

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

Direct Loan Making 3-FLP (Revision 2)	Amendment 59
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Approved by: Deputy Administrator, Farm Loan Programs



Amendment Transmittal

A Reasons for Amendment

The handbook text and exhibits have been updated throughout to:

- replace “chattel” and “chattel property” with “personal property”
- replace 7 CFR Part 799 with 7 CFR Part 1b.

Subparagraph 42 A has been amended to clarify environmental requirements.

Subparagraph 44 A has been amended to update cross references.

Subparagraph 45 B has been amended to update language in the note.

Subparagraph 45 H has been added to address Application Fast Track (AFT) loan processing.

Subparagraph 66 B has been amended to update credit elsewhere requirements specific to applications processed through AFT.

Subparagraph 70 A has been amended to remove the requirement that applicants must complete FSA-2370 to request a waiver for borrower training.

Subparagraph 91 C has been amended to update the CFR and additional security requirements.

Subparagraph 95 A has been amended to:

- update the CFR to include real estate evaluations
- clarify security values of crops and livestock when evaluating a loan processed through AFT.

Subparagraph 112 C has been amended to remove an outdated note and update crop insurance coverage requirement.

Amendment Transmittal (Continued)

A Reasons for Amendment (Continued)

Subparagraph 132 A has been amended to clarify proportionality requirements for loans processed through AFT.

Subparagraph 135 A has been amended to clarify that FO loans processed through AFT are not eligible for Limited Resource rates.

Subparagraph 135 B has been amended to clarify acceptable FO repayment terms for AFT loans.

Subparagraph 154 A has been amended to add a note about manually applying lower interest rates.

Subparagraph 154 B has been amended to clarify repayment terms for Down Payment loans and Down Payment loans processed through AFT.

Subparagraph 174 B has been amended to add a note about deviating from standard repayment terms.

Subparagraph 174 C has been amended to address repayment schedules and their interaction with AFT loans.

Subparagraph 204 A has been amended to clarify that OL loans processed through AFT are not eligible for Limited Resource rates.

Subparagraph 204 C has been amended to clarify acceptable OL repayment terms for AFT loans.

Subparagraphs 217 B and C have been amended to clarify the requirements for Streamlined OL's processed through AFT.

Subparagraph 226 A has been amended to specify that youth loans are not eligible for AFT.

Subparagraph 229 B has been amended to update the CFR to prohibit balloon payments and unequal installments for the purpose of increasing working capital and savings for youth loans.

Subparagraphs 245 E and F have been amended to clarify repayment terms for EM loans.

Subparagraph 351 C has been amended to update the note about farm operating plan applicability.

Subparagraph 352 B has been amended to update FSA-2313 requirements.

Subparagraph 352 C has been amended to update the CFR to incorporate the AFT model in lieu of a feasible plan for approvals.

Amendment Transmittal (Continued)

A Reasons for Amendment (Continued)

Subparagraph 352 E has been amended to clarify handling applications initially approved through AFT where the applicant later opts out of AFT.

Subparagraph 352 F has been amended to clarify loan denial requirements when an applicant fails to meet or accept loan approval conditions and to clarify environmental requirements.

Subparagraph 356 A has been amended to clarify:

- feasibility requirements for streamlined CL's
- AFT evaluation alone is not a basis for denial.

Subparagraphs 357 C and 371 B have been amended to clarify requirements for obtaining updated or revised information for applications originally approved through AFT.

Subparagraph 371 C has been amended to clarify that co-signature requirements do not apply for loans approved through AFT.

Subparagraph 471 A has been amended to clarify borrower training requirements for streamlined CL's.

Subparagraphs 472 A and C have been amended to clarify how borrower training requirements should be documented.

Subparagraph 472 B has been amended to clarify when training requirements can be waived.

Subparagraph 472 C has been amended to add FSA-2313 will include the borrower training determination.

Subparagraph 473 A has been amended to provide guidance on considering a waiver of previously required training.

Subparagraph 473 B has been amended to clarify arranging training.

Subparagraph 473 C has been amended to update the CFR regarding borrower training fees.

Subparagraph 474 A has been amended to specify how FSA documents successfully completed training.

Subparagraph 474 B has been amended to update the training requirements table.

Subparagraph 474 C has been amended to provide guidance on situations where a borrower failed to complete previously required training.

Amendment Transmittal (Continued)

A Reasons for Amendment (Continued)

Subparagraph 494 B has been amended to update the CFR regarding evaluations of borrower training vendors.

Exhibit 2 has been amended to:

- add “AFT”, “Appraisal”, “Personal Property or Real Estate Essential to the Farming Operation”, “Personal Property Security”, “Real Estate Evaluation”, and “Valuation”
- update “Market Value”.

Exhibit 27 has been amended to update contact information.

Amendment Transmittal (Continued)

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***--H Clearance of State-Modified National Forms and State-Created Forms**

The following provides guidance on obtaining approval of State-modified and State-created forms.

Instrument	State Office Action	National Office Action
New State-modified and State-created forms.	In SDMS, submit the following for prior approval: - State supplement that requires using the form Note: Submit separately all the State supplements for forms in the 2000 series. - electronic or scanned copy of National or State-created form, providing modifications needed - revised instructions for completion for National form, if applicable; or instructions for completion for State-created form. Notes: Include margins, font size, and any other specific requirements for forms that will be filed. State-obtained OGC approval of form may be requested during National Office review.	- Coordinate the development of the form with the appropriate National Office area. - Review and ensure nondiscrimination, privacy act, and public burden statements are included, as needed. - Send proposal to State for approval. - Coordinate uploading form and instructions for completion to http://intranet.fsa.usda.gov/dam/ffasforms/forms.html when state supplement is approved.
Existing State-modified and State-created forms	In SDMS, submit the following for prior approval: - electronic or scanned copy of form indicating needed changes - electronic or scanned copy of instructions for completion, as needed - State supplement that requires using the form, only if changes are needed.	- Review and ensure that current nondiscrimination, privacy act, and public burden statements are included, as needed. - Send proposal to State for approval. - Coordinate uploading form and instructions for completion to http://intranet.fsa.usda.gov/dam/ffasforms/forms.html.

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4 Introduction to Direct FLP's

A FSA Loan Programs

[7 CFR 764.1(a)] This part describes the Agency's policies for making direct FLP loans.

[7 CFR 764.1(b)] The Agency makes the following types of loans:

--[7 CFR 764.1(b)(1)] FO, including ML and Down Payment loans (Part 7);--

[7 CFR 764.1(b)(2)] OL, including ML and Youth loans (Part 9);

[7 CFR 764.1(b)(3)] EM (Part 10); and

[7 CFR 764.1(b)(4)] CL (Part 8).

5-20 (Reserved)

Part 2 (Reserved)

21-40 (Reserved)

42 Complete Loan Application (Continued)

A Requirements (Continued)

[7 CFR 764.51(b)(5)] The last 3 years of farm production records, unless the applicant has been farming less than 3 years;

The authorized agency official may request up to 2 additional years of farm production records in extenuating circumstances, such as natural disasters or adverse economic conditions.

Notes: Applicants are responsible for providing production records in a readable and understandable format, including sales receipts, warehouse certificates, insurance records, or other similar documents. Upon request from the applicant, FSA-2003 will be provided if an applicant is unable to submit production records in an alternative acceptable format. This form must not be provided as a standard part of an application for direct loan assistance.

Existing borrowers do not need to resubmit historical production information already on file.

For cash basis operations, such as farmers who sell produce at farmer markets, it may not be possible or useful to determine yield. In those cases, income and expenses may be substituted for yields to determine production.

--[7 CFR 764.51(b)(6)] Except for CL, documentation that the applicant and each member of an entity applicant cannot obtain sufficient credit elsewhere on reasonable rates and terms, including a loan guaranteed by the Agency. The authorized Agency official will evaluate and document whether or not rates and terms of available credit in the applicant's region will result in a reasonable amount of cash flow margin to increase working capital reserves and savings, including reasonable savings for retirement and education, to support operational stability and growth;--

Applicants provide documentation that they are unable to obtain credit elsewhere by signing FSA-2001 or FSA-2314. However, after reviewing the financial information and type of loan requested (EM's have different credit elsewhere requirements), FSA may require written evidence to support the applicant's inability to obtain credit elsewhere. FSA will use the Market Placement Program to assist qualified applicants in obtaining a guaranteed farm loan from a commercial lender, where applicable.

42 Complete Loan Application (Continued)**A Requirements (Continued)**

Rates and terms available from other lenders are not expected to match those of the Agency direct loan program to be considered reasonable. However, reasonable rates and terms should allow for progress towards accumulation of reasonable working capital reserves and savings, including for retirement and education of family members, and allow progress on the short- and long-term development and growth goals of the operation.

[7 CFR 764.51(b)(7)] Documentation of compliance with the Agency's environmental
--regulations contained in part 1b of this title as well as 7 CFR Part 12.--

An applicant must have AD-1026 on file for all real estate owned or rented. From an environmental compliance perspective, an application is considered complete upon receipt of:

- a current AD-1026
- information within the applicant's ability to control about the specific location and nature of the proposed action so that the appropriate level of environmental review can be completed.

42 Complete Loan Application (Continued)

A Requirements (Continued)

Notes: Applications may not be approved “subject to” completion of the requisite level of *--NEPA environmental review of the proposed loan action according to 1-EQ and related notices. This includes, but is not limited to, obtaining and providing to FSA copies of all permits and plans. In addition, the time needed to process or obtain--* permits, plans, approvals, or complete environmental assessments does not constitute a basis for withdrawing an application as incomplete.

A new AD-1026 is not required for each subsequent loan if there has been no change to the applicant’s farming operation.

See 1-EQ and 6-CP for additional information on environmental regulations and requirements.

[7 CFR 764.51(b)(8)] Verification of all non-farm income.

A self-employed applicant’s income may be verified by 3 years of income tax returns.

An applicant employed outside of the farm may submit any of the following:

- FSA-2014 sent by FSA to the applicant’s employer
- 2 most recent earning statements
- tax forms such as 1099 or W-2
- bank statements verifying income.

Notes: The amount and dependability of income from a cosigner will be verified using the listed format. See subparagraph 371 C for information about cosigner signature and eligibility requirements.

If a nonapplicant’s income will only be used to cover family living/owner withdrawal,

the nonapplicant must not be required to sign FSA-2004, FSA-2007, FSA-2026, or any other loan documents. See Exhibit 6 for guidance on submitting documents in compliance with ECOA as required by this handbook.

If needed for an operation to cash flow, then the income of individual entity members can be verified as needed.

42 Complete Loan Application (Continued)

A Requirements (Continued)

[7 CFR 764.51(b)(9)] A current financial statement and the operation's farm operating plan, including the projected cash flow budget reflecting production, income, expenses, and loan repayment plan;

The applicant will supply most of this information on FSA-2001, Parts H and I. Documents containing similar information from outside sources may be considered as suitable substitutes for these parts.

***--[7 CFR 764.51(b)(10)] A legal description of the farm property owned or to be acquired and, upon Agency request, any leases, contracts, options, and other agreements related to the operation;**

An application for the purchase of real estate will not be considered complete without a signed real estate purchase contract or similar document reflecting the transaction is agreed to by all parties. This document does not need to contain a full legal description of the property to be purchased for the application to be considered complete. If a full legal description of the property to be purchased is not provided as part of the complete application, the approval official will discuss the need to obtain a full legal description with the applicant, and formally require the receipt of the legal description in the Loan Closing and Document Requirements section of FBP and FSA-2313. FSA will also require as a loan closing and document requirement a full legal description for property not being purchased, but which will be required as security for a loan. Applications to purchase a portion of a larger parcel will be considered complete if the Agency is provided a description of the portion to be purchased (for example, a map with the parcel to be purchased adequately marked). Likewise, the legal description of a primary residence to be excluded as security per 7 CFR 764.106(d) may be informally identified before loan approval and be required as a loan closing requirement.

Note: A full legal description will be needed to complete a real estate appraisal to ensure the appropriate property is appraised. While the legal description is not needed for a complete application, an applicant must provide the information before an appraisal is ordered.--*

44 Youth Loan Requests

A Complete Youth Loan Application

A youth loan application is submitted by using FSA-2301, which includes the majority of information for a youth loan application. See Part 9, Section 3 for more information on youth loans.

[7 CFR 764.51(f)] For a youth loan request:

[7 CFR 764.51(f)(1)] The applicant must submit items (1), (7), and (9) of paragraph (b) *--of this section (subparagraph 42 A).--*

These items are the following:

- completed FSA-2301
- environmental information
- farm operating plan (when FSA-2301 is not considered sufficient).

[7 CFR 764.51(f)(2)] Applicants 18 years or older, must also provide items (11) and (12) *--of paragraph (b) of this section (subparagraph 42 A).--*

These items are the following:

- payment to FSA for ordering a credit report
- verification of all debts.

[7 CFR 764.51(f)(3)] The Agency may require a youth loan applicant to submit any other information listed in paragraph (b) of this section (paragraph 42) as needed to make a determination on the loan application.

45 Processing Loan Applications

A Application Review

Upon receiving a loan application, the agency official will:

- insert date application was received on FSA-2001, FSA-2301, or FSA-2314

Note: DLS is the official loan application date record.

- determine whether application is complete
- enter loan application information into DLS
- assemble loan application according to 32-AS
- obtain credit report
- obtain DNP report
- complete FSA-850, or Environmental Assessment, whichever is applicable, as provided by 1-EQ.

If an application is received and the applicant has not completed the section that identifies ~~race/ethnicity or sex of the applicant or members of the entity~~, the application will be ~~processed as a non-SDA~~.

Exception: An application from an existing SDA, who has previously provided the documentation needed to qualify as SDA, does not need to resubmit qualifying information.

~~Note:~~ Race/ethnicity and sex determinations completed as observed by a FSA employee ~~will not be used to qualify an applicant for SDA funding~~.

B Notification of Incomplete Application

[7 CFR 764.52(a)] Within 7 calendar days of receipt of an incomplete application, the Agency will provide the applicant written notice of any additional information which must be provided. The applicant must provide the additional information within 15 calendar days of the date of this notice.

Note: If the 15th calendar day is a Saturday, Sunday, Federal holiday, or any other day the office is closed, FSA will accept the applicant's additional application information the next business day.

45 Processing Loan Applications (Continued)

B Notification of Incomplete Application (Continued)

The authorized agency official must notify the applicant in writing within 7 calendar days, after receiving the incomplete application, by using FSA-2304. FSA-2304 will:

- list the additional information needed
- state that the application cannot be processed until all required information is received
- offer assistance to the applicant if they do not understand what is required or are having difficulty obtaining the required information
- establish a due date for receiving the information of 15 calendar days from the date of FSA-2304.

Exception: An EM application will not be withdrawn if the information required under 7 CFR 764.51(b)(14) (see subparagraph 42 A) is the only information that has not been received. Specifically, if accurate disaster year production information is not available, because of the producer having not completed harvest, the application will be held for a reasonable time to allow for the information to become available.

Note: FSA has determined that a reasonable time period is 3 months after the normal conclusion of harvest.

For EM's, insert the following on FSA-2304 for disaster year production information only.

“We must receive the following information by (add 15 calendar days to the date the authorized agency official determines to be 3 months after the normal conclusion of harvest) so that we can continue processing your request for assistance.”

If information is needed from other USDA agencies, the agency official will inform those agencies and the applicant of the information needed, and note the date of the request in FBP. For OL applications, the agency official will request that the information be returned within 15 calendar days of receiving the request.

***--Note:** If it is clear that the application will be denied for obvious eligibility reasons, the--* authorized agency official will provide an application rejection letter with appropriate appeal or review rights.

45 Processing Loan Applications (Continued)

B Notification of Incomplete Application (Continued)

[7 CFR 764.52(b)] If the additional information is not received, the Agency will provide written notice that the application will be withdrawn if the information is not received *--within 15 calendar days of the date of this second notice.

If the 15th calendar day is a Saturday, Sunday, Federal holiday, or any other day the office is closed, FSA will accept the applicant's additional application information the next business day.

If the applicant does not respond or does not supply all of the information requested within the 15 calendar day period specified on FSA-2304, the authorized agency official must immediately provide FSA-2305 by regular mail or hand delivery. FSA-2305 will:

- list the additional information needed
- state that the application cannot be processed until all required information is received and unless the applicant supplies the required information, the application will be withdrawn
- establish a due date for receiving the information of 15 calendar days from the date of--* FSA-2305
- contain the ECOA statement according to 1-FLP, paragraph 41.

The authorized agency official must notify DD weekly, by e-mail, the names, dates, and reasons FSA-2305 was sent to applicants.

FSA will withdraw the application if the additional material is not provided.

Applicants will be sent FSA-2306 to inform them that their application has been withdrawn. FSA-2306 will be provided by regular mail or hand delivery.

The withdrawn application will be maintained according to 32-AS.

45 Processing Loan Applications (Continued)

C Processing of Complete Application

[7 CFR 764.53] Upon receiving a complete loan application, the Agency will:

[7 CFR 764.53(a)] Consider the loan application in the order received, based on the date the application was determined to be complete; and

[7 CFR 764.53(b)] Provide written notice to the applicant that the application is complete.

The authorized agency official must notify the applicant in writing within 7 calendar days after receiving the complete application using FSA-2307.

Note: Use DLS to record the date the application was determined to be complete.

[7 CFR 764.53(d)] Except for CL requests, if based on the Agency's review of the application, it appears the applicant's credit needs could be met through the guaranteed loan program, the Agency will assist the applicant in securing guaranteed loan assistance under the market placement program as specified in 762.110(h) of this chapter (2-FLP, paragraph 72).

D Applicant Withdraws Application

The applicant may request that a loan application be withdrawn at any time during the loan making process.

If the applicant makes the request:

- in writing, the authorized agency official will send FSA-2306 and withdraw the application
- by phone, the authorized agency official will send FSA-2306 to the applicant that, per their request, the loan application will be withdrawn unless the applicant contacts the County Office within 10 calendar days of the date of FSA-2306.

***--Notes:** FSA must never encourage an applicant to request an application be withdrawn as an alternative to FSA denying the application as addressed in subparagraph 356 C, with appeal rights provided according to 1-APP.--*

The authorized agency official will maintain withdrawn applications according to 32-AS.

45 Processing Loan Applications (Continued)**E Reactivating Withdrawn Application**

A withdrawn application may not be reactivated. The applicant must file a new application.

Notes: Any information in the withdrawn file that is still current may be included with the new application. Information less than 90 calendar days old, unless noted otherwise, is considered current.

Information that does not change, such as college transcripts, will be considered current and should be used as part of any future application.

F Loan Processing When Civil Rights Complaint Has Been Filed

The filing of a civil rights complaint does not stop loan processing activity. If an application for assistance has been filed, that request must be processed according to FSA instructions.

Because failure to advise an applicant of their ineligibility may be considered an adverse action in itself, the authorized agency official should timely process all applications, in those instances where a discrimination complaint is filed, and notify the applicant of the decision. The authorized agency official must fully explain to the applicant the basis for the unfavorable eligibility or feasibility decision according to paragraph 356.

G Priority Consideration for Prevailing Claimants

See Exhibit 14 for guidance on processing loan applications for claimants.

45 Processing Loan Applications (Continued)***--H AFT Loan Processing**

AFT provides an accelerated underwriting process using financial data to benchmark and identify applicants least likely to default. This benchmarking replaces the traditional feasibility determination without an analysis of the applicant's cash flow. An AFT evaluation will be completed on all direct loan applications, other than EM, YL, and loans processed in conjunction with a servicing request.

An applicant whose request qualifies for AFT must be notified of the expedited loan processing and its implications prior to approval. The authorized agency official should make the applicant aware that loans processed and approved through AFT will not be considered for loan flexibilities such as limited resource rates, unequal installments following the first scheduled annual payment, or balloon payments.

Qualifying applications will be processed under AFT unless the applicant notifies the Agency in writing of their decision to opt out prior to loan closing.

The FLP office will process loan applications following traditional underwriting processes if either of the following apply:

- an application does not meet the requirements for AFT
- a written request to opt out of AFT is received by the office before loan closing.--*

46-60 (Reserved)

66 Credit Elsewhere (Continued)

B Documentation Requirements for FO and OL (Including DFO-ML and DOL-ML)

No applicant will be required to obtain credit denial letters from a lender, when obtaining an FO or OL, until the application has been reviewed and a determination made that the applicant has a reasonable potential to obtain financing from other credit sources.

*--Except for applicants that are formal entities, the Authorized Agency Official may determine that the credit elsewhere requirement is satisfied if the loan request does not qualify for AFT, with no further documentation required. However, other factors, outside of the AFT determination, may be considered and should be documented if it appears that the applicant can obtain credit elsewhere despite not qualifying for AFT. Formal entity applicants and all applicants processed through AFT will be evaluated following the standard credit elsewhere guidance contained in this paragraph.

Applicants processed through AFT will have the credit elsewhere determination made based on their credit history and balance sheet. If a review of these indicates the applicant may meet underwriting criteria for local lenders, a documented discussion with a lender will be included as part of the determination. When the Authorized Agency Official is unable to document eligibility of an applicant who meets the requirements of AFT without an analysis of the applicant's cash flow projection to determine feasibility, the Authorized Agency Official will discuss and provide an applicant who meets AFT requirements the option to either:

- apply for credit from a commercial lender
- provide a written statement that the applicant wishes to opt out of AFT.

If the applicant refuses either option, the eligibility determination will be based on available information. The discussion will be documented in FBP.--*

Some areas of the nation do not have a significant number of lenders who are making agricultural loans (credit desert). In addition, even if lenders are making agricultural loans, there are particular areas where loans are less likely to be made (such as Indian Reservations) or history indicates the applicant's chance of obtaining financing from a lender is low, regardless of meeting the lenders underwriting standards. Some lenders appear willing to make loans in these areas but only at rates and terms that are unreasonable compared to rates and terms offered outside these areas.

