

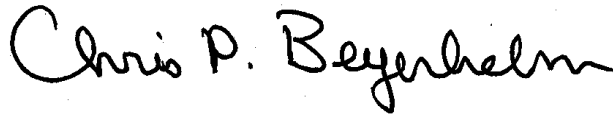
UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency  
Washington, DC 20250

Direct Loanmaking  
3-FLP (Revision 2)

Amendment 15

Approved by: Deputy Administrator, Farm Loan Programs



**Amendment Transmittal**

**A Reasons for Amendment**

Subparagraph 42 A has been amended to remove the word “personal” before “financial statement” and clarify that embedded entity members are required to sign all loan documents.

Subparagraph 72 A has been amended to allow embedded entities.

Subparagraph 132 C has been amended to clarify the owner-operator requirements for entities applying for an FO.

Subparagraph 132 D has been amended to allow a substitution for 1 year of the 3-year farm experience requirement.

Subparagraph 216 B has been amended to reflect the increased ML limits.

Subparagraph 371 C has been amended to clarify the signature requirements for entities.

Exhibit 2 has been amended to reflect changes to or the addition of definitions for the embedded entity, entity, entity member, established farmer, family farm, operator, and participated in the business operations of a farm.

Page Control Chart		
TC	Text	Exhibit
	3-5, 3-6 4-15, 4-16 7-3, 7-4 7-4.5 through 7-4.8 (add) 7-5, 7-6 9-45 through 9-72 16-1, 16-2	2, pages 7-10 pages 15, 16



**41 Obtaining and Filing a Loan Application (Continued)****E SED Action (Continued)**

These required outreach efforts are in addition to information provided in State or Service Center newsletters.

**Note:** Outreach to assist these potential applicants will include maintaining and documenting close liaison and attending meetings with local, State, and national organizations serving beginning and SDA farmers.

**42 Complete Loan Application****A Requirements**

**[7 CFR 764.51(b)] A complete loan application, except as provided in paragraphs (c) through (f) of this section (paragraphs 43 and 44), will include:**

**[7 CFR 764.51 (b)(1)] The completed Agency application form;**

The application must be initialed, signed, and dated by the applicant. An unsigned FSA-2001, FSA-2301, FSA-2314, or FSA-2330 will be considered an incomplete application.

**Notes:** FSA-2001, FSA-2314, or FSA-2330, with missing initials only, will not be considered incomplete; however, initials shall be obtained before loan closing.

Youth loan applications should be filed according to paragraph 44.

The authorized agency official shall consider if an application can be ML or Streamlined before requiring a regular, full documentation application. See paragraphs 216 and 217. ML and streamlined OL applications should be filed according to paragraph 43.

Streamlined OL applications should be filed according to paragraph 43, but a qualified applicant need only submit additional information necessary to make their application complete when added to the information already in the applicants file.

**[7 CFR 764.51 (b)(2)] If the applicant is an entity:**

**[7 CFR 764.51 (b)(2)(i)] A complete list of entity members showing the address, citizenship, principal occupation, and the number of shares and percentage of ownership or stock held in the entity by each member, or the percentage of interest in the entity held by each member;**

**Note:** Each member of the entity must demonstrate individual ownership of the entity by owning either shares or a percentage of the entity.

**[7 CFR 764.51 (b)(2)(ii)] A current \* \* \* financial statement from each member of the entity;**

**[7 CFR 764.51 (b)(2)(iii)] A current financial statement from the entity itself;**

## 42 Complete Loan Application (Continued)

## A Requirements (Continued)

**[7 CFR 764.51(b)(2)(iv)] A copy of the entity's charter or any entity agreement, any articles of incorporation and bylaws, any certificate or evidence of current registration (good standing), and a resolution adopted by the Board of Directors or entity members authorizing specified officers of the entity to apply for and obtain the desired loan and execute required debt, security and other loan instruments and agreements;**

**Note:** If entity documents require more than 1 member to apply, then all identified \*--members, including members in embedded entities, must sign FSA-2001, Part E,--\* item 18A.

