

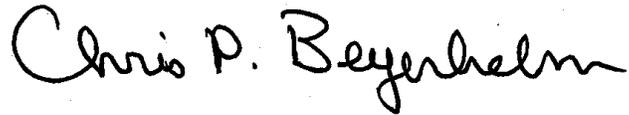
UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

**Direct Loanmaking
3-FLP (Revision 2)**

Amendment 4

Approved by: Deputy Administrator, Farm Loan Programs



Amendment Transmittal

A Reasons for Amendment

Subparagraphs 41 A and 171 A have been amended to indicate that FSA will not accept any CL applications until further notice.

Subparagraph 42 A has been amended to clarify the types of documentation used to demonstrate that an applicant is unable to obtain credit elsewhere.

Subparagraph 65 A has been amended to clarify credit history requirements for individual members of an entity.

Subparagraph 67 A has been amended to clarify when a guaranteed loan is considered delinquent Federal debt.

Subparagraph 72 F has been added to indicate that nonprofit entities are **not** eligible for assistance.

Subparagraph 91 B has been amended to correct the reference to EM's subpart.

Subparagraph 91 E has been amended to clarify when to use nonessential assets to meet the 150 percent requirement for CL.

Subparagraph 92 B has been amended to clarify when to obtain FSA-2319.

Subparagraph 92 C has been amended to update the CFR language and clarify the form requirements for liens held on purchase contracts.

Subparagraph 95 A has been amended to add CFR references.

Subparagraph 95 B has been amended to clarify appraisal requirements for additional and nonessential security.

Subparagraph 131 C has been amended for clarity and correctness.

Amendment Transmittal (Continued)

A Reasons for Amendment (Continued)

Subparagraph 132 D has been amended to revise the title for clarity.

Subparagraphs 173 B and 174 B have been amended to clarify loan terms for CL's.

Subparagraph 173 C has been amended to clarify that site work development may begin under the CL program when cost share payments are expected.

Paragraph 174 has been amended to rename the paragraph to correctly reflect paragraph content and add subparagraph C to clarify repayment of CL's.

Subparagraph 242 A has been amended to update the subparagraph references.

Paragraph 244 has been amended to update the yield report requirements and remove the requirement to adjust commodity prices.

Subparagraph 356 B has been amended to clarify that review rights are included.

Paragraph 357 has been added to provide guidance when a loan denial is overturned in NAD final determination.

Subparagraph 473 B has been amended to add the requirement that SED's issue a list of approved borrower training vendors.

Exhibit 4 has been amended to update the list of required State supplements.

Exhibit 5 has been amended to remove the written proof requirement of inability to obtain credit elsewhere.

Page Control Chart		
TC	Text	Exhibit
3, 4	3-1, 3-2 3-7, 3-8 4-5, 4-6 4-9, 4-10 4-17, 4-18 5-1 through 5-6 5-13, 5-14 7-1, 7-2 7-5, 7-6 8-1 through 8-30 10-7, 10-8 10-17, 10-18 15-15 through 15-18 18-5, 18-6	1, pages 1-4 page 5 4, pages 1, 2 page 3 5, pages 1, 2 page 3

Table of Contents (Continued)

Page No.

Part 8 Conservation Loan (CL) Program

Section 1 CL's

171	Uses.....	8-1
172	Eligibility	8-2
173	Limitations	8-3
174	Rates, Terms, and Repayment	8-4
175	Security	8-5
176-190	(Reserved)	

Section 2 Streamlined CL's

191	Streamlined CL Process.....	8-31
192-200	(Reserved)	

Part 9 Operating Loan (OL) Program

Section 1 OL's

201	Uses.....	9-1
202	Eligibility	9-6
203	Limitations	9-12
204	Rates, Terms, and Repayment	9-13
205	Security	9-16
206-215	(Reserved)	

Section 2 Lo-DOC OL's

216	Lo-Doc OL Process.....	9-45
217-225	(Reserved)	

Section 3 Youth Loans

226	Youth Loan Application Process	9-73
227	Uses and Limitations	9-74
228	Eligibility	9-76
229	Rates, Terms, and Repayment	9-78
230	Security	9-79
231-240	(Reserved)	

Table of Contents (Continued)

Page No.