66 Credit Elsewhere (Continued)

**B Documentation Requirements for FO and OL (Including DFO-ML and DOL-ML)
(Continued)**

Consequently, when FSA loan officers are considering the “test for credit”, they must not only consider the financial strength of the applicant, but also if other lenders are “actively” making agricultural loans in the applicant’s area at reasonable rates and terms in comparison to areas where credit is readily available.

If based on evaluation of the application, the authorized agency official determines there is a reasonable possibility that the applicant can obtain credit elsewhere, the authorized agency official:

- may request the applicant apply for credit from a commercial lender and obtain a letter of denial
- may request applicant apply to additional lenders outside of local community
- may pursue market placement according to 2-FLP, paragraph 72
- must document results.

If based on the evaluation of the application, the authorized agency official determines the applicant will not qualify for credit elsewhere, the authorized agency official must document the reasons in the applicant’s file.

Note: Applicants will be encouraged to supplement FO’s and OL’s with credit from other credit sources to the extent economically feasible and according to sound financial management practices.

The fact that an applicant has obtained credit for farm purposes through credit cards, finance companies, or other “sub-prime” lenders does not constitute failure to meet the test for credit unless the rates and terms for that credit are similar to the rates and terms offered on loans for the same purpose by other farm lenders in the community.

C Documentation Requirements for EM

An applicant for EM has different credit elsewhere requirements. To meet the requirements, applicants must supply documentation according to subparagraph 242 F.

67 Delinquent Federal Debt and Unpaid Federal Judgments**A General Requirement**

[7 CFR 764.101(f)] As provided in 31 CFR Part 285, except for EM loan applicants, the applicant and anyone who will sign the Promissory Note must not be in delinquent status on any Federal debt, other than a debt under the Internal Revenue Code of 1986 at the time of loan closing. All delinquent debts, however, will be considered in determining credit history and ability to repay under this part.

The applicant must not be delinquent on any nontax Federal debt (not paid within 90 calendar days of the due date) according to 31 CFR §285.13. Verification through DNP, the credit report, DLS screens, and GLS View Loan Screen is sufficient.

However, if it becomes known, and verified, through other means that the applicant is delinquent on a Federal debt, this information must be considered when making an eligibility determination.

Note: An FSA-Guaranteed Loan is not considered a Federal debt unless a final loss claim has been paid on a guaranteed loan made using 1 of the following:

- FSA-1980-25 or FSA-1980-28 with the July 20,2001, or later revision date
- FSA-2211 or FSA-2212.

Delinquent Federal tax debt only affects eligibility as it relates to credit history according to paragraph 65.

Debts and receivables established by Farm Programs will be reviewed for compliance with this subparagraph. Established debts that are forgiven or granted relief will not hinder eligibility for Farm Loan Programs, but should be considered when assessing credit history.

69 Managerial Ability (Continued)

A General Requirement (Continued)

*--The applicant or entity member may document this experience through FSA farm records or similar documentation.

Applicants or entity members should be able to demonstrate that they have carried out--* their operation according to standard farming practices including keeping accurate records of income and expenses, income tax records, and breeding statistics, as applicable.

[7 CFR 764.101(i)(4)] Alternatives for ML's made for OL purposes. Applicants for ML's made for OL purposes, also may demonstrate managerial ability by one of the following:

***--[7 CFR 764.101(i)(4)(i)] Certification of a past participation with an agriculture-related organization, such as, but not limited to, 4-H Club, FFA, beginning farmer and rancher development programs, Tribal Youth Organizations, or Community Based Organizations, that demonstrates experience in a related agricultural enterprise; or**

[7 CFR 764.101(i)(4)(ii)] A written description of a self-directed apprenticeship combined with either prior sufficient experience working on a farm or significant small business management experience. As a condition of receiving the loan, the self-directed apprenticeship requires that the applicant seek, receive, and apply guidance from a qualified person during the first cycle of production and marketing typical for the applicant's specific operation. The individual providing the guidance must be knowledgeable in production, management, and marketing practices that are pertinent to the applicant's operation, and agree to form a developmental partnership with the applicant to share knowledge, skills, information, and perspective of agriculture to foster the applicant's development of technical skills and management ability.--*

Example: An application seeking DOL-ML financing to produce tomatoes to sell at a farmers market knows a local farmer that produces salad green and this farmer is willing to mentor the applicant during the first production cycle. The farmer's mentorship of the applicant can include advice and applied knowledge on crop planning, supply sources, pest and disease management, and outlets for marketing and sales. The applicant is the responsible party throughout the mentorship for obtaining guidance from the mentor.

Note: The mentor does not have to have the exact same type of operation as the *--applicant, but should be related, for example the applicant for a tomato DOL-ML should not have a dairy farmer as his mentor unless the mentor also has produce experience. --*

70 Borrower Training**A General Requirement**

[7 CFR 764.101(j)] The applicant must agree to meet the training requirements in subpart K of this part (Part 18, Section 1).

Note: For an entity applicant, at least one member of the entity must agree to meet the training requirements of Part 18, Section 1.

Borrower training requirements for Streamlined CL applicants will be automatically waived *--without further documentation. All other applicants will automatically be considered for a waiver.--*

71 Owner/Operator of a Family Farm**A General Requirement**

[7 CFR 764.101(k)(1)] Except for CL, the applicant must be the operator of a family farm after the loan is closed.

[7 CFR 764.101(k)(2)] Except for CL, for an entity applicant, if the entity members holding a majority interest are:

(i) Related by blood or marriage, at least one member must be the operator of a family farm;

(ii) Not related by blood or marriage, the entity members holding at least 50% interest must be the operators of a family farm.

[7 CFR 764.101(k)(3)] Except for CL or EM loans, the collective interests of the members may be larger than a family farm only if:

- (i) Each member's ownership interest is not larger than a family farm;**
- (ii) All of the members of the entity are related by blood or marriage; and**
- (iii) All of the members are or will become operators of the family farm; and**

Part 5 Loan Security

91 Security Requirements

A General

[7 CFR 764.103(a)] Security requirements specific to each loan program are outlined in subparts D through I of this part (Parts 7 through 10), and

For the specific requirements for each direct loan program, see:

- paragraph 135 for FO security
- *--paragraph 154 for Down Payment loan security--*
- paragraph 175 for CL security
- paragraph 205 for OL security
- paragraph 230 for youth loan security
- paragraph 246 for EM security.

Advice on obtaining security will be obtained from OGC when necessary, especially on obtaining security when a life estate is involved.

B Adequate Security

[7 CFR 764.103(b)] All loans must be secured by assets having a security value of at least 100 percent of the loan amount, except for EM loans as provided in subpart I of this part (Part 10). If the applicant's assets do not provide adequate security, the Agency may accept:

[7 CFR 764.103(b)(1)] A pledge of security from a third party; or

--In cases where non-applicants will pledge the full value of personal property security, the-- authorized agency official will obtain CCC-10 and FSA-2028 from the nonapplicant authorizing FSA to file the required instrument to perfect FSA's lien.

In unique situations, such as areas where land is held in communal rather than fee simple title, or where DOJ lacks jurisdiction, it may be necessary for SED, with advice from OGC, to issue a State supplement.

--See subparagraph 416 C for further guidance on personal property security pledged by-- multiple owners.

[7 CFR 764.103(b)(2)] Interests in property not owned by the applicant (such as leases that provide a mortgageable value, water rights, easements, mineral rights, and royalties).

The value of adequate security is established according to subparagraph 95 A.

91 Security Requirements (Continued)

C Additional Security

[7 CFR 764.103(c)] An additional amount of security will be required, if available, to reach a 125 percent security margin. Total loan security in excess of what is needed to achieve a security margin of 125 percent will only be taken when it is not practicable to
--separate the security, including within species of livestock and lines of machinery and equipment, or if necessary to satisfy the requirements of § 764.254(b)(2)(i). Loans that do not require additional security are down payment loans, MLs, youth loans, and FOs for the purchase of a farm where the applicant provides a cash down payment equal to 5 percent or greater of the purchase price and the total financing provided by the Agency and all other creditors does not exceed 95 percent of the purchase price or the value of the real estate, whichever is less. Non-real estate assets will not be taken as additional security for any loan where real estate serves as adequate security.--

Applicable additional security for a loan where real estate serves as adequate security may include land, permanent structures, and fixtures that can be described on the security instrument, including but not limited to, bins, silos, and gutter cleaners. Also included are items that are considered part of the farm and ordinarily pass with the title to the farm. These items include assignments of leases and leasehold interests having mortgageable value, water rights, easements, rights-of-way, revenues, mineral rights, and royalties from mineral rights.

In the case of an entity, when all the security held by the entity does not meet the requirement for additional security up to 125 percent of the loan amount, FSA will take liens on assets held by individual members, as security to the extent that the members have suitable assets. The entity will select and notify FSA which asset it prefers to offer as security for the loan. Personal property held by an entity member will not be taken as additional security for any loan where real estate serves as primary security.

The authorized agency official will take security with equity that exceeds 125 percent of the
 --loan amount if it is not practical to separately secure the property. A legally defined tract--
 of real estate is often not practical to split because of extensive and costly processes at the local level. Additionally, it is recognized that a blanket lien on all livestock or all equipment may also result in a security margin exceeding 125 percent as it is * * * not practical to separate within species of livestock or lines of equipment in security instruments. Loan approval officials need to take steps to ensure the Agency is not taking more than 125 percent security when avoidable. Standard UCC-1 statements providing a blanket lien on all personal property should only be altered if determined necessary by the Regional OGC such as when a purchase money security interest needs to be established for equipment being purchased using FSA funds and another creditor already holds a blanket first lien on equipment.

--The selection of additional security must be determined based on available equity in the assets at the time of loan making. The 125 percent threshold is determined by the available equity after taking prior liens into consideration. The value of additional security is established according to subparagraph 95 B.--

91 Security Requirements (Continued)

C Additional Security (Continued)

Example 1: FSA approves a loan to purchase cattle. FSA files a blanket UCC-1 that includes all livestock. The applicant signs FSA-2028 that includes the description of cattle to be purchased and any existing breeding cattle. Note that FSA-2028 includes an after acquired clause. Since individual cattle would not be considered separate and identifiable, FSA will require a security interest in all cattle, even if the total value of cattle exceeds 125 percent of the loan amount.

Example 2: An annual OL of \$100,000 is secured primarily by crops. The applicant has equity in equipment valued at \$60,000 and equity in breeding livestock valued at \$30,000. The loan approval official should perfect the Agency's lien on crops and breeding livestock, and ensure equipment is not taken as security for the Agency loan.

Example 3: A term OL of \$200,000 is secured primarily by equipment with equity valued at \$250,000. The loan approval official should perfect the Agency's lien on the line of equipment only, and ensure other personal property, including crops, are not taken as security.

* * *

***--Example 4:** Using the regular FO program, FSA is financing the \$200,000 purchase of a--* property that has an appraised value of \$200,000. The applicant presently owns 3 tracts of unimproved real estate, each with a separate legal description. FSA estimates the value of Tract 1 to be \$25,000, Tract 2 to be \$50,000, and Tract 3 to be \$150,000. Bank ABC has a single mortgage or deed of trust filed on all 3 existing tracts securing a loan balance of \$150,000. Barring any applicable exceptions to additional security requirements provided in paragraph 94, FSA should obtain the required \$50,000 of additional security by requiring Tracts 2 and 3 as additional security.

***--Example 5:** FSA is providing a \$100,000 term OL to a new FLP customer to purchase a--* combine. FSA considers the combine to be purchased to be valued at \$100,000. The applicant presently owns a line of equipment valued at \$400,000, and owns no other assets suitable as additional security for the term OL. Bank XYZ has outstanding debt of \$200,000 secured by the applicant's entire \$400,000 existing line of equipment. FSA would perfect a first lien on the combine being purchased and would also take a junior lien on the entire \$400,000 line of equipment as additional security.

91 Security Requirements (Continued)**C Additional Security (Continued)**

***--Example 6:** FSA is providing a \$100,000 term OL (loan 44-02) for an existing borrower to purchase a combine. FSA considers the combine to be purchased to be valued at \$100,000. The borrower presently owns a line of equipment valued at \$400,000, and owns no other assets suitable as additional security for loan 44-02. This line of equipment valued at \$400,000 serves as security for FSA's only outstanding loan of \$200,000 (loan 44-01) and would also serve as additional security for the new loan (loan 44-02).--*

* * *

D Choice of Security

[7 CFR 764.103(d)] The Agency will choose the best security available when there are several alternatives that meet the Agency's security requirement.

When there are several alternatives available, any 1 of which will meet the security requirements for the loan, the authorized agency official has the discretion to select the best alternative for obtaining adequate security. The choice of security will be included on FSA-2313.

FSA primarily chooses between like types of security. FSA will also consider lien position when choosing security.

91 Security Requirements (Continued)

E Requirement to Obtain Liens on All Non-Essential Assets

[7 CFR 764.103(e)] The Agency will take a lien on all assets that are not essential to the farming operation and are not being converted to cash to reduce the loan amount when each such asset, or aggregate value of like assets (such as stocks), has a value in excess of \$15,000. The value of this security is not included in the Agency's additional security requirement stated in paragraph (c) of this section (subparagraph C). This requirement does not apply to down payment loans, CL, ML, or youth loans.

See the 7 CFR 761.2(b) (Exhibit 2) definition of non-essential assets, which states working capital reserves and savings that do not exceed the greater of \$30,000 or 20 percent of planned typical year farm operating expenses (not including interest or depreciation) are *--considered essential. Additionally, essential assets include funds in IRS recognized retirement accounts or qualified tuition programs held by the applicant, borrower, or entity members in the case of an entity. As well, funds held by the applicant, borrower, or entity members in the case of an entity, which are accumulated for specific farm related capital purchases, farm operating expenses, and family living expenses, to be realized in the next operating cycle, are considered essential assets. Working capital reserves and savings in excess of these amounts are considered non-essential assets unless a written exception is provided by SED, FLC, FLS, or DD.--*

Applicants must satisfy the test for credit eligibility requirements in subparagraph 66 A.

Note: The working capital reserves and savings thresholds provided reflect the accumulation of approximately 4 years of reasonable annual savings in 1-FLP, subparagraph 242 A.

This requirement to obtain liens on all non-essential assets is intended to provide FSA with a security interest in assets that are not essential to the farming operation, but which the applicant cannot or will not convert to cash to reduce credit needs or outstanding obligations. This requirement applies to individual applicants, entity applicants, as well as all individual members of the entity.

For FO, OL, and EM, the value of non-essential assets is:

- not included as part of the 125 percent additional security requirement, except CL

Note: The value of the nonessential asset may be included in the adequate security value calculation, if necessary for the applicant to meet the 100 percent collateral requirement.

- established according to subparagraph 95 B.

For CL, the applicant is only required to pledge enough non-essential assets to meet the 125 percent requirement.

91 Security Requirements (Continued)

F Securing Multiple Loans

[7 CFR 764.104(d)] The same real estate may be pledged as security for more than one direct or guaranteed loan.

***--[7 CFR 764.105] The same personal property may be pledged as security for more--*
than one direct or guaranteed loan.**

92 Real Estate Security

A Overview

Real estate security includes land and permanent structures, including fixtures that can be described on the security instrument, such as bins, silos, and gutter cleaners. It also includes items that are considered part of the farm and ordinarily pass with the title to the farm. These items include assignments of leases and leasehold interests having mortgageable value, water rights, easements, rights-of-way, revenues, mineral rights, and royalties from mineral rights.

Different lien positions on real estate are considered separate and identifiable security.

B Agency Lien Position

[7 CFR 764.104(a)] If real estate is pledged as security for a loan, the Agency must obtain a first lien, if available. When a first lien is not available, the Agency may take a junior lien under the following conditions:

[7 CFR 764.104(a)(1)] The prior lien does not contain any provisions that may jeopardize the Agency's interest or the applicant's ability to repay the FLP loan;

[7 CFR 764.104(a)(2)] Prior lienholders agree to notify the Agency prior to foreclosure;

Each prior lienholder must sign FSA-2319 before loan closing, when real estate will serve as security necessary to meet the adequate security requirement in subparagraph 91 B.

When real estate will be required to meet additional security requirements of subparagraph 91 C, FSA-2319 will be provided to each prior lienholder for signature. However, a lien will still be obtained on the real estate to be pledged as additional security, even if a prior lienholder refuses to sign the FSA-2319.

[7 CFR 764.104(a)(3)] The applicant must agree not to increase an existing prior lien without the written consent of the Agency; and

Note: In cases where FSA will have a junior lien position on real estate that secures the prior lienholder's LOC, advances up to the existing LOC ceiling are authorized. However, in no case can the LOC ceiling be increased without written Agency consent.

94 Exceptions to Security Requirements

A Overview

[7 CFR 764.106] Notwithstanding any other provision of this part, the Agency will not take a security interest:

See subparagraphs B through G for when FSA will not take a security interest on property.

B Jeopardizing Operating Credit

[7 CFR 764.106(a)] When adequate security is otherwise available and the lien will prevent the applicant from obtaining credit from other sources.

FSA will not take a lien on personal property if it will prevent the applicant or members of an entity applicant from obtaining operating credit from other sources.

In some situations FSA will not take a security interest on an asset, either because of liabilities associated with the security itself, or because the financial position of the applicant would be jeopardized. FSA may take a security interest in these situations only if real estate and personal property security have not provided adequate security.

C Environmental and Historical Impact

[7 CFR 764.106(b)] When the property could have significant environmental problems *--or costs as described in Part 1b of this title.--*

A lien will not be taken on property that could have significant environmental problems or costs, for example, any known or suspected:

- underground storage tanks
- hazardous wastes
- contingent liabilities
- wetlands
- endangered species
- historic properties.

See 1-EQ and 2-EQ for more information on environmental assessments and requirements.

D Lien Position Cannot Be Perfected

[7 CFR 764.106(c)] When the Agency cannot obtain a valid lien;

SED will issue a State supplement in areas where DOJ has no jurisdiction or has advised FSA that because of the lack of a Federal District Court, DOJ will not litigate civil cases.

94 Exceptions to Security Requirements (Continued)

E Personal Residence of Applicant

[7 CFR 764.106(d)] Unless the applicant provides a written request for an exemption, when the property includes the primary personal residence and appurtenances of the applicant or any entity member(s) and:

[7 CFR 764.106(d)(1)] They are located on a separate parcel of up to the greater of 10 acres or the minimum size that meets all State and local requirements for a division into a separate legal lot; and

[7 CFR 764.106(d)(2)] The security requirements of 7 CFR 764.103(b) can be satisfied without the use of the primary personal residence and appurtenances;

Note: If an applicant requests that FSA obtain a security interest in the primary personal residence and appurtenances of the applicant or any entity members, FSA will clarify in FSA-2313 that, as the applicant has requested, a security interest will be obtained in the primary personal residence and appurtenances. The applicant's written request for the exemption may be satisfied by the applicant's acceptance and signature on FSA-2313.

***--Example:** At the time of application, an individual applicant owns a home on 1 acre, which is the applicant's personal residence. FSA is financing the purchase of 80 acres and the construction of the applicant's planned residence on the purchased 80 acres, which must be considered the applicant's primary personal residence. According to subparagraph 135 D [7 CFR 764.155(b)], FSA is required to obtain a security interest in the home being constructed, since the property is being purchased or improved with loan funds. FSA will require a security interest in the 1 acre with a home if the property is needed to meet subparagraph 91 C [7 CFR 764.103(c)] additional security requirements, as the home is not considered the applicant's primary personal residence for purposes of determining additional security requirements when the purpose of the loan making action is to construct or obtain a new primary residence. The 7 CFR 764.106(d) exception to consider the existing home on 1 acre as additional security is not applicable, as the plan is that the home on 1 acre will not be the primary personal residence of the applicant.--*

An FO [7 CFR 764.155(b)] or EM for real estate physical losses [7 CFR 764.355(a)], which is used for the purchase or improvement of the primary personal residence of the applicant or any entity members will require a security interest in the personal residence and appurtenances purchased or improved with loan funds. Similarly, an OL [7 CFR 764.255(d)] used for the improvement of the primary personal residence of the applicant or any entity members will require a security interest in the personal residence and appurtenances improved with loan funds.

94 Exceptions to Security Requirements (Continued)**E Personal Residence of Applicant (Continued)**

7 CFR 764.103(b) requires that all loans (except for EM loans meeting certain criteria) must be secured by assets having a security value of at least 100 percent of the loan amount. This may require FSA obtain a security interest in real estate not being purchased or improved with loan funds. In such a case, for the primary personal residence and appurtenances of the applicant or any entity members to be excepted, remaining adequate security must meet the requirement of at least 100 percent of the loan amount.

A security interest in the primary personal residence and appurtenances of the applicant or any entity members will not be required as additional security [7 CFR 764.103(c)] when located on a separate parcel of up to the greater of 10 acres or the minimum size that meets all State and local requirements for a division into a separate legal lot.

7 CFR 764.106(d)(1) includes that to be excepted, the personal residence and appurtenances of the applicant or any entity members must be located on a separate parcel. If the tract to be excepted is not already legally separated at the time of loan application, the applicant will be provided the opportunity to obtain an adequate legal description and meet any additional State or local requirements for separation of the residence before loan closing. The applicant will be responsible for any associated costs. Legal separation of the residence must result in the remaining security property being marketable and accessible.

A farmstead, including farm buildings and other improvements, may lay within the separated parcel of up to the greater of 10 acres or the minimum size able to be parceled into a separate legal lot.

