase Agreement process to assist in loan processing
- ensure that automated EM calculation software has been installed in the field and that hardware, such laptops and PC's, is available for loan program staff to run the programs
- request the assistance of Action Teams in accordance with Notice FLP-83
- 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 such decisions.

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2 Administrative Changes (Continued)

B
Loan Approval Official Action

Loan Approval Officials are authorized to:

- approve EM loans based on a handwritten Farm and Home Plan, if use of 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
- follow the requirements of Notice FLP-47, when establishing collateral values for EM loans
- 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 and/or program payments
  - 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.

3 Statutory Changes

A Multiple Benefits and EM loans

1999 Act eliminates the requirement that a producer choose between NAP or CAT payments and an EM loan. Producers may receive CAT and/or NAP payments for the same loss. However, the amount of those payments will be deducted from 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 requirement that the portion of the EM loan secured by repayment ability be repaid within 3 years is eliminated. However, the Loan Approval Official must verify and document:

- the primary security is not available because of the disaster
- a portion or all of the security has depreciated because of the disaster
- that all available security has been pledged
- their confidence of the applicant's ability to repay 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 Forgivness

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

- received debt foregiveness 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
- are current on all payments under a confirmed bankruptcy plan.

D Obsolete Notices

Notice FLP-86 is obsolete.