**[7 CFR 764.51(b)(2)(v)] In the form of married couples applying as a joint operation, items (i) and (iv) will not be required. The Agency may request copies of the marriage license, prenuptial agreement or similar documents as needed to verify loan eligibility and security. Items (ii) and (iii) are only required to the extent needed to show the individual and joint finances of the husband and wife without duplication.**

For a married couple, FSA will accept any of the following to verify existence of a joint operation:

- applicable CCC-502/CCC-902
- jointly filed tax return
- marriage license
- prenuptial agreement
- similar documentation.

Ordinarily, individual financial statements are not required from a married couple applying as a joint operation. However, in States without community property laws and in some other States, individual financial statements may be necessary to obtain a complete picture of the financial situation. A State supplement will be issued when applicable to provide additional guidance and related information requirements for a married couple applying as a joint operation.

**[7 CFR 764.51(b)(3)] A written description of the applicant's farm training and experience, including each entity member who will be involved in managing or operating the farm. Farm experience of the applicant, without regard to lapse of time between the experience and the new application, may be included in the applicant's written description. If farm experience occurred more than 5 years prior to the date of the application, the applicant must demonstrate sufficient on-the-job training or education within the last 5 years to demonstrate managerial ability.**

**Note:** See subparagraph 69 A for additional guidance if farm experience occurred more than 5 years before application.

\*--A complete description of the applicant's farm training and experience is required for new applicants and when significant changes to an existing borrowers operation have occurred. The information will be provided using FSA-2302.--\*

## 71 Owner/Operator of a Family Farm (Continued)

**B Factors for Consideration**

**[7 CFR 764.101(k)(4)] If the entity applicant has an operator and ownership interest for farm ownership loans and emergency loans for farm ownership loan purposes, in any other farming operation, that farming operation must not exceed the requirements of a family farm.**

See Exhibit 2 for the definition of family farm.

The authorized agency official must consider the following factors when making the family farm determination.

- \*--Produces agricultural commodities for sale in sufficient quantities so that it is recognized as a farm. Primarily, is the farm operated in a business-like manner, does the operation have records, and is the operator changing methods to try and make a profit?--\*
- Members of the farm family must make all the day-to-day farm management and operational decisions. The use of outside consultants or advisors is acceptable provided that someone in the farm family is the ultimate decision-maker.
- Family or entity members must supply a substantial amount of the full-time labor. This does not preclude using seasonally hired labor, but in most instances, the family should provide most of the day-to-day labor. Exceptions may be made for enterprises that produce high value, labor-intensive crops such as fruit or vegetables.
- Credit needs. Congress established FSA's loan limits to assist family farm operations. The loan limits generally ensure that loans are made to family farm operations.
- Loan participation arrangements are acceptable when FSA farm loans cannot meet the total credit needs of the applicant. However, if the FSA loan only represents a small portion of the total credit requirements, this may be an indication that the applicant's operation is larger than a family farm when all factors are considered. The authorized agency official must also fully consider if credit is available from another source, including a guaranteed loan.

To make a determination about the family farm requirement, the authorized agency official must judge the factors individually and also weigh and consider how the factors relate to each other. If the authorized agency official determines that the applicant's farm does not satisfy the definition of a family farm, the reasoning behind the authorized agency official's decision must be documented in the loan file.

**72 Entity Composition****A General Requirement**

**\*--[7 CFR 764.101(l)] If the applicant has 1 or more embedded entities, at least 75 percent of the individual ownership interests of each embedded entity must be owned by members actively involved in managing or operating the family farm.--\***

**B Married Persons**

Married persons applying together shall be treated as a joint operation unless they form or have formed a legal entity before application for assistance. If they apply as a joint operation, both parties must meet the general and program specific eligibility requirements for the loan requested.

**C Joint Operations**

In the case of an informal joint operation, where no formal tax ID number has been assigned by a taxing authority, the persons requesting the assistance will designate which TIN will be used as primary to assign the case number.

**131 Uses (Continued)****D Soil and Water Conservation and Protection**

FO funds may only be used to:

**[7 CFR 764.151(c)] Promote soil and water conservation and protection;**

Examples include the correction of hazardous environmental conditions and the construction or installation of tiles, terraces, and waterways. All soil and water conservation projects are subject to the limitations in subparagraph 74 D.