F Other Assets of Applicant

[7 CFR 764.106(e)] When the property is subsistence livestock, cash, working capital accounts the applicants uses for the farming operation, retirement accounts, personal vehicles necessary for family living, household contents, or small equipment such as hand tools and lawn mowers; or

G ST Loans

[7 CFR 764.106(f)] On marginal land and timber that secures an outstanding ST loan.

FSA is statutorily prohibited from taking additional liens on property securing an ST loan.

H Documenting Exceptions

When security is not taken for any of the mentioned reasons, the authorized agency official must document the decision in FBP.

95 Appraisals and Values

A Adequate Security

***--[7 CFR 764.107(a)] The value of real estate will be established by a real estate appraisal or real estate evaluation completed in accordance with §761.7 (1-FLP, Part 6) of this chapter.**

FLP staff should refer to 1-FLP, Part 6 for guidance on valuation of real estate for direct loans.--*

* * *

***--[7 CFR 764.107(b)] The value of personal property will be established as follows:**

FLP staff should refer to 1-FLP, Part 6 for guidance on valuation of personal property.--*
An appraisal will be completed to determine market value and applicant equity when:

- an initial loan is made on personal property owned by the applicant
- properties to be acquired when the item can be specifically identified
- a subsequent loan is made to refinance debt.

Note: A desk appraisal may be completed on livestock or equipment when video or photographs exist of the items to be purchased, negating the need to always have to complete an in-person inspection of security items.

***--[7 CFR 764.107(b)(1)] Except for loan transactions approved through AFT, the security value of annual livestock and crop production is presumed to be 100 percent of the amount loaned for annual operating and family living expenses, as outlined in the approved farm operating plan.**

Loan applications processed through AFT will follow the FBP User Guide Section, J.17.1.

[7 CFR 764.107(b)(2)] The security value of annual livestock and crop production for loan transactions approved through AFT is not presumed to be 100 percent of the amount loaned for annual operating and family living expenses in the applicant's proposed farm operating plan. The amount of an annual operating loan approved through AFT will not exceed the lesser of:

- **75 percent of the Gross Income reported on Schedule F (or equivalent descriptions from farm income in entity tax returns) for the most recent available tax return; or**
- **The total gross farm income, which for purposes of this paragraph means all production and income excluding non-farm income in the cash flow projection submitted by the applicant with the loan application.**

For annual operating loans approved through AFT, the security value is assumed to be equal to the loan amount approved according to the above guidance.

[7 CFR 764.107(b)(3)] The value of livestock and equipment will be established by an appraisal completed in accordance with §761.7 (1-FLP) of this chapter.

95 Appraisals and Values (Continued)**B Situation When Appraisals Are Not Required**

An appraisal is not required for any of the following:

- real estate or personal property taken as additional security
- non-essential assets
- loans for annual operating and family living expenses when normal income security is the primary security
- items that are not readily and specifically identifiable.

Note: If property **cannot** be specifically identified (such as livestock or equipment planned to be purchased at auction), a formal personal property appraisal does **not** need to be completed. However, the estimated value of the items to be purchased must be analyzed and satisfy FSA security requirements and should be documented in the credit action of FBP. Security agreements will be updated once security items are more specifically identifiable.

The authorized agency official, to whom SED delegated loan approval authority under 1-FLP, will estimate the market value. The authorized agency official must document the value in FBP, with the basis for the estimate. If the applicant disagrees with the estimated values, FSA may accept an appraisal from the applicant, obtained at the applicant's expense, if the appraisal meets all FSA requirements.

96–110 (Reserved)

112 Type of Insurance Required (Continued)

C Crop Insurance (Continued)

[7 CFR 764.108(d)] Prior to closing the loan, the applicant must have obtained at least the catastrophic risk protection level of crop insurance coverage for each crop which is a basic part of the applicant's total operation, if such insurance is available. The applicant must execute an assignment of indemnity in favor of the Agency for this coverage.

Applicants must obtain at least the catastrophic risk protection level of crop insurance coverage, if available, for each crop of economic significance, as defined by 7 CFR 400.651.

The reason that crop insurance was not obtained must be documented in FBP and must be for
 --a reason beyond the applicant's control. Applicants are not required to obtain insurance coverage if the only insurance product available is based on farm revenue only (i.e. Whole-Farm Revenue Protection used by some specialty crop producers).--

Example: The loan or farm was not obtained until after the sign-up period for crop insurance expired.

* * *

D NAP

The NAP program is an important tool in managing potential risk for individuals who raise crops not covered by standard crop insurance. The authorized agency official will discuss the NAP program with all applicants who plan to raise crops which are eligible for NAP coverage. FSA should determine if using NAP coverage is cost effective for the operation and if it will likely benefit both the applicant and the Agency as part of the overall farm plan. If NAP coverage is likely to provide benefits to the operation, applicants will be encouraged to participate in the NAP program, but under no circumstances can it be made mandatory.

113 Documentation**A General**

Before loan closing, applicants must provide the applicable documentation required according to subparagraphs B and C.

B Documentation of Hazard and Flood Insurance

An applicant should demonstrate hazard or flood insurance coverage by 1 or more of the following documents:

- an insurance policy showing the effective date
- an endorsement to a policy showing the effective date
- a written binder showing the effective date
- a “declaration” page furnished by the insurance company, clearly stating that it is an original declaration page, and showing the effective date
- a receipt for insurance premiums, if the receipt shows the period covered.

An applicant relying on a written binder or receipt for premiums must submit an acceptable insurance policy or endorsement to the authorized agency official within 60 calendar days after the effective date of the policy and before the expiration date of the binder.

The applicant must demonstrate, either through receipts for insurance premiums or another way, that the insurance is effective for at least 12 months following loan closing.

Coverage for a building under construction should be demonstrated by either coverage under a builder’s risk:

- policy naming the applicant as the insured
- endorsement for a policy issued to the applicant.

A policy or endorsement used to cover a building while the building is under construction must convert automatically to full coverage once the building is completed or the applicant must obtain other acceptable coverage.

--The authorized agency official will not rely upon a builder’s risk policy issued to the-- contractor who is constructing the building.

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:

***--[7 CFR 764.151(e)(1)] The applicant obtained the loan to be refinanced to purchase a farm after a direct FO was approved;**

[7 CFR 764.151(e)(2)] Direct FO funds were not available to fund the loan at the time of approval;

[7 CFR 764.151(e)(3)] The loan to be refinanced is temporary financing; and

[7 CFR 764.151(e)(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 must 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.

As a guide to assess family farm requirements provided in subparagraph 71 A, the gross farm sales generated by the operation (the applicant's entire proposed operation, including the property to be purchased or improved) should typically be proportionate to the purchase price. To assess proportionality, typical year gross farm sales should normally be at least equal to the annual installments for any debts associated with the real estate purchase or improvement.

The approval official must adequately document exceptions to this consideration for applicants who otherwise meet family farm requirements, but due to circumstances do not fully meet this assessment of proportionality.

--If exceptions to proportionality cannot be supported for loans processed through AFT, the approval official will discuss eligibility concerns with the applicant. The applicant may then choose to opt out of AFT in writing so that FSA can address proportionality under traditional underwriting. The discussion will be documented in the loan file.--

The following are entity rule basics for direct FO:

- applicant must be the operator of the farm and match farming records in farm programs
- the applicant and all members of the applicant entity, including embedded entities and individuals with ownership interests in the entities, must meet eligibility requirements 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 (§ 764.101(l), subparagraph 72 A)

132 Eligibility (Continued)

A General Eligibility (Continued)

- loan is made to the operating entity (FLP applicant), and all entity members (from the operating entity) must sign the promissory note
- ownership may be held by the applicant, or any person or entity (in any combination) that is a party to the application as a member of the operating entity and who signs the promissory note.

Note: A spouse of an individual applicant or of a member of the operating entity may be a co-owner without the requirement for the spouse to be a party to the application or to sign the promissory note.

Example: For this example, use the following facts.

Smith Farms, LLC, (operating entity) members are Bob Smith, Betty Smith, Fred Smith, and Ginger Smith.	Real Estate is owned as follows: • Bob Smith and Betty Smith, as individuals, own 160 acres. • Fred Smith and Ginger Smith, as Fred's Acres Inc., own 80 acres.
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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
- in this example, ownership could be held by:
 - 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 will review debt verification obtained under subparagraph 65 B to determine whether there is any prior loss by the Agency.--

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:

***--[7 CFR 764.152(c)(1)] The entity is controlled by farmers engaged primarily and directly in farming in the United States, after the loan is made;**

[7 CFR 764.152(c)(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.

[7 CFR 764.152(c)(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 members holding at least 50%--* interest must operate the family farm and the entity members holding at least 50% interest or the entity must own the farm.**

***--[7 CFR 764.152(c)(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).**

Note: In circumstances where the applicant is applying to purchase property that is subject to an active lease authorizing another party to operate the property for the remainder of the crop year, the transaction may close providing the lease is terminated at the end of the crop year and the applicant can assume operatorship of the property the following crop year.

134 Joint Financing Arrangements

A General

The following regulations and requirements will apply to both the regular FO and DFO-ML.

[7 CFR 764.154(a)(3)] If the FO loan is part of a joint financing arrangement and the amount of the Agency's loan does not exceed 50 percent of the total amount financed, the interest rate charged will be the greater of the following:

- (i) **The Agency's Direct Farm Ownership rate, available in each agency office, minus 2 percent; or**
- (ii) **2.5 percent.**

FSA encourages using joint financing arrangements. In these arrangements, an applicant *--obtains financing from another lender, which can include a commercial lender, State program, cooperative lender, seller of the farm, or private lender. The applicant will use--* this financing along with FSA financing for any authorized FO purpose.

The following is an example of a DFO-ML joint financing arrangement.

Example: Purchase Price	\$325,000
DFO-ML	\$ 50,000
Other Financing	\$275,000

See 1-FLP, Exhibit 17 for interest rates.

Note: If the regular FO interest rate is lower than the participation rate, the loan will be made as a regular FO.

Other lender's loans may be guaranteed by FSA. See 2-FLP.

B FSA Loan Made at Same Time as Other Lenders

When an FO is made at the same time as a loan from another lender, that lender's lien will have priority over the FSA lien unless otherwise agreed. The lender's lien priority can cover payment of taxes, property insurance, reasonable maintenance to protect the security, and reasonable foreclosure costs including attorney's fees in addition to principal and interest.

135 Rates, Terms, Payments, and Security

A Rates

[7 CFR 764.154(a)(1)] The interest rate is the Agency's Direct Farm Ownership rate, available in each Agency office.

See 1-FLP, Exhibit 17 for interest rates.

135 Rates, Terms, Payments, and Security (Continued)

A Rates (Continued)

--[7 CFR 764.154(a)(2)] Except for those applicants whose loans are approved through AFT, the limited resource Farm Ownership interest rate is available to applicants who are unable to develop a feasible plan at regular interest rates.--

See subparagraph 351 C for more information on limited resource loans when the farm operating plan shows that installments at the higher rate, along with other debts, cannot be paid during the period of the plan.

--Loan requests approved through AFT will not be offered limited resource interest rates.--

[7 CFR 764.154(a)(4)] The interest rate charged will be the lower of the rate in effect at the time of loan approval or loan closing.

B Terms

[7 CFR 764.154(b)] Terms. The repayment terms for an FO, other than a Down Payment loan described in paragraphs 151-154, are:

[7 CFR 764.154(b)(1)] The standard repayment term of an FO will be equal to the useful life of the security or 40 years, whichever is less. Repayment terms less than the standard term must be requested by the applicant in writing. In no event will the term
--be more than 40 years from the date of the note. Except for loan transactions approved through AFT, repayment schedules may include equal installments, or unequal--
installments if needed to establish a new enterprise, develop a farm, recover from a disaster or economic reversal, or reasonably increase cash flow margin to increase working capital reserves and savings, including reasonable savings for retirement and education. Notwithstanding any other provision of this section, repayment schedules must be designed to ensure the loan is fully secured for the life of the loan.

***--Note:** If the authorized agency official deviates from the standard repayment terms, then they must note on FSA-2313 why they did not use the standard term. Additionally, if the customer is requesting an alternative term, that too should be noted on FSA-2313.--*

* * *

--When setting the loan term, the authorized agency official must review the appraisal or evaluation before closing to ensure it aligns with the security's useful life and to account for any depreciation, so the loan remains fully secured for its entire term.--

Example: A regular FO of \$200,000 is being made to finance the purchase of real estate for \$200,000. The real estate consists of a specialized livestock facility that is expected to be functionally obsolete at the end of 15 years, which is valued at \$150,000. The remaining real estate consists of underlying real estate valued at \$50,000, which is not assumed to be depreciable. The applicant has no other long-term assets to pledge as adequate security. Rather than automatically consider a 40-year term, FSA must propose a loan repayment schedule that would allow for principal reduction adequate for the loan to remain secure for the life of the loan.

135 Rates, Terms, Payments, and Security (Continued)

B Terms (Continued)

Repayment terms that include balloon installments are prohibited.

Note: Balloon installments result when scheduled payments are insufficient to pay the loan without requiring a final installment that exceeds twice the amount of a regularly amortized installment.

* * *

***--[7 CFR 764.154(b)(2)] Except for loan transactions approved through AFT, the minimum--* scheduled installments for the first 3 years of an FO must be the interest accrued on the principal balance. Interest-only installments may be permitted for additional years, if determined necessary by the Agency, to establish a new enterprise where production income is delayed, to develop a farm, or to recover from a disaster or economic reversal.**

Unequal installments are authorized during the first 3 years of an FO loan, with the exception of a Down Payment loan, which requires equal, annual installments over a term not to exceed 20 years per 7 CFR 764.204(b)(1) and subparagraph 154 B. The minimum scheduled annual installment for the first 3 years must be the interest accrued on the principal balance. The applicant must be informed that no reduction will be made in principal when an interest-only payment is scheduled. FSA typically considers unequal installments in the second or third year when a farming operation is new and not fully developed but will have a future income stream establishing a new enterprise, developing a farm, recovering from a disaster or economic reversal, or when necessary to provide for the accumulation of a reasonable amount of working capital reserves and savings, including savings for retirement and education of family members. Equally amortized installments will typically begin no later than the 4th installment of the loan. Unequal installments may be structured in years 4 through 6 of the loan with written concurrence of SED, FLC, FLS, or DD. Typically, this is considered when a farming operation is new and not fully developed but will have a future income stream. An example of such an operation is a farm establishing a new orchard.

--The applicant must demonstrate there will be sufficient resources available to meet scheduled amortized installments and the ability to pay the loan in full by the final maturity date. The expected timing of income used to make these scheduled payments will be considered when establishing the loan payment schedule.--

135 Rates, Terms, Payments, and Security (Continued)**B Terms (Continued)**

*--The approval official will calculate the equal amortized payment following any interest-only payments based on the number of years remaining.

Example: The term of the loan is 40 years and the loan will be structured with an interest-only installment in years 1 through 3. The scheduled annual payment for years 4 and beyond will be based on a 37-year amortization.

Note: Payments for new FO's, except for Down Payment loans, approved concurrently with primary loan servicing, may only receive an interest-only installment for the first year with equally amortized installments beginning in year 2.

[7 CFR 764.154(b)(3)] Loans approved through AFT must include equal installments, except that they may include an interest-only installment scheduled up to 12 months from the date of loan closing.--*

* * *

154 Rates, Terms, and Security

A Rates

[7 CFR 764.204(a)] The interest rate for Down payment loans will be the regular direct FO rate minus 4 percent, but in no case less than 1.5 percent. See 1-FLP, Exhibit 17 for current rates.

***--Note:** When the interest rate at loan closing is less than the rate at approval, the County Office must submit FSA-2446 to RD Business Center to have the lower rate manually applied to the loan.--*

B FSA Terms

[7 CFR 764.204(b)(1)] The Agency schedules repayment of Down payment loans in equal, annual installments over a term not to exceed 20 years.

***--Down Payment loans will only be offered with equal amortized payments, without an interest-only or unequal installment option.**

The authorized agency official may schedule repayment over a period of less than 20 years if requested by the applicant in writing and the farm operating plan (see 1-FLP, Part 8, Section 3) indicates that the loan can be repaid within the period requested.

Under AFT, repayment periods less than 20 years will be provided if requested by the applicant in writing without further analysis.--*

C Other Lender Terms

[7 CFR 764.204(b)(2)] The non-Agency financing must have an amortization period of at least 30 years and cannot have a balloon payment due within the first 20 years of the loan.

154 Rates, Terms, and Security (Continued)**D Minimum Security Requirements**

[7 CFR 764.205] A Down payment loan must:

[7 CFR 764.205(a)] Be secured in accordance with §§ 764.103 through 764.106 (paragraphs 91 through 93);

[7 CFR 764.205(b)] Be secured by a lien on the property being acquired with the loan funds and junior only to the party financing the balance of the purchase price.

FSA:

- requires adequate security on a down payment loan as it does for an FO
- does not require additional security
- does not require a lien on non-essential assets.

Note: The purchase price of a property may exceed the appraised value, providing adequate security is available to satisfy all security requirements.

See Part 5 for detailed information on security requirements.

155-170 (Reserved)

173 Limitations**A General**

[7 CFR 764.233(a)] The applicant must comply with the general limitations specified in §764.102 except §764.102(f) (subparagraph 74 F) which does not apply to applicants for the CL Program.

***--Note:** A portion of the applicant's income may be derived from a non-eligible enterprise source and the conservation measure may benefit the non-eligible enterprise. However, the applicant must be engaged in production agriculture (an enterprise that would normally be eligible for FSA's FO or OL programs and does not meet FSA's definition of non-eligible enterprise).--*

B Repaying Duplicate Benefits

[7 CFR 764.233(b)] The applicant must agree to repay any duplicative financial benefits or assistance to CL.

Example: FSA provides CL for a project that is eligible for cost-share payments at completion. The cost share payment must be applied to CL as an extra payment when received.

C Site Work Development

When FSA approves CL on which cost share payments are planned, none of the planned CL work can proceed until after NRCS-CPA-1202, Part 60, "Contract Obligations" is electronically signed and dated, or the practice is no longer eligible for NRCS payments. A waiver must be requested from the State Conservationist, but must be approved before the start of the practice.

174 Rates, Terms, and Repayment

A Rates

[7 CFR 764.234(a)] The interest rate:

(1) Will be the Agency's Direct Farm Ownership (regular) rate, available in each Agency office.

(2) Charged will be the lower rate in effect at the time of loan approval or loan closing.

See 1-FLP, Exhibit 17 for interest rates.

B Terms

[7 CFR 764.234(b)] The following terms apply to CL's:

[7 CFR 764.234(b)(1)] The Agency schedules repayment of a CL based on the useful life of the security.

***--[7 CFR 764.234(b)(2)] The maximum term for loans secured by personal property--* only will not exceed 7 years from the date of the note.**

[7 CFR 764.234(b)(3)] In no event will the term of the loan exceed 20 years from the date of the note.

CL's will be scheduled for the lesser of the following:

- maximum loan term:
 - 7 years for personal property
 - 20 years for real estate
- useful life of the security.

***--Note:** If the authorized agency official deviates from the standard repayment terms, then they must note on FSA-2313 why they did not use the standard term. Additionally, if the customer is requesting an alternative term, that too should be noted on FSA-2313.--*

174 Rates, Terms, and Repayment (Continued)

C Repayment

*--CL's processed within AFT may receive an interest only installment scheduled within 12 months from the date of loan closing. All remaining installments must be equally amortized.

If the authorized agency official deviates from the standard repayment terms, then they must note on FSA-2313 why they did not use the standard term. Additionally, if the customer is requesting an alternative term, that too should be noted on FSA-2313.

CL's not processed through AFT are scheduled with annual payments according to the--* following repayment schedule.

- The applicant repays a CL for annual operating expenses when income becomes available. The repayment period will normally be within 12 months, or no more than 24 months after the date of loan closing, if necessary, when marketing plans extend beyond 12 months; for example, when crops or livestock take longer than 12 months to mature. The authorized agency official, by using FSA-2027, may approve a supplemental payment agreement for applicants who receive substantial income from which payments are to be made before their installment due date.
- The standard repayment term of a CL, for purposes other than annual farm operating, secured by personal property only, will not exceed the useful life of the security or 7 years, whichever is less.
- The standard repayment term of a CL, for purposes other than annual farm operating, secured by real estate, will not exceed the useful life of security or 20 years, whichever is less.
- *--The first installment of a CL, for purposes other than annual farm operating, may include an interest-only installment scheduled within 12 months from the date of loan closing if necessary to facilitate repayment.

The applicant must demonstrate there will be sufficient resources available to meet scheduled amortized installments and to pay the loan in full by the final maturity date. The expected timing of income used to make these scheduled payments will be considered when establishing the loan payment schedule.

Note: If the authorized agency official deviates from the standard repayment terms, then they must note on FSA-2313 why they did not use the standard term. Additionally, if the customer is requesting an alternative term, that too should be noted on FSA-2313.--*

- Following the first scheduled installment, a streamlined CL must be structured with equal amortized installments over the remaining term of the loan.

174 Rates, Terms, and Repayment (Continued)

C Repayment (Continued)

- *--The minimum scheduled installments for the first 3 years of a non-streamlined CL, for purposes other than annual farm operating, must be the interest accrued on the principal balance. The applicant must be informed that no reduction will be made in principal when an interest-only payment is scheduled. FSA typically considers such payment schedules when a farming operation is new and not fully developed but will have a future income stream establishing a new enterprise, developing a farm, recovering from a disaster or economic reversal, or when necessary to provide for the accumulation of a reasonable amount of working capital reserves and savings, including those for retirement and education of family members. Equally amortized installments will begin no later than year 4 of the loan. Interest-only installments may be structured in years 4 through 6 of the loan with written concurrence of SED, FLC, FLS, or DD. Typically, this is considered when a farming operation is new and not fully developed but will have a future income stream. An example of such an operation is a farm establishing a new orchard.
- Approval official will calculate the equal amortized payment following any interest-only payments based on the number of years remaining.