Part 10 Emergency Loan (EM) Program

241	Uses.....	10-1
242	Eligibility	10-8
243	Limitations	10-16
244	Calculating Losses	10-17
245	Rates, Terms, and Repayment	10-23
246	Security Requirements	10-26
247	Real Estate Security Requirements.....	10-28
248	Appraisal and Valuation Requirements	10-29
249-265	(Reserved)	

Part 11 (Reserved)

266-285 (Reserved)

Part 12 (Reserved)

286-305 (Reserved)

Part 13 (Reserved)

306-330 (Reserved)

Part 14 (Reserved)

331-350 (Reserved)

Part 15 Loan Decision

351	Reviewing and Evaluating Applications.....	15-1
352	Loan Approval	15-4
353	Funding Approved Loans	15-8
354	Changes After Loan Approval.....	15-10
355	Monitoring FSA Approval.....	15-12
356	Loan Denial.....	15-15
357	Actions if Loan Denial is Overturned in NAD Final Determination.....	15-17
358-370	(Reserved)	

Part 3 Loan Application

41 Obtaining and Filing a Loan Application

A Obtaining a Loan Application

A loan application may be obtained from:

- any FSA office
- FSA's web site at www.fsa.usda.gov
- eGov's web site at www.sc.egov.usda.gov.

An agency official will:

- not refuse to provide a requested application to any person
- not discourage the prospective applicant to apply for a direct loan even when loan funds are limited or unavailable

***--Note:** On Friday, May 13, 2011, FR notice was published to inform the public that, because of a lack of funding for the CL program, direct CL applications will not be accepted until further notice. Agency officials should advise prospective applicants of the availability of other FSA loan programs.--*

- not make oral or written statements that would discourage any individual from applying for assistance based on any ECOA prohibited basis (race, color, religion, national origin, sex, marital status, age, applicant's income deriving from public assistance, or because the applicant has in good faith exercised any right under the Consumer Protection Act)
- provide Exhibit 5 to all persons requesting an application

Notes: Additional information, as necessary, may be requested; however, information that would create unapproved paperwork burden will not be requested. Specifically, anything that asks the applicant to provide information to FSA is not allowed by the State without approval from the National Office.

--Exhibit 5 is available in a fillable format at <http://intranet.fsa.usda.gov>. CLICK "FFAS Employee Forms/Publications Site" and CLICK "Find Current Forms Using Our Form Number Search". For "Form Number", ENTER "3-FLP Exhibit 5".--

- provide assistance as necessary to help applicants complete the application.

Note: Information about race, national origin, sex, and marital status is collected on a voluntarily basis on FSA-2001 and FSA-2301.

41 **Obtaining and Filing a Loan Application (Continued)****B Filing a Loan Application**

[7 CFR 764.51(a)] A loan application must be submitted in the name of the actual operator of the farm. Two or more applicants applying jointly will be considered an entity applicant. The Agency will consider tax filing status and other business dealings as indicators of the operator of the farm.

Upon receiving an application for direct loan assistance the authorized agency official shall ensure that the type of operation reflected on FSA-2001 is consistent with any representations previously made by the applicant for FP benefits.

If any difference in representations of the farming operation is identified, notify the applicant using FSA-2304 and insert the following for why the application is incomplete.

“A review of your FSA records revealed inconsistent representations in how your farming operation is conducted. (Provide details of different representations identified by FSA records.) Documentation must be provided to resolve the inconsistencies identified prior to your application for assistance to be considered complete.”

Note: See subparagraph 45 B for notification of incomplete application guidance.

Exception: An application will not be considered incomplete if the difference in representation is the result of either of the following:

- husband and wife representing themselves as a joint operation for FLP assistance but combined as a single person for FP
- producer participating in 2 separate and distinct operations.