**E Loan Closing Costs**

FO funds may only be used to:

**[7 CFR 764.151(d)] Pay loan closing costs;**

FO funds may not be used to pay loan packaging or consultant fees associated with applying for or obtaining a FSA loan.

**F Refinance Bridge Loan**

FO funds may only be used to:

**[7 CFR 764.151(e)] Refinance a bridge loan if the following conditions are met:**

- (1) The applicant obtained the loan to be refinanced to purchase a farm after a direct FO was approved;**
- (2) Direct FO funds were not available to fund the loan at the time of approval;**
- (3) The loan to be refinanced is temporary financing; and**
- (4) The loan was made by a commercial or cooperative lender.**

**Note:** Refinancing of a bridge loan is not guaranteed. The applicant and the lender must understand that the anticipated FO is subject to all conditions of loan approval and availability of funds. FSA personnel shall not make any commitments or imply that a bridge loan will be refinanced.

**132 Eligibility****A General Eligibility****[7 CFR 764.152] The applicant:**

**(a) Must comply with the general eligibility requirements established at § 764.101** (paragraphs 62 through 72).

FO specific eligibility is addressed in this paragraph. If different from the general eligibility in paragraphs 62 through 72, the information in this paragraph is to be substituted for those portions.

\*--The following are entity rule basics for direct FO:

- applicant must be the operator of the farm and match farming records in Farm Programs
- all members of the operating entity, including embedded entities and individuals, must sign the application and meet eligibility requirements as outlined in Part 4
- individual members who own the farm (real estate) must own 50 percent of the farm business (operating entity)
- if the operating entity has embedded entities, the 75 percent rule applies
- loan is made to the operating entity (FLP applicant), and all entity members (from the operating entity) must sign the promissory note
- deed and/or mortgage may be made to any person or entity (in any combination) that was a party to the application as a member of the operating entity.--\*



## 132 Eligibility (Continued)

## A General Eligibility (Continued)

**\*--Example:** For this example, use the following facts.

<p>Smith Farms, LLC, (operating entity) members are Bob Smith, Betty Smith, Fred Smith, and Ginger Smith.</p>	<p>Real Estate is owned as follows:</p> <ul style="list-style-type: none"> <li>• Bob Smith and Betty Smith, as individuals, own 160 acres.</li> <li>• Fred Smith and Ginger Smith, as Fred's Acres Inc., own 80 acres.</li> </ul>
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Based on these facts:

- the FLP applicant would be Smith Farms, LLC, and all the individual members of Smith Farms, LLC
- FLP would get a Credit Report and financial information on Smith Farms, LLC, and all individual members of Smith Farms, LLC
- the FLP loan would be to Smith Farms, LLC
- Smith Farms, LLC, and Bob, Betty, Fred, and Ginger must sign the Promissory Note
- deed and/or mortgage for the real estate (purchased with the FLP loan) can be to an individual (in any combination), or an entity (including a new entity) as long as the members of that entity are members of the operating entity and listed on the Promissory Note (no new members, not on the application, can be added), and allowed by State law; therefore, for this example, the deed and/or mortgage could be to:
  - Bob, Betty, Fred, or Ginger, as individuals, or in any combination; thereof
  - Fred's Acres, Inc., that is just Fred and Ginger, or any new entity created by the individuals to own the real estate purchased with the FLP loan funds, must still be properly incorporated.--\*

## 132 Eligibility (Continued)

**B No Prior Debt Forgiveness**

The applicant:

**[7 CFR 764.152(b)] And anyone who will sign the promissory note, must not have received debt forgiveness from the Agency on any direct or guaranteed loan.**

The authorized agency official shall review debt verification obtained under subparagraph 65 B to determine whether there is any prior loss by the Government.