Example: The term of the loan is 20 years, and the loan will be structured with an interest-only installment in years 1 through 3. The scheduled annual payment for years 4 and beyond will be based on a 17-year amortization.--*

- After the initial payment, payments are scheduled annually, unless the loan is repaid in a single payment.
- Annual installments must cover, at a minimum, the accrued interest.
- Annual installments may be collected by assignments and supplemental payments.
- If * * * interest-only installments are scheduled for a non-streamlined CL, the applicant must be able to show that there will be sufficient resources available to pay the loan, in full, by the final maturity date.
- *--Balloon installments are not authorized.--*

* * *

175 Security

A Security Requirements

[7 CFR 764.235(a)] The loan must be secured in accordance with requirements established in 764.103 through 764.106 (Part 5).

***--[7 CFR 764.235(b)] Loans to purchase personal property will be secured by a first lien on personal property purchased with loan funds. Real estate may be taken as--* additional security if needed.**

[7 CFR 764.235(c)] Loans of \$25,000 or less for real estate purposes will be secured in the following order of priority:

***--[7 CFR 764.235(c)(1)] By a lien on personal property determined acceptable by the--* Agency, and then**

[7 CFR 764.235(c)(2)] By a lien on real estate, if available and necessary. When real estate is taken as security a certification of ownership in real estate is required. Certification of ownership may be in the form of an affidavit that is signed by the applicant, names all the owners of record of the real estate in question and lists the balances due on all known debts against the real estate. Whenever the Agency is uncertain of the record owner or debts against the real estate security, a title search is required.

[7 CFR 764.235(d)] Loans greater than \$25,000 for real estate purposes will be secured in the following order of priority:

[7 CFR 764.235(d)(1)] By a lien on real estate, if available, and then

***--[7 CFR 764.235(d)(2)] By a lien on personal property, if needed and determined--* acceptable by the Agency.**

[7 CFR 764.235(e)] For loans greater than \$25,000 title clearance is required when real estate is taken as security.

176-190 (Reserved)

204 Rates, Terms, and Repayment

A Rates

[7 CFR 764.254(a)(1)] The interest rate is the Agency's Direct Operating Loan rate, available in each Agency office.

See 1-FLP, Exhibit 17 for interest rates.

***--[7 CFR 764.254(a)(2)] Except for those applicants whose loans are approved through AFT, the limited resource Operating Loan interest rate is available to applicants who are unable to develop a feasible plan at regular interest rates.**

Loan requests approved through AFT will not be offered limited resource interest rates.--*

See subparagraph 351 C for more information on limited resource loans when the farm operating plan shows that installments at the higher rate, along with other debts, cannot be paid during the period of the plan.

Note: When the regular OL interest rate is equal to or less than the limited resource rate, the limited resource rate will not be used.

[7 CFR 764.254(a)(3)] The interest rate charged will be the lower rate in effect at the time of loan approval or loan closing.

[7 CFR 764.254(a)(4)] The Agency's Direct ML-OL interest rate on an ML to a beginning farmer or veteran farmer is available in each Agency office. The interest rate will be the lower of the regular Direct OL interest rate in effect at the time of loan approval or loan closing, or 5 percent.

B Annual OL Term

[7 CFR 764.254(b)(1)] The Agency schedules repayment of OL loans made for annual farm operating and family living expenses when planned income is projected to be available.

(i) The term of the loan may not exceed 24 months from the date of the note, except as provided in paragraph (b)(1)(ii) of this section.

(ii) The term of the loan may exceed 24 months in unusual situations such as establishing a new enterprise, developing a farm, purchasing feed while crops are being established, marketing plans, or recovery from a disaster or economic reverse. In no event will the term of the loan exceed 7 years from the date of the note. Crops and livestock produced for sale will not be considered adequate security for such loans.

204 Rates, Terms, and Repayment (Continued)

B Annual OL Term (Continued)

The applicant repays an annual OL when income becomes available or in accordance with an approved farm operating plan when financing multiple production cycles. The repayment period will normally be within 12 months, or no more than 24 months after the date of loan closing, if necessary, when production or marketing plans extend beyond 12 months. The authorized agency official, by using FSA-2027, may approve a supplemental payment agreement for applicants who receive substantial income from which payments are to be made before their installment due date.

C Other OL Terms

[7 CFR 764.254(b)(2)] The standard repayment term of all other OLs must be equal to the useful life of the security or 7 years, whichever is less. Repayment terms less than the standard term must be requested by the applicant in writing. In no event will the *--term of the loan exceed 7 years from the date of the note. Except for loan transactions approved through AFT, repayment schedules may include equal installments, or--* unequal or balloon installments if needed to establish a new enterprise, develop a farm, recover from a disaster or economic reversal, or reasonably increase cash flow margin to increase working capital reserves and savings, including reasonable savings for retirement and education. Notwithstanding any other provision of this section, repayment schedules must be designed to ensure the loan is fully secured for the life of the loan. Loans with balloon installments:

***--Notes:** If the authorized agency official deviates from the standard repayment terms, then they must note on FSA-2313 why they did not use the standard term. Additionally, if the customer is requesting an alternative term, that too should be noted on FSA-2313.

The approval official must ensure the loan remains fully secured for its entire term by comparing the security's life expectancy to the projected principal pay-down. If a term of less than 7 years is warranted, the FBP Credit Presentation must fully document the justification, including the collateral taken and why it cannot support a full 7-year term.--*

204 Rates, Terms, and Repayment (Continued)**C Other OL Terms (Continued)**

Example: FSA is providing a \$50,000 ML OL for an applicant to purchase 20 cow or calf pairs at a cost of \$2,500 per pair. It is reasonably estimated that the calf portion, which will be sold within a year of closing, of each pair is valued at \$500, while the cow value of each pair is estimated at \$2,000. The purchase of 20 calves for \$500 per head (\$10,000) must be structured as an annual operating use and repaid when the calves are expected to be sold, according to 7 CFR 764.254(b)(1) (subparagraph B), unless the applicant pledges supplementary adequate security that would allow the \$50,000 to be adequately secured over the life of the loan. Without this supplementary adequate security, the first annual installment of the \$50,000 ML OL should include the \$10,000 calf purchase, plus interest on the \$10,000, plus scheduled term debt payment on the remaining \$40,000. Alternatively, credit could be structured as a \$10,000 ML annual OL and separate \$40,000 ML term OL.

204 Rates, Terms, and Repayment (Continued)

C Other OL Terms (Continued)

(i) **Must be secured by an amount projected at the time of loan closing to be at least equal to the direct loan balance outstanding at the time the balloon installment comes due, which may exceed the additional security requirements of § 764.103(c) of this chapter. Total loan security in excess of the requirements of this provision (paragraph *--(b)(2)(i)) will only be taken when it is not practicable to separate the security, including within species of livestock and lines of machinery and equipment. Crops, livestock--* other than breeding stock, or livestock products produced are not adequate collateral for such loans.**

(ii) **Are only authorized when the applicant can project the ability to refinance or restructure the remaining debt at the time the balloon payment comes due based on the expected financial condition of the operation, the depreciated value of the collateral, and the principal balance on the loan.**

When the applicant's projected repayment ability will not allow normal repayment within 7 years, a 7-year loan with a balloon structure may be offered. The maximum balloon structure will be an amortized installment schedule of 21 years, less the number of interest-only or partial principal scheduled installments. The total number of interest-only, partial principal scheduled installments, and years used in the amortization calculation, will not exceed the useful life of all security for the loan.

--Adequate collateral must be available when the balloon payment comes due. The approval official must evaluate the projected unpaid principal and the depreciated value of the primary security at maturity. In most cases, when both interest-only installments and a balloon is offered, this will require a security value at the time of loan closing in excess of the loan-- amount (if the security is other than real estate). For any balloon repayment schedule, the loan approval official must appropriately document the projection of adequate security at loan maturity.

In no case will annual crops or market livestock be used as the sole collateral securing a loan with a balloon installment. A loan with a balloon installment must be adequately secured by basic security, which may include foundation stock, farm equipment, and/or real estate. The loan approval official must document expected life of all security when offering balloon installments.

Useful security life expectancy of common security types for an OL will be considered as follows:

- real estate – 40 years (unless the real estate includes significant rapidly depreciating improvements such as specialized confinement buildings, in which case a weighted life expectancy may be required)

204 Rates, Terms, and Repayment (Continued)**C Other OL Terms (Continued)**

- livestock breeding herd – 12 years, may be decreased or increased by as much as 3 years with substantiating documentation by the loan approval official (typical year cash flow must support an adequate replacement plan in place)
- machinery or equipment – 12 years, may be decreased or increased by as much as 3 years with substantiating documentation by the loan approval official
- high tunnel – 7 years, may be decreased or increased by as much as 3 years with substantiating documentation by the loan approval official.

When processing a potential OL balloon installment, the useful life expectancy of all security consisting of multiple security types should be considered:

- for machinery or equipment of varying life expectancies, the loan approval official should document and use a calculated, weighted average, considering the machinery or equipment guidance in this subparagraph
- for real estate including rapidly depreciating improvements, the loan approval official should document and use a calculated, weighted average
- when real estate not including the value of rapidly depreciating improvements equates to 50 percent or more of the total value of FSA security for the OL, a total life expectancy of security will be considered to be 21 years
- when real estate not including the value of rapidly depreciating improvements is at least 25 percent but less than 50 percent of the total value of FSA security for the OL, a total life expectancy of security will be considered to be 15 years.

Exceptions must be issued in writing by SED, FLC, FLS, or DD for either of the following:

- the security useful life expectancies in this subparagraph
- the determination of the expected life as security for assets not addressed in this subparagraph.

States may provide a State supplement addressing related issues including:

- deviations from the useful life expectancy guidance in this subparagraph for assets described in this subparagraph that have unique local attributes
- life of security terms for common security assets not described in this subparagraph.

204 Rates, Terms, and Repayment (Continued)

C Other OL Terms (Continued)

***--Example 1:** Flexible repayment terms including 3 years of interest-only installments and a balloon are necessary for the applicant to project adequate working capital reserves and savings. The applicant selects a first installment due less than 365 calendar days from closing. Machinery and equipment make up 40 percent of the security for the OL, while unimproved real estate is the remaining 60 percent. The maximum amortization period for the calculation of the 4th through 7th scheduled amortized installments will be 18 years (21 years less 3 years interest-only). Since real estate is 50 percent or more of the total value of FSA security, a 21-year period is used. The loan balance will be due at maturity, 7 years from the date of closing.

Example 2: Flexible repayment terms including 3 years of interest-only installments and a balloon are necessary for the applicant to project adequate working capital reserves and savings. Security for the term OL is machinery and equipment, with a life expectancy of security of 15 years (the basis for 15 years rather than 12 years is documented by the loan approval official). The applicant does not request a first installment date sooner than 365 calendar days from closing. The maximum amortization period for the calculation of the 4th through 6th scheduled amortized installment will be 12 years (15 years less 3 years interest-only). The loan balance will be due at maturity, 7 years from the date of closing.

Notes: Regarding both example 1 and 2, due to the initial 3 years of interest-only installments and the balloon term, a total security value at closing which exceeds the loan amount may be required for the loan to be projected as adequately secured at maturity.

Payments for new term OL's approved concurrently with primary loan servicing will be interest-only for the first year with equally amortized installments beginning year 2, unless an alternative repayment schedule is necessary to develop a feasible plan, or if the applicant requests an alternative repayment schedule as documented by the applicant's acceptance and signature of FSA-2313.--*

(iii) Are not authorized when loan funds are used for real estate repairs or improvements.

204 Rates, Terms, and Repayment (Continued)

C Other OL Terms (Continued)

* * *

***--[7 CFR 764.254(b)(4)] Except for loan transactions approved through AFT, the minimum--* scheduled installments for the first 3 years of an OL, for purposes other than annual farm operating and family living expenses, must be the interest accrued on the principal balance. Interest-only installments may be permitted for additional years, if determined necessary by the Agency, to establish a new enterprise where production income is delayed, to develop a farm, or to recover from a disaster or economic reversal.**

Interest-only payments, beyond the first three installments must be concurred in writing by the SED, FLC, FLS, or DD.

***--[7 CFR 764.254(b)(4)] Loans approved through AFT must include equal installments, except they may include an interest-only installment scheduled up to 12 months from the date of loan closing.**

If the authorized agency official deviates from the standard repayment terms, then they must note on FSA-2313 why they did not use the standard term. Additionally, if the customer is requesting an alternative term, that too should be noted on FSA-2313.--*

Section 2 Microloan OL's and Streamlined OL's**216 DOL-ML Process****A Overview**

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

B Requirements

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

[7 CFR 764.51(c)(1)] The loan requested for OL purposes 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;

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

Notes: 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.

The loan limits allow a borrower to receive up to \$50,000 in OL Microloan funds and \$50,000 in FO Microloan funds, for a total of \$100,000. However, in no case will the loans exceed the individual loan type amount even if done in combination.

DOL – ML must be less than or equal to \$50,000.

DFO – ML must be less than or equal to \$50,000.

* * *

217 Streamlined OL Process

A Overview

The Streamlined Operating Loan (OL) process provides existing FSA loan borrowers, meeting the requirements established in subparagraph 43 A, the opportunity to apply for direct annual operating and/or term operating loans with an abbreviated application process using FSA-2314. The Streamlined OL application eases the quantity of documentation submitted by an applicant and the underwriting performed by the authorized agency official. This does not mean priority consideration for application processing. Farm Ownership, Down Payment Loans, Conservation Loans, and Youth Loans do not qualify to use the Streamlined OL process.

B General Requirements for all Streamlined OL Requests

The following are general requirements for all Streamlined OL requests.

- The applicant must not be delinquent with any creditors, including FSA.
- There have been no significant changes to the operation since the last closed direct FSA loan.

Note: If the operation consists of the same type of commodities and/or livestock and will not require additional labor or equipment resources beyond what is being financed using the Streamlined OL, the change will not be considered significant. However, if the operation changes commodities, enterprises, practices, management, or requires additional labor or equipment resources beyond what is being financed using the Streamlined OL, 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, except for loans processed through AFT.
- The loan amount for the new loan may be increased if it is supported by the cash flow and the applicant continues to meet the streamlined OL requirements. Increased Streamlined OL's processed through AFT are permissible, without a cash flow evaluation, when the loan application meets both AFT requirements and all remaining requirements of this paragraph.--*
- The applicant must not have received primary loan servicing in the previous year.
- Refinancing of any type is prohibited, because refinancing requests are not eligible for a Streamlined OL.
- All other requirements remain the same as any direct OL or direct OL-ML.

217 Streamlined OL Process (Continued)

C Streamlined OL – Annual Operating Loans

FSA will consider Streamlined OL requests for annual operating loan purposes that satisfy *--the criteria provided in subparagraph 217 B, except the cash flow requirements for applications processed through AFT, in addition to the following.--*

- The loan request is to cover projected annual operating and family living expenses.
- The applicant has financed the preceding crop year with an FSA direct annual operating loan or direct OL-ML.

* * *

D Streamlined OL – Term Operating Loans

FSA will consider Streamlined OL requests for certain term operating loan purposes that satisfy the criteria provided in subparagraph 217 B in addition to the following:

- The loan request is limited strictly to the purchase of livestock or equipment
- The applicant has not received a Streamlined OL Term Operating Loan in the last 12 months

Notes: The Agency will consider and approve Streamlined OL Annual and Term Operating Loans as part of the same application package when possible.

If there have been no significant changes, the previous FBP will be copied and brought forward as the Streamlined OL plan with minimal changes required, such as commodity price updates. 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 the OL is being processed as a Streamlined OL application request. All pertinent information on the previous credit presentation may be copied and brought forward. In cases where the capacity or loan amount has increased, the Agency will document the changes under the Capacity section of the credit presentation. All other typical loan making documents will be updated or prepared, as necessary.

218-225 (Reserved)

Section 3 Youth Loans**226 Youth Loan Application Process****A Application Requirements**

See paragraph 44 for complete youth loan application requirements.

--Youth loans are not eligible to be processed through AFT.--

B Youth Loan Exceptions to Operating Loan Requirements

The following requirements from 1-FLP, Part 8 do not apply to the Youth Loan program.

- Farm assessments are not required for youth loans.
- All new youth loans are automatically classified as a “3”.

Note: If a youth loan borrower reaches the age of majority and subsequently gets a direct OL and/or FO, all loans including any outstanding youth loans will be entered into FBP and classified based upon data collected.

- FSA-2037 and FSA-2038 will not be required except in complex cases where information provided on FSA-2301 is inadequate.

C Initial Meeting with Youth Loan Applicant

The authorized agency official should offer a preliminary meeting with the youth to discuss:

- the Youth Loan program, including authorized use of funds and eligibility requirements
- whether the youth has appropriate supervision
- the proposed plan.

227 Uses and Limitations

A Uses

[7 CFR 764.301] Youth loan funds may only be used to finance a modest, income-producing, agriculture-related, educational project while participating in 4-H, FFA, Tribal youth organizations, or a similar organization.

A youth loan provides an opportunity for a youth to acquire experience and education in agriculture-related skills. The approved project must be related to the business of agriculture ~~and must not be a non-eligible enterprise.~~ See Exhibit 2. Each project must be part of an ~~organized and supervised program of work and must produce sufficient income to repay the loan.~~

The applicant must use youth loan funds only to pay the expenses associated with the approved project.

Note: The youth must be participating in an established organization that supports agricultural projects, such as 4-H, FFA, Tribal youth organizations, or a similar organization. The organization provides the structure, the adult supervision, and the expertise to help the youth plan and complete the project.

B Limitations

[7 CFR 764.303(a)] The applicant must comply with the general limitations established at § 764.102 (paragraph 74).

Loan funds may not be used to:

- purchase real estate or make real estate improvements
- refinance debts
- pay family living expenses, except as they relate directly to the approved educational project
- finance a personal vehicle.

Note: The applicant may use loan funds to make only very minor repairs to real estate, for example to fix a window or repair a shed, when the repair is directly related to the approved project.

228 Eligibility (Continued)**D Project Advisor**

The applicant:

--[7 CFR 764.302(d)] Must be recommended and continuously supervised by a project advisor, such as a 4-H Club advisor, a vocational teacher, a county extension agent, Tribal youth advisor, or other agriculture-related organizational sponsor; and--

The application for a youth loan must contain a recommendation from the project advisor and verify that:

- the project advisor:
 - will sponsor the youth
 - has training and/or experience to supervise youth
 - is available to help the youth plan the project, to review the youth's books and records, and to answer questions
- the youth is a member of an organization.

While the project advisor should supervise the youth applicant to an extent acceptable to the authorized agency official, the authorized agency official still has the primary responsibility for supervising the loan.

E Parental Consent

The applicant:

***--[7 CFR 764.302(e)] Must obtain a written recommendation and consent from a--* parent or guardian if the applicant has not reached the age of majority under state law.**

F Requiring Cosigners

A cosigner will be required only if it is determined that the applicant cannot possibly meet the repayment or security requirements for the loan request.

Note: When a plan is feasible using realistic figures, a cosigner will not be required.

229 Rates, Terms, and Repayment

A Rates

[7 CFR 764.304(a)(1)] The interest rate is the Agency's Direct Operating Loan rate, available in each Agency office.

[7 CFR 764.304(a)(2)] The limited resource Operating Loan interest rate is not available for Youth loans.

[7 CFR 764.304(a)(3)] The interest rate charged will be the lower rate in effect at the time of loan approval or loan closing.

See 1-FLP, Exhibit 17 for interest rates.

B Terms

[7 CFR 764.304(b)] Youth loan terms are the same as for an OL established at *--§ 764.254(b) (paragraph 204) except:

[7 CFR 764.304(b)(1)] Balloon installments are prohibited for youth loans; and

[7 CFR 764.304(b)(2)] Unequal installments are prohibited for the purpose of reasonably increasing cash flow margin to increase working capital reserves and savings, including reasonable savings for retirement and education.

Although unequal installments for youth loans are not authorized specifically for working capital reserves and savings, unequal installments are authorized for other reasons including to align the payment structure with the timing that income is expected to be received.--* Payments will be tailored to the type of project for which the loan is made.

* * *

C Repayment Frequency

Youth loan repayment schedules may include equal or unequal payments as follows:

- for annual operating youth loans, the first payment is due when income is received or within 24 months
- for all other operating youth loans, the first payment is due within 12 months of loan closing
- after the initial payment, payments are scheduled annually unless the loan is repaid in a single payment
- annual installments must cover, at a minimum, the accrued interest.

Part 10 Emergency Loan (EM) Program

241 Uses

A Real Estate Physical Loss

[7 CFR 764.351(a)(1)] EM loan funds for real estate physical losses may only be used to repair or replace essential property damaged or destroyed as a result of a disaster as follows:

(i) For any FO purpose, as specified in § 764.151 (paragraph 131), except subparagraph (e) of that section (subparagraph 131 F);

Purchasing real estate is authorized only if:

- all or a portion of existing land has been destroyed or rendered unusable for agricultural purposes
- the parcel being purchased is comparable in size and utility
- the applicant owned the parcel that was rendered unusable
- the salvage value of the damaged parcel minus any prior liens will be applied to the FSA debt once the parcel is liquidated
- FSA takes a lien on all farm real estate that is determined to be unusable to ensure that the sales proceeds are disbursed for authorized purposes such as payment of prior liens, authorized selling expenses, and application to the FSA debt.

(ii) To establish a new site for farm dwelling and service buildings outside of a flood or mudslide area; and

The amount loaned must be supported by written estimates from the supplier or contractor who will provide the services.