When receiving an application from married persons, FSA cannot treat a married couple applying together the same way as 1 person applying individually. A married person may apply according to 1 of the following, depending on how the farm is operated.

- “As an individual” – A married person should apply as an individual when they are the operator of the farm, and the spouse has minimal involvement in the farm operation, particularly the day-to-day management and operations. In such cases, the nonfarming spouse will not be required to sign the application, except when required by State law to perfect a lien on marital or jointly owned property.

42 Complete Loan Application (Continued)

A Requirements (Continued)

[7 CFR 764.51(b)(4)] The last 3 years of farm financial records, including tax returns, unless the applicant has been farming less than 3 years;

Financial information will be primarily provided by the applicant on FSA-2002. Additional financial records, such as balance sheets, may be requested if necessary, for the last 3 years.

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

Notes: The applicant may submit alternate documents if they contain all information collected on FSA-2002.

If tax returns are not available, the authorized agency official must make a notation in the running record.

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

Production information will be provided by the applicant on FSA-2003.

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.

Note: The applicant may submit alternate documents, if they contain all information collected on FSA-2003.

[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;

--Applicants provide documentation that they are unable to obtain credit elsewhere by signing FSA-2001. However, after reviewing the financial information and type of loan requested (EM's have difference 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)****[7 CFR 764.51(b)(7)] Documentation of compliance with the Agency's environmental regulations contained in subpart G of 7 CFR 1940;**

An applicant must have AD-1026 on file for all real estate owned or rented.

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

See RD Instruction 1940-G and 1-EQ 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 will submit either of the following:

- FSA-2004 authorizing FSA to send FSA-2014 to the applicant's employer
- 2 most recent earning statements.

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

If a nonapplicant will be providing information and will sign FSA-2026, the nonapplicant will complete FSA-2001, Part C. If a nonapplicant's income will only be used to cover family living/owner withdrawal, the nonapplicant must sign FSA-2004 and FSA-2007 but will not be required to sign FSA-2026.

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

[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-2037 and FSA-2038.

65 Credit History**A General Requirement**

[7 CFR 764.101(d)] The applicant must have acceptable credit history demonstrated by debt repayment.

*--In the case of an entity, the applicant and all members of the entity must have an acceptable credit history.

[7 CFR 764.101(d)(1)] As part of the credit history the Agency will determine--* whether the applicant will carry out the terms and conditions of the loan, and deal with the Agency in good faith. In making this determination, the Agency may examine whether the applicant has properly fulfilled its obligations to other parties, including other agencies of the Federal Government.

--The authorized agency official may determine that an applicant has not acted in good faith-- if the applicant:

- deliberately falsifies information
- intentionally omits information relevant to the loan decision
- does not make every reasonable effort to meet the conditions and terms of any previous FSA loan
- failed to make reasonable effort to resolve delinquencies with other lenders.

Note: Applicants who provide false information may also be subject to civil and/or criminal prosecution and should be referred by the authorized agency official to OIG.

65 Credit History (Continued)

A General Requirement (Continued)

(2) When the applicant caused the Agency a loss by receiving debt forgiveness, the applicant may be ineligible for assistance in accordance with eligibility requirements for the specific loan type. If the debt forgiveness is cured by repayment of the Agency's loss, the Agency may still consider the debt forgiveness in determining the applicant's creditworthiness.

FSA will not consider the following as debt forgiveness for loanmaking purposes:

- debt reduction through a conservation easement or contract
- any debt written off as part of the resolution of a discrimination complaint against FSA, including debt written off in conjunction with the *Pigford Consent Decree*

Note: See current FLP notice for guidance on priority consideration.

- prior debt forgiveness that has been repaid in its entirety.

Notes: In the majority of cases under Chapter 11 of the Bankruptcy Code, the debt is discharged when the plan is confirmed (see 11 U.S.C. § 1141 (d) for exceptions to automatic discharge). In Chapter 12 and 13 cases, the discharge normally occurs, in 3 to 5 years, by court order. Debt forgiveness occurs when an applicant has completed all payments according to the plan and the unsecured FLP claim is written off. At that point, the applicant will be ineligible for most additional loans according to paragraphs 132, 172, 202, and 242. Specifically, according to paragraphs 132, 172, 202, and 242, the applicant may be eligible for annual production loans, but no other type of assistance.