**C FO Individual and Entity Owner and Operator Requirement**

The applicant:

**\*--[7 CFR 764.152(c)] Must be the owner-operator of the farm financed with Agency funds after the loan is closed. Ownership of the farm operation and farm real estate may be held either directly in the individual's name or indirectly through interest in a legal entity. In the case of an entity:**

**(1) The entity is controlled by farmers engaged primarily and directly in farming in the United States, after the loan is made;**

**(2) An ownership entity must be authorized to own a farm in the state or states in which the farm is located. An operating entity must be authorized to operate a farm in the state or states in which the farm is located.**

**(3) If the entity members holding a majority interest are;**

**(i) Related by blood or marriage, at least one member of the entity must operate the family farm and at least one member of the entity or the entity must own the farm; or,**

**(ii) Not related by blood or marriage, the entity member holding a majority interest must operate the family farm and the entity members holding a majority interest or the entity must own the farm.**

**(4) If the entity is an operator only entity, the individuals that own the farm (real estate) must own at least 50 percent of the family farm (operating entity).--\***

**132 Eligibility (Continued)****D Farm Experience**

The applicant:

**\*-[7 CFR 764.152(d) and in the case of an entity, one or more members constituting a majority interest, must have participated in the business operations of a farm for at least 3 years out of the 10 years prior to the date the application is submitted. One of these years can be substituted with the following experience;**

- (1) Postsecondary education in agriculture business, horticulture, animal science, agronomy, or other agriculture related fields,**
- (2) Significant business management experience, or**
- (3) Leadership or management experience while serving in any branch of the military.**

**Note:** To meet the substitution requirements for 1 year out of the 3 years the applicant can use any 1 of the following:

- postsecondary education, that is at least 16 semester hours in agriculture business, horticulture, animal science, agronomy, or other agriculture related fields
- significant business management, that is at least 1 year of management experience in a non-agriculture-related field where the applicant's day-to-day responsibilities included direct management experience, such as personnel decisions, payroll, and inventory ordering; however, not an individual who is a manager in title only
- military leadership or management that is, as a general rule, any officer or E5 or above will have completed an acceptable military leadership course.--\*

Factors to determine participation in the business operations of a farm (see definition in Exhibit 2) are similar to those for determining adequate farming experience necessary to ensure a reasonable prospect of success in the operation. The level of farm experience or managerial ability will depend on the complexity of the operation and the amount of the loan request. The authorized agency official will consider each application on a case-by-case basis.

**Note:** The applicant need not have been the primary operator.



**132 Eligibility (Continued)****D Farm Experience (Continued)**

Applicants shall document that their participation in the business operation of a farm was not solely as a laborer. Documentation may include, but is not limited to:

- written statements from other parties with knowledge of applicant's role and responsibilities in the business operation of a farm
- documents from the applicant that indicate their responsibilities in the business operation of a farm.

For an individual applicant to be an operator, the applicant must have participated and provided labor and management of the farm for at least 3 years.

For an entity applicant to be an operator, 1 or more members constituting a majority interest must have participated in the operation of the farm for at least 3 years and provided labor and management.

**Example 1:** Jane Smith applies for FO to purchase a hog farm adjacent to the hog farm currently owned by her mother. She recently graduated from law school. Her father died 4 years ago and she assumed responsibility for the farm, and continued to oversee the day-to-day operation of the farm while she attended school.

Jane Smith is eligible for FO since she has had significant responsibility for the day-to-day business operations of a farm for more than 3 years within the last 10 years.

**Example 2:** John Doe applies for FO to purchase a grain farm. He indicates on his application that he was born and raised on a farm and worked for his father until about 5 years ago. His father then turned over 40 acres of the family farm to him. For 2 years, John made all management decisions for the 40 acres. In addition, John helped make management decisions when working with his father before operating his 40 acres. For the last 3 years, John has worked in town and has not been involved with the farm.

John Doe is eligible for FO as he had management responsibility, and made day-to-day decisions on the 40 acres for 2 years, and before that, participated in the operation of a farm for more than 1 year as he made management decisions while working for his father. This combination of experience enables John to meet the requirement that he has participated in the operation of a farm for 3 out of the last 10 years.

**132 Eligibility (Continued)****D Farm Experience (Continued)**

**Example 3:** John Smith applies for an FO to purchase a farm. He indicates on his application that he has worked as a migrant laborer for the last 10 years. 5 years ago he was placed in a managerial position where in addition to supervising the work crew, he decides what fields are to be worked, planting rates, and the majority of daily management decisions related to the operation.