Loan funds may be used only to pay for contracted or hired labor and materials or supplies purchased. Labor, machinery, equipment, and materials contributed by the applicant may not be treated as part of the costs for replacement.

--Loan funds may not be used to repair or replace non-essential property.--

(iii) To replace land from the farm that was sold or conveyed, if such land is necessary for the farming operation to be effective.

Note: Soil and water conservation, land and water resource replacement, and land and water development may be performed when existing measures were damaged or destroyed during the disaster or if needed as part of a conservation plan resulting from the purchase of land. Using FSA ECP funding, when available, will be considered in conjunction with loan funds.

241 Uses (Continued)

B Personal Property Physical Loss

Personal property physical losses are divided into 2 categories. The categories, which determine the purposes the loan funds may be used for, are physical loss to:

- basic security, which consists of equipment, perennial crops, fruit and nut bearing trees, and foundation livestock, including replacements
- normal income security, which includes livestock, livestock products, nursery stock, and harvested and stored crops that would be sold or fed during the normal operating cycle.

Note: Loan funds from the loss of harvested and stored crops held for sale may be used for any loan purpose in this paragraph including annual operating expenses. Loan funds that result from the loss of harvested and stored crops that were intended for feed may be used only to replace those feed crops.

***--[7 CFR 764.351(a)(2)] EM loan funds for personal property physical losses may only--* be used to repair or replace essential property damaged or destroyed as a result of a disaster as follows:**

(i) Purchase livestock, farm equipment, quotas and bases, and cooperative stock for credit, production, processing, or marketing purposes;

Only loan funds from the loss of normal income security may be used to purchase quotas and cooperative stock for credit, production, processing, or marketing purposes.

(ii) Pay customary costs associated with obtaining and closing a loan that an applicant cannot pay from other sources (e.g. fees for legal, architectural, and other technical services, but not fees for agricultural management consultation, or preparation of Agency forms);

(iii) Repair or replace household contents damaged in the disaster;

The amount loaned for this purpose is subject to the limitations in subparagraph 244 G.

(iv) Pay the costs to restore perennials, which produce an agricultural commodity, to the stage of development the damaged perennials had obtained prior to the disaster;

See Exhibit 21 for provisions for reestablishing fruit, nut bearing, and income producing trees and plants.

242 Eligibility (Continued)**I Losses**

For production or physical loss loans, the loss and/or damage must be directly attributable to the stated reason for the disaster designation.

The applicant:

[7 CFR 764.352(h)] For production loss loans, must have a disaster yield that is below the normal production yield of the crop, as determined by the Agency, that comprises a basic part of an applicant's total farming operation.

See Exhibit 2 for the definition of basic part of an applicant's total farming operation.

Production losses are calculated according to subparagraph 244 C.

Note: If an applicant cannot plant the usual crop or plants the crop and it is destroyed as a result of the disaster and the applicant plants a substitute crop in its place, then the applicant is not eligible for a production loss on the original crop. However, if the substitute crop suffers a loss, a loan may be made for the loss on that crop.

The applicant:

[7 CFR 764.352(i)] For physical loss loans, must have suffered disaster-related damage
--to personal property or real estate essential to the farming operation, or to household--
contents that must be repaired or replaced, to harvested or stored crops, or to perennial crops.

242 Eligibility (Continued)

J Changes in Ownership Structure

The applicant:

[7 CFR 764.352(j)] Must meet all of the following requirements if the ownership structure of the family farm changes between the time of a qualifying loss and the time an EM loan is closed:

***--[7 CFR 764.352(j)(1)] The applicant, including all owners must meet all of the eligibility requirements;**

[7 CFR 764.352(j)(2)] The individual applicant, or all owners of an entity applicant, must have had an ownership interest in the farming operation at the time of the disaster; and

[7 CFR 764.352(j)(3)] The amount of the loan will be based on the percentage of the--* former farming operation transferred to the applicant and in no event will the individual portions aggregated equal more than would have been authorized for the former farming operation.

K Duplicative Federal Assistance

The applicant:

[7 CFR 764.352(k)] Must agree to repay any duplicative Federal assistance to the agency providing such assistance. An applicant receiving Federal assistance for a major disaster or emergency is liable to the United States to the extent that the assistance duplicates benefits available to the applicant for the same purpose from another source.

If additional disaster benefits are expected from existing programs, but the amount is not known at loan approval, the applicant must assign the benefits to FSA.

Programs enacted after loan approval will not affect EM calculations and are not considered duplicative benefits. In such cases, however, FSA may require an assignment to ensure loan repayment according to subparagraphs 93 B and C on any subsequent payment made to the applicant after the time of loan approval.

The authorized agency official, before closing EM, must verify (through CED and Comprehensive Information Management System), if available, all disaster related compensation or insurance indemnities received or to be received for the designated loss.

242 Eligibility (Continued)**L Equine Losses**

The applicant:

[7 CFR 764.352(l) Whose primary enterprise is to breed, raise, and sell horses may be eligible under this part.

Note: To qualify for an equine EM, the applicant's records must indicate that the majority of farm income is derived from breeding, raising, and selling horses.

M Insurance Requirement

[7 CFR 764.353(e)] EM loan funds may not be used for physical loss purposes unless:

[7 CFR 764.353(e)(1)] The physical property was covered by general hazard insurance at the time that the damage caused by the natural disaster occurred. The level of the coverage in effect at the time of the disaster must have been the tax or cost depreciated *--value, whichever is less. Personal property must have been covered at the tax or cost--* depreciated value, whichever is less, when such insurance was readily available and the benefit of the coverage was greater than the cost of the insurance; or

[7 CFR 764.353(e)(2)] The loan is to a poultry farmer to cover the loss of a chicken house for which the applicant did not have hazard insurance at the time of the loss and the applicant:

- (i) Applied for, but was unable to obtain hazard insurance for the chicken house;**
- (ii) Uses the loan to rebuild the chicken house in accordance with industry standards in effect on the date the applicant submits an application for the loan;**
- (iii) Obtains, for the term of the loan, hazard insurance for the full market value of the chicken house; and**
- (iv) Meets all other requirements for the loan.**

All personal property, excluding livestock, and all real estate must have been covered by hazard insurance at the time of the disaster, if it was available and cost effective.

The level of hazard coverage in effect at the time of the disaster must be the tax assessed value for real estate property. The level of coverage for personal property is the established market value (most recent appraisal/value) before the disaster.

For personal property only, if the applicant did not have an insurance policy in affect at the time of the disaster, the authorized agency official will determine whether it was readily available, and whether the benefit of the coverage would have justified the cost had the applicant made efforts to obtain insurance.

243 Limitations**A General**

[7 CFR 764.353(a)] EM loans must comply with the general limitations established at §764.102 (paragraph 74).

B Restriction on Loan Amount

[7 CFR 764.353(b)] EM loans may not exceed the lesser of:

***--[7 CFR 764.353(b)(1)] The amount of credit necessary to restore the farming operation to its pre-disaster condition;**

[7 CFR 764.353(b)(2)] In the case of a physical loss loan, the total eligible physical losses caused by the disaster; or

[7 CFR 764.353(b)(3)] In the case of a production loss loan, 100 percent of the total--* actual production loss sustained by the applicant as calculated in paragraph (c) of this section (subparagraph 244 C).

See 1-FLP, paragraph 29 for EM limits.

C Refinancing Debt

[7 CFR 764.353(f)] EM loan funds may not be used to refinance consumer debt, such as automobile loans, or credit card debt, unless such credit card debt is directly attributable to the farming operation.

D Equine Losses

[7 CFR 764.353(g)] Losses associated with horses used for racing, showing, recreation, boarding, or pleasure, or loss of income derived from racing, showing, recreation, boarding, or pleasure, are not considered qualified losses under this section.

Note: This limitation does not include operations that race, show, and have recreation or board horses, as long as verifiable records indicate that the applicant's primary income is from breeding, raising, and selling horses.

244 Calculating Losses (Continued)

G Calculating Physical Losses

[7 CFR 764.353(d)] For a physical loss loan, the applicant's total eligible physical losses will be calculated as follows:

[7 CFR 764.353(d)(1)] Add the allowable costs associated with replacing or repairing
***--personal property covered by hazard insurance (excluding labor, machinery,**
equipment, or materials contributed by the applicant to repair or replace personal
property);--*

[7 CFR 764.353(d)(2)] Add the allowable costs associated with repairing or replacing
real estate, covered by hazard insurance;

[7 CFR 764.353(d)(3)] Add the value of replacement livestock and livestock products
for which the applicant provided:

(i) Written documentation of inventory on hand immediately preceding the loss;

(ii) Records of livestock product sales sufficient to allow the Agency to establish a
value;

The value of livestock:

- lost or destroyed as a result of the disaster is the replacement cost minus any salvage value received
- products such as calves, pigs, lambs, eggs, milk, and wool, is established using the prices published in the State commodity price list according to subparagraph C.

[7 CFR 764.353(d)(4)] Add the allowable costs to restore perennials to the stage of
development the damaged perennials had obtained prior to the disaster;

Note: This is the cost of replanting the nursery stock plus all associated operating expenses to bring it back to the stage it was before being destroyed.

[7 CFR 764.353(d)(5)] Add, in the case of an individual applicant, the allowable costs
associated with repairing or replacing household contents, not to exceed \$20,000; and

[7 CFR 764.353(d)(6)] Subtract any other disaster related compensation or insurance
indemnities received or to be received by the applicant for the loss or damage to the
--personal property or real estate.--

Note: Any salvage value received will also be subtracted.

244 Calculating Losses (Continued)

H Examples of Physical Loss Calculations

The following are examples for calculating physical losses to livestock products.

Example 1: The applicant lost 50 bred cows in a flood. The normal 3-year average calving rate is 90 percent and the State-established price for calves weighing 300 to 500 lbs. is \$275. The cost to replace bred cows is \$1,000.

The applicant's physical loss would be calculated as follows.

- $50 \times 90 \text{ percent} = 45 \text{ calves}$
- $45 \times \$275 = \$12,375$
- $50 \times \$1,000 = \$50,000$
- Total physical loss = \$62,375.

Example 2: The applicant lost 20 dairy cows in a storm. The average milk production based on the 3-year average is 18,000 lbs. per cow or 1,500 lbs. per month. The State-established price for milk is \$12.25 per cwt. The cost to replace the cows is \$1,200 per cow. The applicant was not able to replace the cows for 3 months.

The loss will be calculated as follows.

- $20 \times 1,500 \text{ lbs.} = 30,000 \text{ lbs.} \times 3 \text{ months} = 90,000 \text{ lbs. or } 900 \text{ cwt}$
- $900 \text{ cwt.} \times \$12.25/\text{cwt.} = \$11,025$
- $20 \text{ cows} \times \$1,200 = \$24,000$
- Total physical loss = \$35,025.

Note: In both examples the loan funds resulting from the physical loss to cows may only be used to replace those cows, while the loan funds resulting from the loss of calves or milk production is considered loss of normal income and can be used for any authorized operating loan purpose.

245 Rates, Terms, and Repayment

A Rates

[7 CFR 764.354(a)(1)] The interest rate is the Agency's Emergency Loan Actual Loss rate, available in each Agency office.

[7 CFR 764.354(a) (2)] The interest rate charged will be the lower rate in effect at the time of loan approval or loan closing.

See 1-FLP, Exhibit 17 for interest rates.

B Terms

--[7 CFR 764.354(b)(1)] The Agency schedules repayment of EMs based on the useful life of the security and the type of loss.--

* * *

C Minimum Repayment Requirement

[7 CFR 764.354(b)(2)] The repayment schedule must include at least one payment every year.

The payment must be at a minimum the amount of interest accrued on the principal balance at the time the installment is scheduled to be paid.

If unequal or interest-only installments are scheduled, the applicant must be able to show the availability of resources to pay the loan in full by the final maturity date.

D Repayment of Loans for Annual Operating Expenses

***--[7 CFR 764.354(b)(3)] EMs for annual farm operating and family living expenses, except expenses associated with establishing a perennial crop that are subject to paragraph (b)(4), must be repaid within 12 months. The Agency may extend this term to not more than 24 months to accommodate the production cycle of the agricultural commodities.**

The applicant repays an EM for annual operating expenses when income becomes available. The repayment period will normally be within 12 months, or no more than 24 months after the date of loan closing, if necessary, when marketing plans extend beyond 12 months; for example, when crops or livestock take longer than 12 months to mature. The authorized agency official, by using FSA-2027, may approve a supplemental payment agreement for applicants who receive substantial income from which payments are to be made before their installment due date.--*

245 Rates, Terms, and Repayment (Continued)

E Repayment of Loans for Production or Physical Losses to Personal Property

[7 CFR 764.354(b)(4)] The standard repayment term of an EM for production losses or physical losses to personal property security (including assets with an expected life--* between 1 and 7 years) will be equal to the useful life of the security or 7 years, whichever is less. Repayment terms less than the standard term must be requested by the applicant in writing. The Agency may extend the repayment term up to a total length not to exceed 20 years, if adequate security is available, and repayment schedules may include equal installments, or unequal installments, if needed to establish a new enterprise, develop a farm, recover from a disaster or economic reversal, or reasonably increase cash flow margin to increase working capital reserves and savings, including reasonable savings for retirement and education, and security is adequate to support the term of the loan. Notwithstanding any other provision of this section, repayment schedules must be designed to ensure the loan is fully secured for the life of the loan.

***--Note:** If the authorized agency official deviates from the standard repayment terms, then they must note on FSA-2313 why they did not use the standard term. Additionally, if the customer is requesting an alternative term, that too should be noted on FSA-2313.--*

When the applicant's projected repayment ability will not allow normal repayment within 7 years, a term up to 20 years may be offered. A term exceeding 7 years, or repayment schedules including equal or unequal installments, may be needed to establish a new enterprise, develop a farm, reasonably increase working capital reserves and savings accounts, or recover from a disaster or economic reversal.

There must be adequate collateral for the term of the loan. Useful life expectancy of common security types for an EM loan for production or physical losses to personal property will be considered as follows:

- real estate – 20 years (unless the real estate includes significant rapidly depreciating improvements such as specialized confinement buildings, in which case a weighted life expectancy may be required)
- livestock breeding herd – 12 years, may be decreased or increased by as much as 3 years with substantiating documentation by the loan approval official (typical year cash flow must support an adequate replacement plan in place)
- machinery or equipment – 12 years, may be decreased or increased by as much as 3 years with substantiating documentation by the loan approval official
- high tunnel – 7 years, may be decreased or increased by as much as 3 years with substantiating documentation by the loan approval official.

245 Rates, Terms, and Repayment (Continued)**E Repayment of Loans for Production or Physical Losses to Personal Property**

When considering security for an EM loan for production or physical losses to personal property, the useful life expectancy of all security consisting of multiple security types should typically be considered.

- For machinery or equipment of varying life expectancies, the loan approval official should document and use a calculated, weighted average, considering the above machinery or equipment guidance.
- For real estate including rapidly depreciating improvements the loan approval official should document and use a calculated, weighted average.
- When real estate not including the value of rapidly depreciating improvements equates to 50 percent or more of the total value of FSA security for the EM, a total life expectancy of security will be considered to be up to the maximum term 20 years.
- When real estate not including the value of rapidly depreciating improvements, is at least 25 percent but less than 50 percent of the total value of FSA security for the EM, a total life expectancy of security will be considered to 15 years.

Exceptions to the above security useful life expectancies, or the determination of the expected life as security for assets not addressed above, must be concurred in writing by SED, FLC, FLS, or DD. States may provide a State supplement addressing life of security terms for common security assets not provided above.

* * *

245 Rates, Terms, and Repayment (Continued)

E Repayment of Loans for Production or Physical Losses to Personal Property

--[7 CFR 764.354(b)(6)] The minimum scheduled installments for the first 3 years of--
an EM, for purposes other than annual farm operating and family living expenses, must
be the interest accrued on the principal balance. Interest-only installments may be
permitted for additional years, if determined necessary by Agency, to establish a new
enterprise where production income is delayed, to develop a farm, or to recover from a
disaster or economic reversal.

Unequal installments are authorized during the first 3 years of an EM loan for production losses or physical losses to personal property. The minimum scheduled annual payment for the first 3 installments must be the interest accrued on the principal balance. The applicant must be informed that no reduction will be made in principal when an interest-only payment is scheduled. FSA typically considers such payment schedules when a farming operation is new and not fully developed but will have a future income stream establishing a new enterprise, developing a farm, recovering from a disaster or economic reversal, or when necessary to provide for the accumulation of a reasonable amount of capital reserves and savings, including those for retirement and education of family members. Equally amortized installments will begin no later than year 4 of the loan. Unequal installments may be structured in years 4 through 6 of the loan with written concurrence of SED, FLC, FLS, or DD. Typically, this is considered when a farming operation will require an extended recovery from the disaster before returning to an income stream.

Approval official will calculate the equal amortized payment following any interest-only
 *--payments based on the number of years remaining. The applicant must demonstrate there
 will be sufficient resources available to meet scheduled amortized installments and to pay the
 loan in full by the final maturity date. The expected timing of income used to make these
 scheduled payments will be considered when establishing the loan payment schedule.--*

Example: The term of the loan is 10 years and the loan will be structured with an
 interest-only installment in years 1 through 3. The scheduled annual payment for
 years 4 and beyond will be based on a 7-year amortization.

Since repayment terms up to 20 years may be considered, schedules with balloon
 installments are prohibited.

Note: Balloon installments result when scheduled payments are insufficient to pay the loan
 without requiring a final installment that exceeds twice the amount of a regularly
 amortized installment.

245 Rates, Terms, and Repayment (Continued)

F Repayment of Loans for Physical Losses to Real Estate

[7 CFR 764.354(b)(5)] The standard repayment term of an EM for physical losses to real estate will be equal to the useful life of the security or 40 years, whichever is less. Repayment terms less than the standard term must be requested by the applicant in writing. In no event will the term be more than 40 years from the date of the note, and repayment schedules may include equal installments, or unequal installments, if needed to establish a new enterprise, develop a farm, recover from a disaster or economic reversal, or reasonably increase cash flow margin to increase working capital reserves and savings, including reasonable savings for retirement and education, and security is adequate to support the term of the loan. Notwithstanding any other provision of this section, repayment schedules must be designed to ensure the loan is fully secured for the life of the loan.

***--Note:** If the authorized agency official deviates from the standard repayment terms, then they must note on FSA-2313 why they did not use the standard term. Additionally, if the customer is requesting an alternative term, that too should be noted on FSA-2313.--*

* * *

***--[7 CFR 764.354(b)(6)]** The minimum scheduled installments for the first 3 years of--* an EM, for purposes other than annual farm operating and family living expenses, must be the interest accrued on the principal balance. Interest-only installments may be permitted for additional years, if determined necessary by Agency, to establish a new enterprise where production income is delayed, to develop a farm, or to recover from a disaster or economic reversal.

245 Rates, Terms, and Repayment (Continued)

F Repayment of Loans for Physical Losses to Real Estate

Unequal installments are authorized during the first 3 years of an EM loan for physical losses to real estate. The minimum scheduled annual payment for the first 3 installments must be the interest accrued on the principal balance. The applicant must be informed that no reduction will be made in principal when an interest-only payment is scheduled. FSA typically considers such payment schedules when a farming operation is new and not fully developed but will have a future income stream establishing a new enterprise, developing a farm, recovering from a disaster or economic reversal, or when necessary to provide for the accumulation of a reasonable amount of capital reserves and savings, including those for retirement and education of family members. Equally amortized installments will begin no later than year 4 of the loan. Unequal installments may be structured in years 4 through 6 of the loan with written concurrence of SED, FLC, FLS, or DD. Typically, this is considered when a farming operation will require an extended recovery from the disaster before returning to an income stream.

The approval official will calculate the equal amortized payment following any interest-only *--payments based on the number of years remaining. The applicant must demonstrate there will be sufficient resources available to meet scheduled amortized installments and to pay the loan in full by the final maturity date. The expected timing of income used to make these scheduled payments will be considered when establishing the loan payment schedule.--*

Example: The term of the loan is 40 years and the loan will be structured with an interest-only installment in years 1 through 3. The scheduled annual payment for years 4 and beyond will be based on a 37-year amortization.

Repayment terms that include balloon installments are prohibited.

Note: Balloon installments result when scheduled payments are insufficient to pay the loan without requiring a final installment that exceeds twice the amount of a regularly amortized installment.

246 Security Requirements

A General

[7 CFR 764.355(a)] EM loans made under § 764.351(a)(1) (subparagraph 241 A) must comply with the general security requirements established at §§ 764.103 (paragraph 91), 764.104 (paragraph 92) and 764.155(b) (subparagraph 135 D).

[7 CFR 764.355(b)] EM loans made under § 764.351(a)(2) (subparagraph 241 B) and (b) (subparagraph 241 C) must generally comply with the general security requirements established at §§ 764.103 (paragraph 91), 764.104 (paragraph 92) and 764.255(b) (subparagraph 205 A). These general security requirements, however, do not apply to equine loss loans to the extent that a lien is not obtainable or obtaining a lien may prevent the applicant from carrying on the normal course of business. Other security may be considered for an equine loss loan in the order of priority as follows:

- [7 CFR 764.355(b)(1)] Real estate,**
- *--[7 CFR 764.355(b)(2)] Personal property and crops, other than horses,--***
- [7 CFR 764.355(b)(3)] Other assets owned by the applicant,**
- [7 CFR 764.355(b)(4)] Third party pledges of property not owned by the applicant,**
- [7 CFR 764.355(b)(5)] Repayment ability under paragraph (c) of this section.**

In the case of an entity, FSA will take personal assets held by individual members when all the security held by the entity does not meet the requirement for additional security up to 125 percent of the loan amount. The entity will select and notify FSA which assets will be offered as security for the loan.