An applicant who has successfully completed a bankruptcy reorganization plan will be considered to be current on the plan. Therefore, as long as the applicant remains current on the plan they may be eligible to receive annual production loans as outlined above. However, this status changes if the applicant subsequently becomes delinquent on any loans covered by the plan, including non-FSA loans. The denial for failure to comply with an approved bankruptcy plan is appealable. See 1-APP for further instruction.

66 Credit Elsewhere

A General Requirement

[7 CFR 764.101(e)] Except for CL, the applicant, and all entity members in the case of an entity, must be unable to obtain sufficient credit elsewhere to finance actual needs at reasonable rates and terms. The Agency will evaluate the ability to obtain credit based on factors including, but not limited to:

(1) Loan amounts, rates, and terms available in the marketplace; and

The applicant must certify in writing on FSA-2001 that the applicant is unable to obtain sufficient credit, with or without a guarantee, to finance the applicant's actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in, or near, where the applicant resides for loans for similar purposes and periods of time.

(2) Property interests, income, and significant non-essential assets.**B Documentation Requirements for FO and OL**

If, based on evaluation of the application, the authorized agency official determines the applicant:

- may qualify for credit elsewhere the authorized agency official:
 - may request applicant apply for credit from commercial lender and obtain letter of declination
 - may request applicant apply to additional lenders outside of local community
 - may pursue market placement according to 2-FLP, paragraph 72
 - must document results
- 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.

66 Credit Elsewhere (Continued)

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 CAIVRS, the credit report, DLS Current/Past Debt and Borrower Cross Reference Inquiry 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:** A 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.

[7 CFR 764.101(g)] The applicant and anyone who will sign the promissory note must have no outstanding unpaid judgments obtained by the United States in any court. Such judgments do not include those filed as a result of action in the United States Tax Courts.

The authorized agency official shall review debt verification obtained according to subparagraph 65 B.

B Resolving Delinquent Federal Debt and Judgments

Applicants who pay their delinquent Federal debt or judgment in full or otherwise resolve the delinquency or judgment before or at loan closing may be eligible.

Note: FSA will consider such debts as part of the creditworthiness eligibility requirement and in determining cash flow during the loan evaluation process.

72 Entity Composition (Continued)

D Treatment of Trusts

SED's, after consultation with the Regional OGC, shall issue a State supplement about the following for trusts:

- security requirements when lending to trusts
- unique characteristics of State trust statutes.

In trusts cases, SED shall consult with the Regional OGC to determine if:

- nonparticipant beneficiaries, third party trustees, beneficiaries of a revocable trust, and beneficiaries with only a future interest need to sign on behalf of the trust and as individuals
- submitted trust documents demonstrate valid organization under State law
- trustee has authority to mortgage trust property for the planned farming purposes.

E Life Estates

An FO involving a life estate may be made under certain circumstances to:

- both the life estate holder and the remainderman, if both:
 - have a legal right to occupy and operate the farm
 - are eligible for the loan independently
 - parties sign the note and lien instrument
- just the remainderman, if the remainderman has a legal right to operate the farm
- just the life estate holder, if:
 - there is no restriction placed on a life estate holder who occupies and operates a farm
 - the lien instrument is signed by the life estate holder, remainderman, and any other party having any interest in the security.

***--F NPO's**

NPO's are not eligible to receive FSA loan assistance. Eligible entities must be comprised of members who have an individual ownership interest in the entity and can assume personal liability on FSA-2026, as required by subparagraph 371 C.--*

73 Final Eligibility Determination**A Eligible Applicants**

Within 5 calendar days of a favorable eligibility determination, the authorized agency official will provide written notification to the applicant using FSA-2308. The notification should clearly explain that a decision of eligibility does not constitute loan approval. When notifying the applicant of a favorable eligibility decision, the authorized agency official, if necessary, will schedule a meeting with the applicant to proceed with developing the loan docket.