John Smith is eligible for an FO as his work as the crew leader and daily manager of the operation is sufficient to qualify for FSA assistance.

**\*--Example 4:** Fred Farmer applies for an FO to purchase a farm. His application indicates that he has been operating a rented farm for the last 2 years, making all management decisions and provided the majority of the labor. Before that he attended college for 2 years, and even though he did not graduate, he does have 16 hours of agriculture courses.

Fred Farmer is eligible for an FO to purchase a farm because his agriculture course work can be substituted for 1 year of the 3 year requirement to purchase a farm.--\*

**E Term Limits**

The applicant:

**[7 CFR 764.152(e)] And anyone who will sign the promissory note, must satisfy at least one of the following conditions:**

- (1) Meet the definition of a beginning farmer;**
- (2) Have not had a direct FO loan outstanding for more than a total of 10 years prior to the date the new FO loan is closed.**
- (3) Have never received a direct FO loan.**

Section 2 Microloans and Streamlined OL's

216 ML Process

A Overview

Applicants meeting the requirements established in subparagraph 43 B may apply for ML's.

B Requirements

[7 CFR 764.51(c)] For ML request, all of the following criteria must be met:

[7 CFR 764.51(c)(1)] The loan request is:

[7 CFR 764.51(c)(1)(i)] To pay annual or term operating expenses,

\*-[7 CFR 764.51(c)(1)(ii)] \$50,000 or less and the applicant's total outstanding Agency OL debt at the time of loan closing will be \$50,000 or less.--\*

**Note:** For ML purposes, FSA has determined that an operation with gross sales of agricultural products of at least \$1,000 annually will be recognized as a farm.

## 217 Streamlined OL Process

**A Requirements**

\* \* \* For a streamlined OL request:

- the applicant must be current on all payments to all creditors including FSA
- the loan requested is to pay annual operation expenses
- the applicant received and repaid 1 annual OL loan or has sufficient inventory to pay the loan in-full
- there have been no significant changes to the operation since the prior year's application

**Note:** If the operation consist of the same type of commodities and/or livestock and will not require additional labor or equipment resources, the change will not be considered significant. However, if the operation changes or adds commodities or practices, or makes a change that requires additional labor or equipment resources, the change will be considered significant. Whenever there are significant changes to the operation, a streamlined application is not appropriate.

- the updated cash flow for the new loan is positive for repayment to FSA and all creditors
- the loan amount for the new loan may be increased as long as it is supported by the cash flow and the applicant continue to meet the streamlined OL requirements
- \*--the applicant must not have received primary loan servicing in the previous year--\*
- all other requirements remain the same as any standard OL.

**Notes:** If there have been no significant changes, the previous FBP will be copied and brought forward as the streamlined OL plan. The FBP date will be changed to reflect \*--it is the streamlined OL plan. The authorized agency official must input a new credit presentation that documents OL is being processed as a streamlined application--\* request. All pertinent information on the previous credit presentation may be copied and brought forward. All other documents will be updated or prepared, as necessary, and required by streamlined application procedures.

See subparagraph 43 A for what constitutes a complete streamlined OL application.

218-225 (Reserved)



## Part 16 Loan Closing

## Section 1 General

## 371 Overview

## A Closing Different Kinds of Loans

See:

- paragraphs 396 through 400 for loan closing requirements for real estate
- paragraphs 416 through 419 for loan closing requirements for chattel.

All other paragraphs in this section apply to loan closings for both kinds of security.

A loan is closed either by FSA or a closing agent based on:

- type of loan
- type of security:
  - real estate
  - chattel
- adequate security
- additional security
- nonessential assets
- amount of loan.

**Note:** In most cases, authorized agency officials typically will close operating loans and will use either an attorney or a title company for all loans involving real estate.