See Exhibit 2 for the definition of non-essential assets.

See Exhibit 21 for security requirements for loans made for reestablishing fruit, nut bearing, and income producing trees and plants.

246 Security Requirements (Continued)

B Lack of Adequate Security

[7 CFR 764.355(c)] Notwithstanding the requirements of paragraph (a) and (b) of this section, when adequate security is not available because of the disaster, the loan may be approved if the Agency determines, based on an otherwise feasible plan, there is a reasonable assurance that the applicant has the ability to repay the loan provided:

***--[7 CFR 764.355(c)(1)] The applicant has pledged as security for the loan all available personal and business security, except as provided in § 764.106 (paragraph 94);**

If the applicant is an entity, all members also must pledge all assets, both personal and business, as collateral.

[7 CFR 764.355(c)(2)] The farm operating plan, approved by the Agency, indicates--* the loan will be repaid based upon the applicant's production and income history; addresses applicable pricing risks through the use of marketing contracts, hedging, options, or other revenue protection mechanisms, and includes a marketing plan or similar risk management practice;

***--[7 CFR 764.355(c)(3)] The applicant has had positive net cash farm income in at--* least 3 of the past 5 years, and**

Net farm income is determined by subtracting all cash farm expenses from all farm income reported on Schedule F and other related schedules of the applicant's Federal income tax returns.

Positive net cash farm income is determined by analysis of the applicant's tax records for the 5 years immediately preceding the disaster year. If the applicant has been farming less than 5 years, a positive net cash farm income must have been achieved in 50 percent or more of the years farmed.

Note: If depreciation is shown on Schedule F, it is not a cash expense and must not be included as an expense.

***--[7 CFR 764.355(c)(4)] The applicant has provided the Agency an assignment on any--* USDA program payments to be received.**

Part 15 Loan Decision

351 Reviewing and Evaluating Applications

A Timeframe

[7 CFR 764.53(c)] Within 60 calendar days after receiving a complete loan application, the Agency will complete the processing of the loan request and notify the applicant of the decision reached, and the reason for any disapproval.

The authorized agency official must make the decision to approve or deny the loan so that the applicant can be notified in writing within 60 calendar days after the loan application is determined complete.

To ensure that a loan application is expeditiously reviewed, the State or County Office must enter a reason and, if necessary, an explanation into DLS when the loan decision has not been made within 45 calendar days after receiving a complete loan application.

SED, FLC, and DD will monitor the processing of all loan applications to ensure that loan applications are processed in a timely manner.

B Eligibility

To evaluate the applicant's eligibility, the following should be considered during preparation of the FBP's Credit Presentation.

- Does the applicant meet the general eligibility and specific eligibility requirements for the type of loan requested?
- Does the applicant meet the definition of beginning farmer or SDA to qualify for targeted funds?
- Are funds requested for authorized purposes?
- Will the requested loan, plus the principal balance on other FLP loans, be within the loan limits contained in 1-FLP?
- Is a plan in place or has a waiver been granted to meet applicant training needs?
- Is the applicant unable to obtain sufficient credit elsewhere? (Does not apply to CL's.)
- If the request is for EM, did the applicant have a qualifying loss?

351 Reviewing and Evaluating Applications (Continued)**C Feasibility**

To evaluate the applicant's operating plan feasibility, the following should be considered during the preparation of the FBP Credit Presentation.

Notes: Farm operating plans for poultry or hog contract growers must be developed according to 1-FLP, Part 8, Section 3.

--The requirements of this section do not apply to loans processed and approved through AFT. See subparagraph 45 H.--

- Does the farm operating plan show that the new loan, farm operating and family living expenses, and all other obligations will be repaid? The plan should first be prepared using regular rates and terms. If the plan shows repayment at regular rates, the regular rates will be used for the loan. However, if the plan does not show repayment at regular rates, limited resource rates should be substituted and the plan recalculated to see if repayment is possible.
- Are the operating and family living expenses, nonfarm income, and farm and other income included in the farm operating plan realistic?
- Is projected production realistic based on the applicant's or operation's history and the planned improvement practices?
- If non-FSA credit is planned, has documentation been obtained that the loan has been approved?
- Is the farm suitable for any planned specialized operations?
- Are the land, buildings and facilities, and water supply adequate for the planned operation?
- Is there reasonable assurance that any rented land which the applicant depends on will continue to be available?
- Is any off farm employment the applicant depends on likely to continue?

351 Reviewing and Evaluating Applications (Continued)**E Environmental (Continued)**

According to 6-CP, applicants must certify that they will not violate HEL and WC provisions by completing and executing AD-1026 for each farming interest. If, on AD-1026, question 6, 7A, 7B, or 7C is answered “yes” by the applicant, then AD-1026 will be referred to NRCS for a HEL or wetland determination, as appropriate.

A conservation plan may be required if the property contains HEL. If a conservation plan is required, NRCS should be contacted to:

- determine what the conservation plan will contain
- evaluate if the applicant has the resources to carry out the plan.

The authorized agency official should consider the proposed use of loan funds; the contents of the conservation plan, if a conservation plan exists; and changes in land use when determining whether an applicant is likely to violate HEL and WC provisions.

F Loan Narrative

*--The authorized agency official will document each item considered under subparagraphs B through E to support the final loan decision. The documentation will be added to the FBP's Credit Presentation to document the decision making process.

Note: If repayment ability is used as security according to subparagraph 246 B, documentation of the requirements of that section will be included in the narrative.--*

352 Loan Approval

A Assessment

The authorized agency official must confirm and document in FBP that the loan assessment is complete or updated, when required, and necessary supervision is planned.

B Establishing Loan Approval Conditions

[7 CFR 764.401(a)(2)] The Agency will place conditions upon loan approval it determines necessary to protect its interest and maximize the applicant's potential for success.

Authorized agency officials will not make any written or oral commitments or in any way imply that a loan will be made to any individual or entity before the closing of a loan.

--FSA-2313 for loans approved through AFT must include the pre-populated conditions and loan closing and document requirements from the Application Fast Track Credit Action Model in addition to any of the following necessary conditions.--

The authorized agency official must specify on FSA-2313, or an attachment if necessary, any conditions that must be met including, but not limited to, the following:

- borrower training requirements as established in subparagraph 472 C
- all security requirements, including required lien position
- any agreements needed with prior lienholders
- supervised bank account according to 1-FLP, Part 4
- obtaining an appraisal that demonstrates that the security requirements can be met if the loan was approved subject to obtaining an appraisal
- any actions required of the applicant before loan closing, such as:
 - insurance and indemnity requirements
 - assignments from sale proceeds or income
 - reduction of outstanding indebtedness to meet maximum loan limits.

When a loan is approved for which funds are available and a title search is necessary, check (✓) the following statement on FSA-2313:

“Loan funds will be made available to you within 15 business days of loan approval. However, you agree that in certain circumstances the 15 business days may be exceeded when additional information, such as a lien and/or title search, an appraisal, subordination, etc. is needed prior to loan closing.”

Note: FSA-2313 will be sent by regular mail or hand delivered to the primary applicant.

352 Loan Approval (Continued)

C Approval

--[7 CFR 764.401(a)(3)] All loan transactions other than EM, YL, and loans made in conjunction with other servicing actions are eligible for approval through AFT.--

[7 CFR 764.401(a)(1)] The Agency will approve a loan only if it determines that:

--(i) The applicant can demonstrate a reasonable likelihood of repayment for the proposed loan and all other credit needs through either the AFT evaluation model or a feasible farm operating plan;--

Streamlined CL's are considered feasible when all requirements in subparagraph 191 B are met.

When FSA determines that an FO or OL applicant's financial condition justifies a reduced annual interest rate, FSA charges the applicant the limited resource rate.

FSA uses this reduced interest rate only to assist applicants who otherwise meet all requirements for a FSA direct loan, but whose farm operating plan indicates that a feasible plan cannot be achieved at the regular interest rate.

Note: The authorized agency official will not approve loans at the limited resource rate when the regular interest rate is less than or equal to the limited resource rate.

(ii) The proposed use of loan funds is authorized for the type of loan requested;

(iii) The applicant has been determined eligible for the type of loan requested;

(iv) All security requirements for the type of loan requested have been, or will be met before the loan is closed;

(v) The applicant's total indebtedness to the Agency, including the proposed loan, will not exceed the maximum limits established in § 761.8 (1-FLP, paragraph 29) of this chapter;

***--Note:** When the outstanding principal balances of the applicant, or anyone who will sign the note, exceeds the maximum loan limits established in 1-FLP, paragraph 29, at the time of loan approval, the Agency must document that funds will be available to reduce the indebtedness before loan closing or assumption of indebtedness.--*

(vi) There have been no significant changes in the farm operating plan or the applicant's financial condition since the time the Agency received a complete application; and

(vii) All other pertinent requirements have been, or will be met before the loan is closed.

352 Loan Approval (Continued)**C Approval (Continued)**

The authorized agency official must determine that the appropriate environmental reviews and determinations have been completed and the loan will not violate any portion of 1-EQ, * * * State Environmental requirements, and any other relevant requirements.

Notes: An applicant will be advised that compliance with all applicable local, State, and Federal special laws and regulations will be required.

--Environmental due diligence requirements outlined in 2-EQ should be completed as early as possible and must be completed before closing (including completion of FSA-851). However, it is not mandatory for 2-EQ requirements to be met before approval.--

The authorized agency official will approve the loan by executing the electronic signature command in the credit presentation section of FBP. FSA-2313:

- will be provided to the primary applicant as notification of loan approval and conditions
- must be signed and returned by all applicants, including all entity members “within 15 business days”
- *--must be “returned within 15 business days” or the application will be denied and appeal rights will be provided according to 1-APP.--*

The authorized agency official must include, in the physical case file, all components of FBP that require signatures as provided in the FBP User Guide.

Note: See 4-FLP, Part 9 for approving assumptions.

D Eligible Applicants

Eligibility determinations will be made concurrently with the formal approval or denial decision of the loan request. Eligibility decisions will not be made prior to an approval or denial decision. The authorized agency official provides written notification of a favorable eligibility determination using form FSA-2313.

The authorized agency official must document in the FBP Credit Action whether the applicant meets:

- all eligibility requirements
- SDA requirements
- the beginning farmer definition.

352 Loan Approval (Continued)**E Actions After Loan Approval**

After the loan application is approved, the authorized agency official will:

- input data into DLS
 - as soon as reasonably possible, but within 5 workdays of approval, notify the primary applicant of approval and any conditions using FSA-2313
- prepare for loan closing.

***--Note:** Applicants who opt out of an AFT approved loan after receiving FSA-2313 will be notified in writing that it is no longer valid, and a replacement FSA-2313 or denial letter will be issued based on traditional underwriting.--*

[7 CFR 764.402(e)(1)] Loan funds will be made available to the applicant within 15 “business” days of loan approval, subject to the availability of funding.

Funds must be provided to the applicant within 15 workdays of when they become available unless the applicant agrees to a longer period.

Loan applications will be processed through approval subject to the availability of funds. FSA-2313 will be executed at the time of approval.

A copy of the most recent version of “Your FSA Farm Loan Compass” will be provided physically or electronically to all **new** FLP customers at or before the time of their first loan closing.

F Failure to Meet or Accept Loan Approval Conditions

If an applicant informs the authorized agency official that the loan approval conditions established under subparagraph B are unacceptable or cannot be met:

- the authorized agency official will meet with the applicant to discuss the condition or conditions which are unacceptable or cannot be met
- ***--explore alternatives which are different from the conditions in question but would result in compliance with the program requirements the conditions address**
- the application will be denied, and the applicant notified with appropriate appeal rights--* according to 1-APP, if an agreement cannot be reached and the applicant cannot or will not meet the conditions in question
- see 1-FLP, paragraph 144 in the case of an approved loan subject to an appraisal, where the appraisal value is less than projected.

***--Note:** The loan obligation will not be cancelled until the rejection decision is--* administratively final, as defined in 1-APP.

353 Funding Approved Loans

A Lack of Program Funds

[7 CFR 764.53(e)] In the absence of funds for a direct loan, the Agency will keep an approved loan application on file until funding is available. At least annually, the Agency will contact the applicant to determine if the Agency should retain the application or if the applicant wants the application withdrawn.

The authorized agency official will notify the applicant in writing that funds are not currently available and place the approved loan on a waiting list based on the date the loan application was received.

The authorized agency official will contact the approved loan applicant at least once a year to determine whether the applicant is still interested in receiving a FSA loan. If the applicant wants the loan application to remain active, the applicant must provide FSA with a response within 30 calendar days. If the applicant does not respond or does not want the loan application to remain active, it will be withdrawn and the applicant will be notified in writing.

B Preferences When There is Limited Funding

[7 CFR 764.54(a)] When there is a shortage of loan funds, approved applications will be funded in the order of the date the application was received, whether or not complete.

[7 CFR 764.54(b)] If two or more applications were received on the same date, the Agency will give preference to:

***--[7 CFR 764.54(b)(1)] First, an applicant who is a veteran of any war;**

See Exhibit 2 for the definition of veteran.

Note: A war for purposes of this subparagraph must have been officially declared by Congress with a defined beginning date.--*

356 Loan Denial

A Denial

[7 CFR 764.401(b)] The Agency will not approve a loan if it determines that:

[7 CFR 764.401(b)(1)] The applicant's farm operating plan does not reflect a feasible
***--plan (because the Agency does not review a farm operating plan for an applicant**
evaluated through AFT, an AFT evaluation loan is not a basis for denial);--*

Streamlined CL's meet feasibility requirements when all requirements in subparagraph 191 B are met.

--Loans processed under AFT may be denied for the same reasons as traditionally processed loans, except for feasibility. All denial decisions for feasibility must be based on traditional underwriting processes.--

[7 CFR 764.401(b)(2)] The proposed use of loan funds is not authorized for the type of loan requested;

[7 CFR 764.401(b)(3)] The applicant does not meet the eligibility requirements for the type of loan requested;

[7 CFR 764.401(b)(4)] There is inadequate security for the type of loan requested;

[7 CFR 764.401(b)(5)] Approval of the loan would cause the applicant's total indebtedness to the Agency to exceed the maximum limits established in § 761.8 of this chapter (1-FLP);

[7 CFR 764.401(b)(6)] The applicant's circumstances may not permit continuous operation and management of the farm; or

[7 CFR 764.401(b)(7)] The applicant, the farming operation, or other circumstances surrounding the loan are inconsistent with the authorizing statutes, other Federal laws, or Federal credit policies.

Notes: This includes determinations by other Federal agencies, that the applicant is not in compliance with applicable environmental regulations.

See 1-EQ, Exhibit 26 for information to be included when notifying the applicant that wetland indicators were determined to be present, as provided in 1-EQ, paragraph 51.

B Ineligible Applicants

Eligibility determinations will be made concurrently with the formal approval or denial decision of the loan request. Eligibility decisions will not be made prior to an approval or denial decision. If the authorized agency official determines the applicant ineligible, the authorized agency official must:

- document in FBP and DLS the specific reasons for denial
- cite CFR references as applicable

356 **Loan Denial (Continued)****B Ineligible Applicants (Continued)**

- notify the applicant in writing of the determination providing appeal rights according to 1-APP and ECOA and nondiscrimination statements according to 1-FLP, paragraph 41.

If the unfavorable decision is the result of a determination that the applicant is not creditworthy, the authorized agency official will meet with the applicant before sending a rejection letter to:

- discuss the credit report information in detail
- explain the reasons for the adverse decision
- provide the applicant with a copy of the credit report including the name and address of the credit reporting company and any other nonconfidential information used to make the creditworthiness decision
- inform the applicant that any dispute about the accuracy of the information in the credit report must be resolved between the credit reporting company and the applicant.

If the applicant fails to attend the meeting, a rejection letter will immediately be sent and the fact that the applicant failed to attend the meeting will be documented in FBP.

Note: If denial is based on information obtained from a source other than a credit reporting company, the applicant will be advised that the information can only be disclosed upon written request.

C Notification of Loan Denial

As soon as reasonably possible, but within 5 workdays of loan denial, the authorized agency official will notify the applicant by letter according to 1-APP. The letter must provide:

- clear, specific reasons for the denial
- citations of requirements from CFR and handbook sections that are not met by the applicant
- a description of any loan review aspect that was not evaluated

Example: If the loan was denied for eligibility purposes only, it should be noted that feasibility and security requirements were not evaluated.

- appeal or review rights according to 1-APP
- ECOA and nondiscrimination statement according to 1-FLP, paragraph 41.

357 Actions if Loan Denial is Overturned in NAD Final Determination (Continued)**C Obtaining Updated or Revised Information (Continued)**

*--The authorized agency official will request updated financial information from the applicant for loans approved under AFT and rerun the Application Fast Track Evaluation Credit Action. If the revised model indicates that the application no longer meets AFT requirements, FSA will review the application using the traditional underwriting process. If the loan cannot be closed as originally approved, FSA will notify the applicant in writing that FSA-2313 is no longer applicable and issue a revised FSA-2313. If a denial is appropriate, appeal rights will be provided according to 1-APP.

Note: See FBP User Guide Section J.8.4 for instructions on documenting changes after approval.--*

D Additional Considerations Applicable to Annual Production Loans

When evaluating the impact of the NAD final determination and any new or revised information according to subparagraph E, the loan approval official will only:

[7 CFR 764.401(c)(2)] Approve a loan for crop production:

- (i) Only if the Agency can determine that the applicant will be able to produce a crop in the production cycle for which the loan is requested; or**
- (ii) For the next production cycle, upon review of current financial data and a farm operating plan for the next production cycle, if the agency determines the loan can be repaid. The new farm operating plan shall reflect any financial issues resolved in the appeal.**

357 Actions if Loan Denial is Overturned in NAD Final Determination (Continued)**E Evaluating Impact NAD Decision and New or Revised Information**

The authorized agency official will:

[7 CFR 764.401(c)(3)] Determine whether the applicant's farm operating plan, as modified based on the appeal decision, reflects a feasible plan, which includes repayment of the proposed loan and demonstrates that all other credit needs can be met.

After completing the review and evaluating any necessary revisions, the loan approval official will:

- approve the loan if the requirements of subparagraph 353 C have been met and notify the applicant accordingly
- deny the loan according to paragraph 356, if the requirements of subparagraph 353 C are not met.

Note: Any denial of a loan request after a receipt of a final NAD determination will be considered a new decision and new appeal rights will be provided, as appropriate.

F Monitoring Implementation

The State appeals coordinator will monitor receipt and implementation of final NAD determinations to ensure that they are properly and timely implemented.

See the DLS manual for further information about calculating application processing time in appeal situations.

358-370 (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 personal property.--*

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
 - *--personal property--*
- adequate security
- additional security
- non-essential 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 as primary security.

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 any such revisions are needed to meet loan requirements or determine loan soundness, an updated financial statement will be developed and submitted to the authorized agency official.

No significant changes have been made in the development plan or have occurred to the property that could negatively affect the appraised value. If the authorized agency official determines there are significant changes that have occurred, an updated appraisal will be required prior to closing.

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.

--The authorized agency official will request updated financial information from the applicant for loans approved through AFT and rerun the AFT Evaluation Credit Action Model. If the revised model indicates that the application no longer meets AFT requirements, FSA will review the application using the traditional underwriting process. If the loan cannot be closed as originally approved, FSA will notify the applicant in writing that FSA-2313 is no longer applicable and issue a revised FSA-2313. If a denial is appropriate, appeal rights will be provided according to 1-APP.--

C Loan Document Signatures

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

[7 CFR 764.402(a)(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 will, with approval of regional OGC and National Office, issue a State supplement outlining signature requirements.

371 Overview (Continued)

C Loan Document Signatures (Continued)

Generally, requiring a non-applicant's spouse signature on loan documents is a violation of ECOA regulations. Therefore, unless required by State law, FSA will not require the signature of an applicant's spouse or other person, on FSA-2026 if the applicant qualifies under FSA's standards of creditworthiness for the amount and terms of the credit requested. FSA will **not** consider the submission of a joint financial statement or other evidence of jointly held assets, such as a joint bank account, as an application for joint credit. See Exhibit 6 for guidance on submitting documents in compliance with ECOA as required by this handbook.

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

371 Overview (Continued)

C Loan Document Signatures (Continued)

- 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.

***--[7 CFR 764.402(a)(2)] For all entity applicants including entity applicants approved through AFT, the promissory note will be executed to evidence the liability of the--* entity, any embedded entities, and the individual liability of all entity members.**

Required signatures:

- in the case of an entity applicant will include:
 - each individual required to obligate the entity
 - each individual member of the entity
 - cosigner if required
 - other signatures as required in State supplements
- in the case of a partnership or joint operation will include:
 - both the partner or joint operator authorized to sign for the entity
 - all partners in the partnership or joint operators in the joint operation, as individuals

Note: Married persons informal joint operations will only sign FSA-2026 as individuals.

- in the case of a cooperative or corporation will include:
 - both the individual authorized to sign for the entity
 - all members or stockholders, as individuals
- in the case of a trust or entities, including LLC's, SED will, after consultation with the Regional OGC, issue a State supplement for trusts outlining signature requirements on FSA-2026's and security instruments.

[7 CFR 764.402(a)(3)] Despite minority status, a youth executing a promissory note for a Youth Loan will incur full personal liability for the debt.

- in the case of a youth applicant will include:
 - youth applicant individually
 - cosigner, if required.

Note: A cosigner will be required only if it is determined that the applicant cannot possibly meet the repayment or security requirements for the loan request. When a plan is feasible using realistic figures, a cosigner will not be required.

371 Overview (Continued)

C Loan Document Signatures (Continued)

***--[7 CFR 764.402(a)(4)] Except for a loan transaction approved through AFT, a--* cosigner will be required to sign the promissory note if they assist the applicant in meeting the repayment requirements for the loan requested.**

Note: ECOA allows FSA to require a cosigner when the applicant does not qualify for credit alone, but FSA cannot require that the cosigner be the applicant's spouse. A cosigner is required to complete FSA-2007 to provide necessary information, including self-certifications.

Examples: In the case of a married couple, when 1 spouse of the couple applies individually, if the spouse that is not party to the application has off farm income that:

- pays only family living expenses and does not contribute to the farm operation, then neither the off farm income nor the family living expenses will be included in FBP and the spouse will not be required to sign FSA-2026
- is needed to contribute to a feasible farm operating plan and applicant selects his/her spouse as the cosigner, then both the off farm income and family living expenses will be included in FBP and the spouse will be required to sign FSA-2026 as a cosigner and would therefore, be required to be eligible under certain requirements according to paragraphs 62 through 72.

Example 1: Tom has applied for a term operating loan as an individual. Mary's salary for her job as a teacher is \$35,000. FBP indicates that family living would total \$35,000 and would all be paid from Mary's salary. After removing Mary's income and the family living from FBP, the ending cash remains positive. Mary must not be required to sign FSA-2026 and must not be considered a cosigner.

Example 2: Bruce has applied for a term operating loan. Camille's salary as a nurse at the local hospital is \$60,000. FBP indicates that family living would total \$40,000. The ending cash on hand is -\$10,000 if Camille's salary is not included. In this case, if Bruce selects Camille as his cosigner, her income will be included to show positive ending cash on hand. Camille would be required to sign FSA-2026 as a cosigner and would therefore, be required to be eligible under certain requirements under paragraphs 62 through 72.

419 Closing Personal Property Secured Loans

A General

***--[7 CFR 764.402(c)] The following requirements apply to loans secured by personal property:**

[7 CFR 764.402(c)(1)] The Agency will close a personal property loan only when it--* determines the Agency requirements for the loan have been satisfied;

The authorized agency official or closing agent will take the following steps:

- check the security description to ensure it covers all property taken as security and includes the legal description if so required by State supplement
- review all prior liens and encumbrances on the security to determine which must be modified, eliminated, or waived. In doing so, the authorized agency official will work with the applicant to fully understand and resolve any exceptions
- prepare FSA-2040 according to 4-FLP, subparagraph 20 A.

[7 CFR 764.402(c)(2)] A financing statement is required for every loan except when a filed financing statement covering the applicant's property is still effective, covers all *--types of personal property that will serve as security for the loan, describes the land--* on which crops and fixtures are or will be located, and complies with the law of the jurisdiction where filed;

According to subparagraph 418 F, SED will issue a State supplement providing local guidance on perfecting liens, which will include guidance on financing statement requirements to perfect liens on personal property, including establishing purchase money security interests when FSA finances specific pieces of machinery and equipment. Subject to regional OGC guidance, financing statements should include blanket lien filing language that broadly references personal property. The blanket lien filing may be established, or amended, to include more precise language, as needed, to perfect a purchase money security interest. Alternatively, a separate lien filing may be used to establish a purchase money security interest.

419 Closing Personal Property Secured Loans (Continued)**B Using FSA-2028's**

[7 CFR 764.402(c)(3)] A new security agreement is required for new loans, as necessary to secure the loan under State law, prior to the disbursement of loan funds.

FSA requires a new FSA-2028 whenever filing UCC-1.

The authorized agency official should describe on FSA-2028 all the personal property that will serve as security. The authorized agency official will identify security specifically as follows:

- crop production by describing the real estate on which the crops are grown and by the landowner's name
- livestock by type and exact number
- equipment by manufacturer, model, year, and serial number, where possible

Note: If this information is not available, a written description of the equipment should be provided.

- all accounts, goods, supplies, and inventory by an appropriate description by item or type of property.

Note: Blanket security descriptions that perfect a lien on all equipment and livestock are not authorized to be used in the FSA-2028. Security items must be specifically identified *--as described in this subparagraph. While blanket statements may be standard for--* financing statement filings, subject to OGC regional guidance, they cannot be used in the FSA-2028. Updates to FSA-2028 will occasionally be required and should be signed by all individuals required to perfect the required Agency security interest.

When security is held by more than 1 owner who wishes to pledge the full value of the property as security, the authorized agency official must ensure that all owners execute FSA-2028's pledging the security.

420-430 (Reserved)

Section 4 Actions After Loan Closing

431 Disbursing Funds

A When and How Loan Funds are Disbursed

[7 CFR 764.402(e)(3)] The Agency or closing agent will be responsible for disbursing loan funds. The electronic funds transfer process, followed by Treasury checks, is the Agency's preferred methods of loan funds disbursement. The Agency will use these processes to disburse loan proceeds directly to creditors being refinanced with loan funds, to sellers of personal property being acquired with loan funds, or directly to the borrower's personal bank account. A supervised bank account will be used according to Subpart B of part 761 of this chapter (1-FLP, Part 4) only when these processes are not practicable.

Note: FSA has added the applicant as an approved recipient of loan proceeds through EFT or Treasury checks for loan disbursements. This practice may be implemented immediately and will be included in an upcoming CFR update. In rare instances where a wire transfer is required, officials will follow Exhibit 27.

The authorized agency official or closing agent may disburse loan funds in a lump sum or in multiple disbursements. CL's that are for a project taking multiple years will be funded by multiple disbursements.

The authorized agency official or closing agent normally will not disburse loan funds before filing and recording the security instruments. The authorized official or closing agent may disburse loan funds for real estate loans after all documents are signed but before actual recording of the mortgage.

Loan funds may be placed in escrow until necessary instruments are recorded; however, development funds may be placed in escrow only with the approval of the authorized agency official.

Loan funds for payment of a lien may be disbursed only upon the recording of a discharge, satisfaction, or releasing prior lien interests or assignment where necessary to protect FSA's interests.

Closing agents should provide FSA an itemized accounting of loan proceeds using any format that provides all required information necessary to fully account for loan proceeds.

B Handling Loan Funds

If loan funds are received and the loan cannot be closed within 20 workdays from the date the funds were received, the authorized agency official will return or cancel the funds according to 64-FI. The authorized agency official will document the new closing date to which the applicant has agreed in FBP.

432 Review Closing Documents

A General

The authorized agency official must review the closing documents to ensure accuracy and completeness, and if necessary, to take corrective action.

Note: This does not relieve the closing agent from their legal responsibilities.

--For Down Payment loans, when the interest rate at loan closing is less than the rate at approval and the loan closes in ADPS at the incorrect interest rate, the County Office must submit an FSA-2446 to RDBCSO to have the lower rate manually applied to the loan.--

B DLS

Once the loan is closed, the authorized agency official will enter the final information about the loan making process into DLS, including:

- borrower training information
- loan closing date
- loan installment information.

Within 10 calendar days of loan closing, the DLS Loan Servicing Dashboard will be updated to establish the following workflows:

- *--Operational Review
- Farm Visits--*
- Security Instruments including financing statement and/or mortgages

See 1-FLP for general information and detailed instructions on DLS and the DLS Users Guide.

C Loan Classification

The authorized agency official must classify a new loan by completing a post-closing loan classification, including CL's. Within 10 calendar days of loan closing in DLS, the Operational Review workflow in DLS, must be input in to the DLS dashboard.

Part 18 Borrower Training

Section 1 Borrower Training Requirements

471 Overview

A Scope

FSA requires initial direct loan applicants to complete training in financial management unless FSA waives the training requirement.

***--Note:** Streamlined CL's will initially have borrower training requirements waived as long as the FSA loans are in good standing.--*

B Purpose

[7 CFR 764.451] The purpose of borrower training is to help an applicant develop and improve skills necessary to:

[7 CFR 764.451(a)] Successfully operate a farm;

[7 CFR 764.451(b)] Build equity in the operation; and

[7 CFR 764.451(c)] Become financially successful and prepared to graduate from Agency financing to commercial sources of credit. CL's are exempt from graduation requirements, but are subject to training requirements.

472 Assessing an Individual's Need for Training**A Individuals Required to Complete Training**

[7 CFR 764.452(a)] The applicant must agree to complete financial management training, unless the Agency provides a waiver in accordance with § 764.453 (subparagraph B), or the applicant has previously satisfied the training requirements. In the case of an entity:

[7 CFR 764.452(a)(1)] Any individual member holding a majority interest in the entity or who is operating the farm must complete training on behalf of the entity, except as provided in paragraph (a)(2) of this section;

[7 CFR 764.452(a)(2)] If one entity member is solely responsible for production or financial management, then only that member will be required to complete training.

--The authorized agency official will document the requirement to complete borrower training in the FBP credit presentation.--

*** * ***

472 Assessing an Individual's Need for Training (Continued)

B Determining Whether to Waive Training Requirements

* * *

***--[7 CFR 764.453(a)] The Agency will grant a waiver for training in financial management, without further action by the applicant, under the following conditions:**

[7 CFR 764.453(a)(1)] The applicant agrees to complete or submits evidence of successful completion of a course similar to a course approved under section § 764.457 (paragraph 492) and the Agency determines that additional training is not needed;

To qualify for a waiver based on this provision, the similar course must be offered by an entity other than an FSA approved training vendor.

[7 CFR 764.453(a)(2)] The applicant submits evidence, which demonstrates to the Agency's satisfaction the applicant possesses experience and training necessary for a successful and efficient operation; or

[7 CFR 764.453(a)(3)] The applicant's loan was approved through AFT.

After the applicant has been determined eligible, and before issuing FSA-2313, the--* authorized agency official will determine whether to waive training.

If an applicant is applying for additional FSA assistance or benefits, such as a subsequent loan, the authorized agency official must reassess whether to waive a borrower's training requirements even if FSA waived training for the applicant's initial loan. Borrower training is determined on a per loan basis.

The authorized agency official will:

- determine whether to waive financial management training based on the applicant's:
 - financial history and training/experience provided with the application
 - practical experience
 - demonstrated ability to keep records
 - education and training
- consider the complexity of the applicant's operation and amount of loan requested.

472 Assessing an Individual's Need for Training (Continued)

B Determining Whether to Waive Training Requirements (Continued)

***--[7 CFR 764.453(b)] If the financial functions of the operation are shared among--* individual entity members, the Agency will consider the collective knowledge and skills of the individuals when determining whether to waive training requirements.**

***--[7 CFR 764.453(c)] When considering subsequent loan actions, previous training requirements that have not yet been satisfied may be waived by the Agency should the borrower submit satisfactory evidence in accordance with § 7 CFR 764.453(a).**

The authorized agency official may waive an applicant's previously required training requirements if the applicant has acquired sufficient financial management experience since the training was initially required. The authorized agency official will document the waiver to complete borrower training in the FBP credit presentation.

The authorized agency official will waive the requirement for completion of a borrower's previously required production training.--*

[7 CFR 764.452(d)] The Agency cannot reject a request for a direct loan based solely on an applicant's need for training.

However, as described in paragraph 69, an applicant must demonstrate managerial ability through education, training, or experience to be eligible to receive a direct loan.

C Notifying Applicant of the Training Decision

[7 CFR 764.452(e)] The Agency will provide written notification of required training or waiver of training.

--FSA-2313 will include the borrower training determination.--

[7 CFR 764.452(c)] Even if a waiver is granted, the borrower must complete borrower training as a condition for future loans if and when Agency supervision provided in 7 CFR 761 subpart C (1-FLP, Part 8) reflects that such training is needed.

D Financial Management Training Requirements

[7 CFR 764.452(b)] When the Agency determines that financial management training is required, the applicant must agree to complete course work covering all aspects of farm accounting and integrating accounting elements into a financial management system.

Items to be included in the training are those financial management requirements found in subparagraph 492 C.

473 Actions That Borrower Must Take When Training is Required**A Deadline for Completion of Training**

***--[7 CFR 764.454(a)(1)] If the Agency requires an applicant to complete training, prior to loan closing the applicant must agree in writing (FSA-2313) to complete all--* required training within two years.**

Note: Applicants required to take training as a result of a 2-year OL term limit waiver must complete the required training within 1 year according to subparagraph 202 G.

[7 CFR 764.454(a)(2)] The Agency will grant a one-year extension to complete training if the applicant is unable to complete training within the 2-year period due to circumstances beyond the applicant's control.

[7 CFR 764.454(a)(3)] The Agency will grant an extension longer than one year for extraordinary circumstances as determined by the Agency.

FLC or designee must approve extensions in excess of 1 year in writing.

* * *

B Arranging Training * * *

***--[7 CFR 764.454(b)] The applicant must select and contact an Agency approved--* vendor and make all arrangements to begin training.**

SED's will compile a list of all approved vendors and issue a State supplement.

C Payment of Training Fees

[7 CFR 764.454(c)(1)] The applicant is responsible for the cost of training and must *--include any training fees in the farm operating plan as a farm operating expense.--*

[7 CFR 764.454(c)(2)] The payment of training fees is an authorized use of OL funds.

[7 CFR 764.454(c)(3)] The Agency is not a party to fee or other agreements between the applicant and the vendor.

474 Training Progress

A Monitoring Training Progress

During farm visits and analysis, FSA will monitor applicant progress in understanding and applying the knowledge to be gained from the training. FSA will contact the applicant to follow-up on unsatisfactory training progress reports from the training vendor.

The applicant must include the training requirements in FBP as planned improvements.

--Successful completion of required training will be documented in the borrower's case file.--

B Requests for Additional FSA Assistance

An applicant that has been required to meet training requirements is eligible for additional FLP assistance or benefits, such as a subsequent loan, according to the following.

IF the applicant...	AND...	THEN, to be eligible for assistance, the applicant...
requests assistance within the 2-year period allowed to complete the borrower training requirement		must be enrolled in and attending an approved training course or be able to complete an approved training course within the 2-year period.
agrees to complete training and has enrolled in approved classes or makes an honest effort to enroll	the applicant was unable to actually attend training because of cancellation, postponement, or other unforeseen circumstances	has met the "enrolled in and attending" rule. However, the applicant must still complete the required training as soon as possible.
is unable to complete the required training courses within the 2-year period because of circumstances beyond the applicant's control		must receive an approved extension of the time period to complete training.
requests assistance after the 2-year period has expired	FSA has not granted the applicant an extension	must have successfully completed an approved training course *--unless subsequently waived according to 764.453(c) (subparagraph 472 B).--*
pays off a loan that required training courses be completed	loan pay-off is within the 2-year period allowed to complete the borrower training requirement	no longer needs to complete the training course that was required for the paid-off loan.
pays off a loan that required training courses be completed	loan pay-off is after the 2-year period allowed to complete the borrower training requirement	must have successfully completed an approved training course unless subsequently waived *--according to 764.453(c)--* (subparagraph 472 B).
is granted a 1-time waiver of OL term limits for a period of 2 years and is required to complete borrower training within 1 year	does not complete the training within 1 year required completion period	will not be eligible for a loan the second year.

474 Training Progress

C Failure to Complete Training in Specific Time Period

[7 CFR 764.454(a)(4)] An applicant who does not complete the required training within the specified time-period will be ineligible for additional direct FLP loans until the *--training is completed unless the Agency subsequently grants a waiver as provided in § 764.453.--*

Note: Borrower training determinations are made for each loan; each training requirement will have a deadline. The requirement for an applicant to complete borrower training as a condition of receiving a previous loan expires when that loan has been paid-in-full * * *.

* * *

Training requirement for loans approved with the OL term limit waived will apply regardless of the date these loans are paid off.

Note: Applicants required to take training as a result of a 2-year OL term limit waiver must complete the required training within 1 year according to subparagraph 202 G.

The authorized agency official will cancel the requirement for completion of a borrower's previously required production training.

475-490 (Reserved)

494 Monitoring and Evaluation

A Vendor Monitoring of Borrower Progress

[7 CFR 764.459(a)] The vendor must provide the Agency with a periodic progress report for each borrower enrolled in training in accordance with the agreement to complete training. The reports will indicate whether the borrower is attending sessions, completing the training program, and demonstrating an understanding of the course material.

[7 CFR 764.459 (b)] Upon borrower completion of the training, the vendor must provide the Agency with an evaluation of the borrower's knowledge of the course material and assign a score. The following table lists the possible scores, the criteria used to assign each score, and Agency consideration of each score:

Score	Criteria Used To Determine Score	Agency Consideration
1	If the borrower: • Attended sessions as agreed, • Satisfactorily completed all assignments, and • Demonstrated an understanding of the course material.	Training requirement associated with course is complete.
2	If the borrower: • Attended sessions as agreed, and • Attempted to complete all assignments, but • Does not demonstrate an understanding of the course material.	Training requirement associated with course is complete. Additional Agency supervision may be necessary.
3	If the borrower did not: • Attend sessions as agreed, or • Attempt to complete assignments, or • Otherwise make a good faith effort to complete the training.	Training requirement associated with course is not complete. The borrower is ineligible for future direct loans until training is completed.

B Borrower Evaluation of a Vendor

***--[7 CFR 764.454(d)]** Upon completion of training provided by a vendor, the applicant--* will complete an evaluation of the course and submit it to the vendor. The vendor will forward the completed evaluation forms to the Agency.

The instructor will provide each applicant with FSA-2376 upon completing a course. A vendor must forward the completed FSA-2376 to SED for review.

494 Monitoring and Evaluation (Continued)**C FSA Monitoring of a Vendor**

To ensure that the vendor is correctly and effectively implementing the training, SED or designee will monitor the vendor. At a minimum, FSA's monitoring will include the following.

- Attending selected training sessions for each vendor and verify that the agreed-upon subject matter is being covered in sufficient detail and assess the effectiveness of the training.
- Reviewing each FSA-2376 that is completed by a trained applicant, summarize FSA-2376, and place the summary in the operational file of the vendor.
- Monitoring applicants' improvement upon completing a course. SED or the National Office will analyze statistics about applicant performance, such as the graduation and delinquency of applicants who have completed the required training course.

Each State Office will maintain an operational file for each approved vendor in that State. This file must include:

- vendor application
- National Office concurrence, if required
- signed FSA-2375
- documentation of FSA's monitoring of the vendor
- any further documentation to determine the success of the vendor's program.

Reports, Forms, Abbreviations, and Redelegations of Authority

Reports

None.

Forms

This table lists all forms referenced in this handbook.

Number	Title	Display Reference	Reference
AD-1026	Appendix to Form for AD-1026 Highly Erodible Land Conservation (HELC) and Wetland Conservation (WC) Certification		42
AD-3030	Representations Regarding Felony Conviction and Tax Delinquent Status for Corporate Applicants		42
CCC-10	Representations for Commodity Credit Corporation or Farm Service Agency Loans and Authorization to File a Financing Statement and Related Documents		91, 416, Ex. 6
CCC-36	Assignment of Payment		418
CCC-37	Joint Payment Authorization		418
CCC-452	NAP Production and Yield Report		244
CCC-452 Manual	NAP Actual Production History and Approved Yield Record		244
CCC-502A	Farm Operating Plan for Payment Eligibility Review for an Individual		42
CCC-502B	Farm Operating Plan for Payment Eligibility Review for a Joint Venture or General Partnership		42
CCC-502C	Farm Operating Plan for Payment Eligibility Review for Corporations, Limited Partnerships or Other Similar Entities		42
CCC-502D	Farm Operating Plan for Payment Eligibility Review for an Estate or Trust		42
CCC-502EZ	Farm Operating Plan for Payment Eligibility Review for an Individual		42
CCC-902E	Farm Operating Plan for an Entity 2009 and Subsequent Program Year		42
CCC-902I	Farm Operating Plan for an Individual 2009 and Subsequent Program Years		42
DS-1350	Certification of Report of Birth		Ex. 9

Reports, Forms, Abbreviations, and Redelegations of Authority (Continued)

Forms (Continued)

Number	Title	Display Reference	Reference
FS-240	Consular Report of Birth		Ex. 9
FS-545	Certificate of Birth		Ex. 9
FSA-850	Environmental Screening Worksheet		45
FSA-2001	Request for Direct Loan Assistance		Text, Ex. 6
FSA-2003	Three-Year Production History		42
FSA-2006	Property Owned and Leased		42
FSA-2007	Cosigner Application and Agreement		42, 371, Ex. 6
FSA-2008	Recorded Security Instruments (Chattel)		433
FSA-2014	Verification of Income		42
FSA-2015	Verification of Debts and Assets		42, 242
FSA-2026	Promissory Note		Text, Ex. 6
FSA-2028	Security Agreement		91, 416, 419, Ex. 6
FSA-2029	Real Estate Mortgage or Deed of Trust		3, 92, 398, Ex. 4
FSA-2037	Farm Business Plan Worksheet (Balance Sheet)		42, 226
FSA-2038	Farm Business Plan Worksheet (Projected/Actual Income and Expense)		42, 226
FSA-2040	Agreement for Use of Proceeds and Security		419, Ex. 6
FSA-2041	Assignment of Proceeds from the Sale of Products		93, 418
FSA-2042	Consent to Payment of Proceeds from the Sale of Products		93, 418
FSA-2043	Assignment of Proceeds from the Sale of Dairy Products and Release of Security Interest		93, 418
FSA-2044	Assignment of Income From Real Estate Security		92
FSA-2072	Cancellation of U.S. Treasury Check and/or Obligation		354
FSA-2132	Real Estate Evaluation		95

Reports, Forms, Abbreviations, and Redelegations of Authority (Continued)

Forms (Continued)