## B Reconfirming Loan Requirements

**[7 CFR 764.402(e)(2)] If the loan is not closed within 90 calendar days of loan approval or if the applicant's financial condition changes significantly, the Agency must reconfirm the requirements for loan approval prior to loan closing. The applicant may be required to provide updated information for the Agency to reconfirm approval and proceed with loan closing.**

## 371 Overview (Continued)

**B Reconfirming Loan Requirements (Continued)**

The authorized agency official will review with the applicant the financial statement which was prepared at the time the docket was developed. If there have been significant changes in the applicant's financial condition, the financial statement will be revised and initialed by the applicant and the authorized agency official. When an applicant's financial condition has changed to the extent that it appears that the loan would be unsound or improper, the loan will not be closed. If a revised loan docket is needed to meet loan requirements or determine loan soundness, it will be developed and submitted to the authorized agency official.

When real estate will be taken as security, a review should be made to determine that no significant changes have been made in the development plan considered by the appraiser.

If the authorized agency official determines that the applicant is no longer eligible for the loan or that the farm operating plan is no longer feasible, the authorized agency official will decline to close the loan and the applicant will be notified according to paragraph 356.

**C Loan Document Signatures**

**[7 CFR 764.402(a)] Signatures on loan documents are required as follows:**

**(1) For individual applicants, only the applicant is required to sign the promissory note.**

In the case of an individual applicant, only the applicant will be required to sign FSA-2026 unless State law requires otherwise. SED shall issue a State supplement outlining signature requirements.

In the case of an FO involving a life estate to:

- both the life estate holder and the remainderman, the note and lien instrument is signed by both
- just the remainderman, the lien instrument is signed by the remainderman, life estate holder, and any other party having an interest in the security
- just the life estate holder, the lien instrument is signed by the life estate holder, remainderman, and any other party having any interest in the security.

**(2) For entity applicants, the promissory note will be executed to evidence the liability \*--of the entity, any embedded entities, and the individual liability of all entity members.--\***

## Definition of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)

### Debt Forgiveness

Debt forgiveness means a reduction or termination of a debt under the Act in a manner that results in a loss to the Agency, through:

- (1) Writing down or writing off a debt pursuant to 7 U.S.C. 2001;
  - (2) Compromising, adjusting, reducing, or charging off a debt or claim pursuant to 7 U.S.C. 1981; or
  - (3) Paying a loss pursuant to 7 U.S.C. 2005 on a FLP loan guaranteed by the Agency.
- Debt forgiveness does not include:

- (1) Debt reduction through a conservation contract;
- (2) Any write down provided as part of the resolution of a discrimination complaint against the Agency;
- (3) Prior debt forgiveness that has been repaid in its entirety; and
- (4) Consolidation, rescheduling, reamortization, or deferral of a loan.

\*--Note: The 2014 Farm Bill added debt forgiveness on a youth loan, that was beyond the applicant's control, to the excepted list. This change will be incorporated in a Farm Bill CFR, but is effective, as provided here, immediately.--\*

### Debt Service Margin

Debt service margin means the difference between all of the borrower's expected expenditures in a planning period (including farm operating expenses, capital expenses, essential family living expenses, and debt payments) and the borrower's projected funds available to pay all expenses and payments.

### Direct Loan

Direct loan means a loan funded and serviced by the Agency as the lender.

### Disaster

Disaster means an event of unusual and adverse weather conditions or other natural phenomena or quarantine, that has substantially affected the production of agricultural commodities by causing physical property or production losses in a county, or similar political subdivision, that triggered the inclusion of such county or political subdivision in the disaster area declared, by the President or designated by the Secretary of Agriculture, for physical losses only, the FSA Administrator may authorize emergency loan assistance.

### Disaster Area

Disaster area means the county or counties declared or designated as a disaster area for EM loan assistance as a result of disaster related losses. This area includes counties contiguous to those counties declared or designated as disaster areas.

### Disaster Yield

Disaster yield means the per-acre yield of an agricultural commodity for the farming operation during the production period when the disaster occurred.

## Definition of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)

### Downpayment Loan

Downpayment loan means a type of FO loan made to beginning farmers and socially disadvantaged farmers to finance a portion of a real estate purchase under Part 764, Subpart E of this chapter (Part 7, Section 2).

### EM

EM means a loan made to eligible applicants who have incurred substantial financial losses from a disaster.