Number	Title	Display Reference	Reference
FSA-2301	Request for Youth Loan		41, 42, 44, 45, 62, 226, Ex. 6
FSA-2304	Notice of Incomplete Application		41, 42, 45
FSA-2305	Second Notice of Incomplete Application		45
FSA-2306	Notice of Application Withdrawal/Pending Withdrawal		45
FSA-2307	Notice of Complete Application		45
FSA-2309	Certification of Disaster Losses		42, 244
FSA-2310	Request for Lender's Verification of Loan Application		42, 242
FSA-2311	Calculation of Actual Losses Worksheet		244
FSA-2313	Notification of Loan Approval and Borrower Responsibilities		Text, Ex. 26
FSA-2314	Streamlined Request for Direct OL Assistance		41-43, 45, 62, 66, 68
FSA-2317	Consent and Subordination Agreement		92
FSA-2318	Agreement for the Disposition of Jointly Owned Property		416, 418
FSA-2319	Agreement with Prior Lien Holder		92
FSA-2320	Property Insurance Mortgage Clause (Without Contribution)		114, Ex. 4
FSA-2340	Selection of Attorney/Title Agent		372, 373.5, Ex. 6
FSA-2341	Certification of Attorney		372, 373.5, 397
FSA-2342	Certification of Title Agent		372, 373.5, 373.6, 397
FSA-2343	Transmittal of Title Information		397
FSA-2344	Preliminary Title Opinion		397
FSA-2350	Loan Closing Instructions		398
FSA-2351	Certification of Improvement of Property		398
FSA-2352	Final Title Opinion		398, 433
FSA-2360	Report of Lien Search		417
FSA-2361	Lender Subordination Agreement		417

Reports, Forms, Abbreviations, and Redelegations of Authority (Continued)

Forms (Continued)

Number	Title	Display Reference	Reference
FSA-2375	Agreement to Conduct Financial Management Training		493, 494
FSA-2376	Borrower Training Course Evaluation		494
FSA-2510	Notice of Availability of Loan Servicing to Borrowers Who Are 90 Days Past Due		3
FSA-2512	Notice of Availability of Loan Servicing to Borrowers Who Are Current, Financially Distressed, or Less than 90 Days past Due		3
FSA-2514	Notice of Availability of Loan Servicing to Borrowers Who are in Non-Monetary Default		3
FSA-2535	Conservation Contract		3
G-845	Document Verification Request		Ex. 8
HUD 1	Uniform Settlement Statement		398
I-94	Arrival/Departure Record		Ex. 8
I-179	Certificate of Birth Abroad		Ex. 9
I-197	United States Citizen Identification Card		Ex. 9
I-551	Alien Registration Receipt Card		64, Ex. 8
I-571	Refugee Travel Document		Ex. 8
I-688B	Employment Authorization Card		Ex. 8
I-766	Employment Authorization Document		Ex. 8
N-550	Certificate of Naturalization		Ex. 9
N-560	Certificate of U.S. Citizenship		Ex. 9
N-561	Certificate of U.S. Citizenship		Ex. 9
N-570	Certificate of Naturalization		Ex. 9
NRCS CPA-1155	Conservation Plan/Schedule of Operations		42, 43, 171, Ex. 2
NRCS CPA-1202	Conservation Program Contract		173
Schedule F (Form 1040)	Profit or Loss from Farming		246
SF-3881	ACH Vendor/Miscellaneous Payment Enrollment Form		73
UCC-1	National Financing Statement		91-93, 205, 373, 398, 417, 419, 433

Reports, Forms, Abbreviations, and Redelegations of Authority (Continued)

Abbreviations Not Listed in 1-CM

The following abbreviations are not listed in 1-CM.

Approved Abbreviation	Term	Reference
AFT	Application Fast Track	45, 66, 95, 132, 135, 154, 174, 204, 217, 226, 352, 356, 357, 371, 472
BCIS	Bureau of Citizenship and Immigration Services	Ex. 8, 9
CONACT	Consolidated Farm and Rural Development Act	1, 69, 132, Ex. 16
CAT	Catastrophic Risk Protection Endorsement	113, 244
CL	Conservation Loans	Text, Ex. 2
CMCB	Cash Management Collections Branch	Ex. 26
DFO	Direct Farm Ownership	Text
DNP	Do Not Pay	42, 45, 75, 373.5, Ex. 15.5, 15.6
DOL	Direct Operating Loan	4, 43, 66, 69
FFA	Future Farmers of America	69, 227
FI	financial institution	Ex. 26
FICO	Fair Isaac Corporation	191
FmHA	Farmers Home Administration	2, 94, 202
FP	Farm Program	41, 93, 244, Ex. 2
INA	Immigration and Nationality Act	Ex. 8
LOC	line of credit	92
ML	Microloan	Text
NPO	nonprofit organization	72
OLA	Online Loan Application	41
PAD	Preauthorized Debit	399, 419, Ex. 26
PRWORA	Personal Responsibility and Work Opportunity Reconciliation Act of 1996	Ex. 2, 8
SAM	System for Award Management	67, 75, 373.5
SDMS	State Directive Management System	3, 355
ST	softwood timber	94, Ex. 2
TDCLCR	Term Debt and Capital Lease Coverage Ratio	135, 245

Redelegations of Authority

None.

Definition of Terms Used in This Handbook (7 CFR 761.2(b))**Act**

Act means the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.).

Additional Security

Additional security means property that provides security in excess of the amount of security value equal to the loan amount.

Adequate Security

Adequate security means property which is required to provide a security value at least equal to the loan amount.

Agency

Agency means FSA.

Agency Official

Agency official means any employee with FSA. This term is used when the action does not require inherent or delegated authority.

Agreement for the Use of Proceeds

Agreement for the use of proceeds means an agreement between the borrower and the Agency that reflects how, when, and to whom the borrower will sell, exchange, or consume ~~*--personal property security and the planned use of any proceeds during a specific--*~~ production cycle.

Agricultural Commodity

Agricultural commodity means livestock, grains, cotton, oilseeds, dry beans, tobacco, peanuts, sugar beets, sugar cane, fruit, vegetable, forage, ornamental plants, nursery crops, nuts, aquacultural species, and the products resulting from: livestock, tree farming, and other plant or animal production as determined by the Agency.

Allowable Costs

Allowable costs means costs for replacement or repair that are supported by acceptable documentation, including but not limited to written estimates, invoices, and bills.

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

Applicant means the individual or entity applying for a direct loan or direct loan servicing under either the direct or guaranteed loan program.

***--Application Fast Track (AFT)**

Application Fast Track is an accelerated underwriting process for direct loans, which uses financial and repayment data to benchmark and identify applicants least likely to default. This process serves as documentation of repayment capacity for qualified applicants.

Appraisal

Appraisal means a written statement independently and impartially prepared, setting forth an opinion as to the value of an adequately described property as of a specific date(s), supported by the presentation and analysis of relevant market information. Real estate appraisals must comply with the Uniform Standards of Professional Appraisal Practice (USPAP).--*

Apprentice

Apprentice means an individual who receives applied guidance and input from an individual with the skills and knowledge pertinent to the successful operation of the farm enterprise being financed.

Approval Official

Approval official means the specific employee who has the authority to approve or deny the described action.

Aquaculture

Aquaculture means the husbandry of any aquatic organisms, including fish, mollusks, crustaceans or other invertebrates, amphibians, reptiles, or aquatic plants, raised in a controlled or selected environment of which the applicant has exclusive rights to use.

Authorized Agency Official

Authorized agency official means an employee who has either inherent or delegated authority to complete the described action.

Definition of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)**Basic Part of an Applicant's Total Farming Operation**

Basic part of an applicant's total farming operation means **any single agricultural commodity or livestock production enterprise of an applicant's farming operation, which normally generates sufficient income to be considered essential to the success of such farming operation.**

Basic Security

Basic security means **all farm machinery, equipment, vehicles, foundation and breeding livestock herds and flocks, including replacements, and real estate that serves as security for a loan made or guaranteed by the Agency.**

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

Beginning Farmer

Beginning farmer means an individual or entity who:

- (i) Meets the loan eligibility requirements for a direct or guaranteed CL, FO, or OL, as applicable;
- (ii) Has not operated a farm for more than 10 years. This requirement applies to all members of an entity;

--Notes: For an entity applicant, the entity and all members of the entity must have not operated a farm for more than 10 years for the entity applicant to meet the definition of beginning farmer.--

Experience obtained through agriculture education programs when the applicant was not the primary owner or operator of the farm or ranch is not included when calculating the 10-year period.

- (iii) Will materially and substantially participate in the operation of the farm:
 - (A) In the case of a loan made to an individual, individually or with the family members, material and substantial participation requires that the individual provide substantial day-to-day labor and management of the farm, consistent with the practices in the county or State where the farm is located; or
 - (B) In the case of a loan made to an entity, all members must materially and substantially participate in the operation of the farm. Material and substantial participation requires that the member provide some amount of the management, or labor and management necessary for day-to-day activities, such that if the individual did not provide these inputs, operation of the farm would be seriously impaired;
- (iv) Agrees to participate in any loan assessment and borrower training required by Agency regulations;
- (v) Except for an OL applicant, does not own real farm property or who, directly or through interests in family farm entities owns real farm property, the aggregate acreage of which does not exceed 30 percent of the average farm acreage of the farms in the county where the property is located. If the farm is located in more than one county, the average farm acreage of the county where the applicant's residence is located will be used in the calculation. If the applicant's residence is not located on the farm or if the applicant is an entity, the average farm acreage of the county where the major portion of the farm is located will be used. The average county farm acreage will be determined from the most recent Census of Agriculture;
- (vi) Demonstrates that the available resources of the applicant and spouse (if any) are not sufficient to enable the applicant to enter or continue farming on a viable scale; and

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

Beginning Farmer (Continued)

(vii) In the case of an entity:

- (A) All the members are related by blood or marriage; and
- (B) All the members are beginning farmers.

Cash Flow Budget

Cash flow budget means a projection listing of all anticipated cash inflows (including all farm income, nonfarm income and all loan advances) and all cash outflows (including all farm and nonfarm debt service and other expenses) to be incurred during the period of the budget. Advances and principal repayments of lines of credit may be excluded from a cash flow budget. Cash flow budgets for guaranteed loans under \$125,000 do not require income and expenses itemized by categories. A cash flow budget may be completed either for a 12-month period, a typical production cycle, or the life of the loan, as appropriate. It may also be prepared with a breakdown of cash inflows and outflows for each month of the review period and include the expected outstanding operating credit balance for the end of each month. The latter type is referred to as a “monthly cash flow budget”.

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Closing Agent

Closing agent means the attorney or title insurance company selected by the applicant and approved by the Agency to provide closing services for the proposed loan or servicing action. Unless a title insurance company provides loan closing services, the term “title company” does not include “title insurance company”.

Commercially Foraged

Commercially foraged means the harvesting of naturally occurring plants, or plantlike material, including fungi, that develop with limited management of the resource.

Definition of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)**Household Contents**

Household contents means **essential household items necessary to maintain viable living quarters. Household contents exclude all luxury items such as jewelry, furs, antiques, paintings, etc.**

Inaccurate Information

Inaccurate information means **incorrect information provided by an applicant, borrower, lender, or other source without the intent of fraudulently obtaining benefits.**

***--Indian Land**

Indian land, for the purposes of the definition of “family farm” in this section, means **land, or an interest therein, that is:**

- (i) Owned by an Indian tribe;**
- (ii) Owned by an Indian tribe and is subject to restrictions against alienation or encumbrance by the United States; or**
- (iii) Held in trust by the United States for an Indian tribe.**

Indian Tribe

Indian tribe means **any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native village or regional corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.--***

Indian Reservation

Indian reservation means **all land located within the limits of any Indian reservation under the jurisdiction of the United States, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation; trust or restricted land located within the boundaries of a former reservation of a Federally recognized Indian Tribe in the State of Oklahoma; or all Indian allotments the Indian titles to which have not been extinguished if such allotments are subject to the jurisdiction of a Federally recognized Indian Tribe.**

Definition of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)**Joint Operation**

Joint operation means an operation run by individuals who have agreed to operate a farm or farms together as an entity, sharing equally or unequally land, labor, equipment, expenses, or income, or some combination of these items. The real and personal property is owned separately or jointly by the individuals.

Leasehold

Leasehold means a right to use farm property for a specific period of time under conditions provided for in a lease agreement.

Lien

Lien means a legally enforceable hold or claim on the property of another obtained as security for the repayment of indebtedness or an encumbrance on property to enforce payment of an obligation.

Limited Resource Interest Rate

Limited resource interest rate means an interest rate below the Agency's regular interest rate available to farmers who are unable to develop a feasible plan at regular rates and are requesting:

- (i) FO or OL loan assistance under part 764 of this title; or
- (ii) Primary loan servicing on an FO, OL, or SW loan under part 766 of this title.

Livestock

Livestock means a member of the animal kingdom, or product thereof, as determined by the Agency.

Majority Interest

Majority interest means more than a 50 percent interest in an entity held by an individual or group of individuals.

Definition of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)**Market Value**

***--Market value means the most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:**

- (i) The buyer and seller are typically motivated;**
- (ii) Both parties are well informed or well advised, and acting in what they consider to be their own best interests;**
- (iii) A reasonable time is allowed for exposure in the open market;**
- (iv) Payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and**
- (v) The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.--***

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

Operating Loan

Operating loan (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.

Participated in the Business Operations of a Farm

*--Participated in the business operations of a farm means that an individual has:

- (i) Been the 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;
- (ii) Been employed as a farm manager or farm management consultant for the year's complete production cycle; or
- (iii) 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, 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.

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

* * *

*--Personal Property Security

Personal property security means **property that may consist of, but is not limited to: crops; livestock; aquacultural species; farm business and recreational equipment; inventory; accounts; contract rights; general intangibles; and supplies that are covered by financing statements and security agreements, personal property mortgages, and other security instruments.**

Personal Property or Real Estate Essential to the Farming Operation

Personal property or real estate essential to the farming operation means **personal property or real estate that would be necessary for the applicant to continue operating the farm after the disaster in a manner similar to the manner in which the farm was operated immediately prior to the disaster, as determined by the Agency.--***

Physical Loss

--Physical loss means verifiable damage or destruction with respect to real estate or personal property, 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 Programs

Primary loan servicing programs means:

- (i) **Loan consolidation and rescheduling, or reamortization;**
- (ii) **Interest rate reduction, including use of the limited resource rate program;**
- (iii) **Deferral;**
- (iv) **Write-down of the principal or accumulated interest; or**
- (v) **Any combination of paragraphs (i) through (iv) of this definition.**

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.**

Definition of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)**Production Loss**

Production loss means **verifiable damage or destruction with respect to annual growing crops.**

Program Loans

Program loans include FO, OL, and EM. In addition, for loan servicing purposes the term includes existing loans for the following programs no longer funded: SW, RL, EE, ST, and RHF.

Promissory Note

Promissory note means **a written agreement to pay a specified sum on demand or at a specified time to the party designated. The terms “promissory note” and “note” are interchangeable.**

Qualified Alien

Qualified Alien, as defined under PRWORA (8 U.S.C. 1641), means:

- An alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act.
- An alien who is granted asylum under section 208 of PRWORA.
- A refugee who is admitted to the United States under section 207 of PRWORA.
- An alien who is paroled into the United States under section 212(d)(5) of PROWRA for a period of at least 1 year.
- An alien whose deportation is being withheld under section 243(h) of PROWRA.
- An alien who is granted conditional entry according to section 203(a)(7) of PROWRA as in effect before April 1, 1980.
- An alien who is a Cuban/Haitian Entrant as defined by section 501(e) of the Refugee Education and Assistance Act of 1980.
- An alien who has been battered or subjected to extreme cruelty under section 431 of the Immigration and Nationality Act.

Note: See Exhibit 8 for documentary evidence necessary to satisfy this definition.

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

Quarantine

Quarantine means a quarantine imposed by the Secretary under the Plant Protection Act or animal quarantine laws (as defined in Section 2509 of the Food Agriculture, Conservation, and Trade Act of 1990).

*--Real Estate Evaluation

Real estate evaluation is an estimate of value of real estate provided by an individual who is not required to comply with USPAP, using market supported information to analyze the subject property.--*

Reasonable Rates and Terms

Reasonable rates and terms means those commercial rates and terms that other farmers are expected to meet when borrowing from a commercial lender or private source for a similar purpose and similar period of time. The “similar period of time” of available commercial loans will be measured against, but need not be the same as, the remaining or original term of the loan.

Related by Blood or Marriage

Related by blood or marriage means being connected to one another as husband, wife, parent, child, brother, sister, uncle, aunt, grandparent, son, daughter, sibling, stepparent, stepson, stepdaughter, stepbrother, stepsister, half-brother, half-sister, son-in-law, daughter-in-law, father-in-law, mother-in-law, nephew, niece, cousin, grandson, granddaughter, or the spouses of any of those individuals. “Related by blood or marriage” is used for consistency with a requirement in the CONACT. It has the same meaning as the word “relative” for the Farm Loan Programs regulations in this Chapter.

Relative

Relative means the spouse and anyone having one of the following relationships to an applicant or borrower: parent, son, daughter, sibling, stepparent, stepson, stepdaughter, stepbrother, stepsister, half-brother, half-sister, son-in-law, daughter-in-law, father-in-law, mother-in-law, uncle, aunt, nephew, niece, cousin, grandparent, grandson, granddaughter, or the spouses of any of those individuals. Relative has the same meaning as the term “related by blood or marriage” for the Farm Loan Programs regulations in this Chapter.

Security

Security means property or right of any kind that is subject to a real or personal property lien. Any reference to “collateral” or “security property” will be considered a reference to the term “security”.

Definition of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)**Security Instrument**

Security instrument means **any document giving the Agency a security interest on real or personal property.**

Security Value

***--Security value means the value of real estate or personal property (less the value of any--* prior liens) used as security for an Agency loan.**

Socially Disadvantaged Applicant or Farmer

Socially disadvantaged applicant or farmer means **an individual or entity who is a member of a socially disadvantaged group. For entity applicants, the majority interest must be held by socially disadvantaged individuals. For married couples, the socially disadvantaged individual must have at least 50 percent ownership in the farm business and make most of the management decisions, contribute a significant amount of labor, and generally be recognized as the operator of the farm.**

Socially Disadvantaged Group

Socially disadvantaged group means **a group whose members have been subject to racial, ethnic, or gender prejudice because of their identity as members of a group without regard to their individual qualities. These groups consist of: American Indians or Alaskan Natives, Asians, Blacks or African Americans, Native Hawaiians or other Pacific Islanders, Hispanics, and women.**

Softwood Timber Program Loans

Softwood timber program loans (ST) means **a loan that was available to eligible financially distressed borrowers who would take marginal land, including highly erodible land, out of production of agricultural commodities other than the production of softwood timber. ST loans are no longer available, however, such outstanding loans are serviced by the Agency.**

Streamlined Conservation Loan

Streamlined conservation loan means **a direct or guaranteed CL made to eligible applicants based on reduced documentation.**

Supervised Bank Account

Supervised bank account means **an account with a financial institution established through a deposit agreement entered into between the borrower, the Agency, and the financial institution.**

Definition of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)**Undivided Ownership Interest**

Undivided ownership interest means a **common interest in the whole parcel of land that is owned by two or more people. Undivided ownership interest does not include those who own a specific piece of a parcel of land; rather they own a percentage interest in a parcel of land as a whole.**

United States

United States means **any of the 50 States, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, Republic of Palau, Federated States of Micronesia, and the Republic of the Marshall Islands.**

U.S. Noncitizen National

U.S. noncitizen national means a person born in American Samoa or Swains Island on or after the date the U.S. acquired American Samoa or Swains Island, or a person whose parents are U.S. noncitizen nationals. Typical evidence of the relatively uncommon status as a noncitizen national includes a birth certificate or passport with a document bearing a photograph of the person.

Note: See Exhibit 9 for further documentary requirements to meet this definition.

***--Valuation**

Valuation is the estimation or determination of value of personal property or real estate by agency officials, vendors, or third parties, in each case, authorized or approved by the Agency.--*

Veteran

Veteran means **any person who served in the military, naval, or air service during any war as defined in section 101(12) of title 38, United States Code.** For a National Guard member to be eligible for Veteran status, they must have served for 20 years or more and been discharged other than dishonorably or been deployed on active duty for at least 180 consecutive days during their service commitment.

Instructions for Wire Transfer Requests for FLP Activities

DCIA requires that most federal payments be made through EFT. Wire requests are reserved for emergency situations and are cleared by the National Office before submitting to RDBCSO for processing.

All requests for wire transfers must be routed through the State Office for clearance. State Office staff will review each request to ensure that all required information is present and that the request meets the criteria for requesting an emergency wire as outlined below. Once the State Office has *--cleared the request, they will email it with a brief recommendation to Joseph Council, POAD, at joseph.council@usda.gov.--*

The following guidance for wire transfer requests for loan closing activities must be followed:

- Requests must be submitted to POAD at least 48 hours prior to loan closings to ensure funds are received timely.
- There must be an active (i.e., current fiscal year) obligation request for the wire transfer action.
- *--If a loan is canceled prior to disbursing a wire transfer; notify POAD immediately to ensure--* loan funds are returned to the agency.

Emergency Request Criteria

Circumstances outside the control of the applicant or agency that would result in loss of property or contracts are considered emergency situations. Insufficient prior planning or inconvenience does not meet the requirements for an emergency wire transfer. Wire transfer requests not meeting the emergency criteria will not be approved.

Documentation Required for Wire Transfer Requests

- **Wire transfer instructions:** The agency official will obtain the wire transfer information for the recipient institution and submit with the request package. Submit on recipient's institution official letterhead with the following information:
 - contact information for official at recipient institution, if applicable
 - recipient institution's EIN or TIN number.
- **Written wire request instructions:** Provide the following information in a Word document or email:
 - borrower's name and/or entity name noted on closing documents
 - full case number
 - loan number and amount.