### \*--Embedded Entity

Embedded entity means an entity that has a direct or indirect interest, as a stockholder, member, beneficiary, or otherwise, in an entity.

### Entity

Entity means a corporation, partnership, joint operation, cooperative, limited liability company, trust, or other legal business organizations, as determined by the Agency, that is authorized to conduct business in the state in which the organization operates. Organizations operating as non-profit entities under Internal Revenue Code 501 (26 U.S.C. 501) and estates are not considered eligible entities for Farm Loan Program purposes.

### Entity Member

Entity member means all individuals and all embedded entities, as well as the individual members of the embedded entities, having an ownership interest in the assets of the entity.--\*

### Essential Family Living and Farm Operating Expenses

Essential family living and farm operating expenses:

- (1) Are those that are basic, crucial, or indispensable.
- (2) Are determined by the Agency based on the following considerations:
  - (i) The specific borrower's operation;
  - (ii) What is typical for that type of operation in the area; and
  - (iii) What is an efficient method of production considering the borrower's resources.
- (3) Include, but are not limited to essential: household operating expenses; food, including lunches; clothing and personal care; health and medical expenses, including medical insurance; house repair and sanitation; school and religious expenses; transportation; hired labor; machinery repair; farm building and fence repair; interest on loans and credit or purchase agreement; rent on equipment, land, and buildings; feed for animals; seed, fertilizer, pesticides, herbicides, spray materials and other necessary farm supplies; livestock expenses, including medical supplies, artificial insemination, and veterinarian bills; machinery hire; fuel and oil; taxes; water charges; personal, property and crop insurance; auto and truck expenses; and utility payments.

## Definition of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)

**Established Farmer**

- Established farmer means a farmer who operates the farm (in the case of an entity, its members as a group) who meets all the following conditions:--\*
- (1) Actively participated in the operation and the management, including but not limited to, exercising control over, making decisions regarding, and establishing the direction of, the farming operation at the time of the disaster;
  - (2) Spends a substantial portion of time in carrying out the farming operation;
  - (3) Planted the crop, or purchased or produced the livestock on the farming operation;
  - (4) In the case of an entity, is primarily engaged in farming and has over 50 percent of its gross income from all sources from its farming operation based on the operation's projected cash flow for the next crop year or the next 12-month period, as mutually determined;
- \*--(5) Is not an integrated livestock, poultry, or fish processor who operates primarily and directly as a commercial business through contracts or business arrangements with farmers, except a grower under contract with an integrator or processor may be considered an established farmer, provided the farming operation is not managed by an outside full-time manager or management service and Agency loans shall be based on the applicant's share of the agricultural production as set forth in the contract; and
- (6) Does not employ a full time farm manager.--\*

**False Information**

False information means information provided by an applicant, borrower, or other source to the Agency that the applicant or borrower knows to be incorrect.

**Family Farm**

- \*--Family Farm means a business operation farm that:--\*
- (1) Produces agricultural commodities for sale in sufficient quantities so that it is recognized as a farm rather than a rural residence;
  - (2) Has both physical labor and management provided as follows:
    - (i) The majority of day-to-day, operational decisions, and all strategic management decisions are made by:
      - (A) The borrower and persons who are either related to the borrower by blood or marriage, or are a relative, for an individual borrower; or
      - (B) The members responsible for operating the farm, in the case of an entity.
    - (ii) A substantial amount of labor to operate the farm is provided by:
      - (A) The borrower and persons who are either related to the borrower by blood or marriage, or are a relative, for an individual borrower; or
      - (B) The members responsible for operating the farm, in the case of an entity.
  - (3) May use full-time hired labor in amounts only to supplement family labor.
  - (4) May use reasonable amounts of temporary labor for seasonal peak workload periods or intermittently for labor intensive activities.

## Definition of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)

**Family Living Expenses**

Family living expenses means the costs of providing for the needs of family members and those for whom the borrower has a financial obligation, such as alimony, child support, and care expenses of an elderly parent.

**Family Members**

Family members mean the immediate members of the family residing in the same household with the individual borrower.

**Farm**

Farm means a tract or tracts of land, improvements, and other appurtenances that are used or will be used in the production of crops, livestock, or aquaculture products for sale in sufficient quantities so that the property is recognized as a farm rather than a rural residence. The term “farm” also includes the term “ranch”. It may also include land and improvements and facilities used in a non-eligible enterprise or the residence which, although physically separate from the farm acreage, is ordinarily treated as part of the farm in the local community.

**Farm Income**

Farm income means the proceeds from the sale of agricultural commodities that are normally sold annually during the regular course of business, such as crops, feeder livestock, and other farm products.

**Farm Loan Programs (FLP's)**

FLP's means Agency programs to make, guarantee, and service loans to family farmers authorized under the Act or Agency regulations.

**Farm Program (FP) Payments**

FP payments are benefits received from FSA for any commodity, disaster, or cost share programs.

**FO**

FO means a loan made to eligible applicants to purchase, enlarge, or make capital improvements to family farms, or to promote soil and water conservation and protection. It also includes Downpayment loans.

**Farmer**

Farmer means an individual, corporation, partnership, joint operation, cooperative, trust, or limited liability company that is the operator of a farm.

## Definition of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)

### Normal Income Security

Normal income security means **all security not considered basic security, including crops, livestock, poultry products, other property covered by Agency liens that is sold in conjunction with the operation of a farm or other business, and FSA Farm Program payments.**

### Normal Production Yield

Normal production yield means **used in 7 CFR Part 764 for EM's, means:**

- (1) The per-acre actual production history of the crops produced by the farming operation used to determine Federal Crop Insurance payments or payment under the Noninsured Crop Disaster Assistance Program for the production year during which the disaster occurred;**
- (2) The applicant's own production records or the records of production on which FSA farm program payments are made contained in the applicant's farm program file for the previous three years, when the actual production history is not available;**
- (3) The county average production yield, when the production records outlined in (1) and (2) above are not available.**

### OL

OL means **a loan made to an eligible applicant to assist with the financial costs of operating a farm. The term also includes a Youth loan.**

### Operator

Operator means **the individual or entity that provides the labor, management, and capital to operate the farm. The operator can be either an owner-operator or tenant-operator.**

**Under applicable State law, an entity may have to receive authorization from the State in \*--which the farm is located to be the owner and/or operator of the farm. Operating-only entities may be considered owner-operators when the individuals who own the farm real estate own at least 50 percent of the family farm operation.--\***

### Owner-Operator

Owner-operator means **the individual or entity that owns the land on which a farm is located and provides the labor, management, and capital to operate the farm. An entity may have to receive authorization from the State in which the farm is located to be the owner-operator of the farm.**

## Definition of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)

**Participated in the Business Operations of a Farm**

Participated in the business operations of a farm requires that an applicant has:

- (1) Been the owner, manager or operator of a farming operation for the year's complete production cycle as evidenced by tax returns, FSA farm records or similar documentation;
- (2) Been employed as a farm manager or farm management consultant for the year's complete production cycle; or
- (3) Participated in the operation of a farm by virtue of being raised on a farm or having \*--worked on a farm (which can include a farm-related apprenticeship, internship, or similar educational program with applied work experience) with significant responsibility for--\* the day-to-day decisions for the year's complete production cycle, which may include selection of seed varieties, weed control programs, input suppliers, or livestock feeding programs or decisions to replace or repair equipment.

**Partnership**

Partnership means any entity consisting of two or more individuals who have agreed to operate a farm as one business unit. The entity must be recognized as a partnership by the laws of the State in which the partnership will operate a farm. It also must be authorized to own both real and personal property and to incur debt in its own name.

**Physical Loss**

Physical loss means verifiable damage or destruction with respect to real estate or chattel, excluding annual growing crops.

**Presidentially-Designated Emergency**

Presidentially-designated emergency means a major disaster or emergency designated by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

**Primary Loan Servicing**

Primary loan servicing programs include: (1) loan consolidation and rescheduling, or reamortization; (2) interest rate reduction, including use of the limited resource rate program; (3) deferral; (4) write-down of the principle or accumulated interest; or (5) any combination of the above.

**Production Cycle**

Production cycle means the time it takes to produce an agricultural commodity from the beginning of the production process until it is normally disposed of or sold.