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

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

If the applicant is determined eligible and additional information becomes available that indicates the original eligibility determination was in error, the authorized agency official will reconsider the eligibility determination. The authorized agency official will clearly document in the case file whether the applicant still meets eligibility requirements. Written notification of the action taken will be sent to the applicant within 5 calendar days of the determination.

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 downpayment 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 nonapplicants will pledge the full value of chattel 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 chattel 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 up to 150 percent of the loan amount will be taken when available, except for downpayment loans and youth loans.

In the case of an entity, when all the security held by the entity does not meet the requirement for additional security up to 150 percent of the loan amount, FSA will take liens on personal assets held by individual members, as security to the extent that the members have suitable personal assets. The entity will select and notify FSA which asset it prefers to offer as security for the loan.

The authorized agency official will take security with a value that exceeds 150 percent of the loan amount if it is not practical to separate the property.

The value of additional security is established according to subparagraph 95 B.

Note: If a loan is in conjunction with EQIP, the EQIP contract will be considered the additional security needed to meet the 150 percent requirement.

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. For example, FSA will not choose chattel over real estate if real estate is the appropriate security for the loan and other real estate is available. 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 \$5,000. 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, conservation loans, or youth loans.--

This requirement 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 nonessential assets is:

- not included as part of the 150 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.

- is established according to subparagraph 95 B.

--For CL, the applicant is only required to pledge enough nonessential assets to meet the 150 percent requirement.--

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 chattel 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:

*--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.

Note: The lien will be taken on the security even if FSA-2319 is not obtained.

[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;--*

In some States, a prior lienholder may be able to foreclose the security instrument without providing junior lienholders notice of the foreclosure proceedings. In that case, any prior *--lienholder must agree in writing on FSA-2319, if required, to:--*

- give FSA advance notice of foreclosure
- offer to assign the mortgage to FSA for the amount of the outstanding debt owed to the prior lienholder.

*--[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**

The applicant agrees on FSA-2029 to obtain permission from FSA before granting any additional security interest in the real estate.

*--[7 CFR 764.104(a)(4)] **Equity in the collateral exists.--***

92 Real Estate Security (Continued)**C Liens on Real Estate Held Under a Purchase Contract**

In a land purchase contract, the seller of the land, or contract holder, acts as a lender and continues to hold the title for the land. The purchaser of the land is essentially obtaining financing of a portion of the purchase price of the land from the seller. The property may be used for adequate or additional security for all types of direct loans.

[7 CFR 764.104(b)] If the real estate offered as security is held under a recorded purchase contract:

- (1) The applicant must provide a security interest in the real estate.**
- (2) The applicant and the purchase contract holder must agree in writing that any insurance proceeds received for real estate losses will be used only for one or more of the following purposes:**
 - (i) To replace or repair the damaged real estate improvements which are essential to the farming operation;**
 - (ii) To make other essential real estate improvements; or**
 - (iii) To pay any prior real estate lien, including the purchase contract.**

[7 CFR 764.104(b)(3)] The purchase contract must provide the applicant with possession, control and beneficial use of the property, and entitle the applicant to marketable title upon fulfillment of the contract terms.

[7 CFR 764.104(b)(4)] The purchase contract must not:

- (i) Be subject to summary cancellation upon default;**
- (ii) Contain provisions which jeopardize the Agency's security position, or the applicant's ability to repay the loan.**

92 Real Estate Security (Continued)

C Liens on Real Estate Held Under a Purchase Contract (Continued)

[7 CFR 764.104(b)(5)] The purchase contract holder must agree in writing to:

- (i) Not sell or voluntarily transfer their interest without prior written consent of the Agency;
- (ii) Not encumber or cause any liens to be levied against the property;
- (iii) Not take any action to accelerate, forfeit, or foreclose the applicant's interest in the security property until a specified period of time after notifying the Agency of the intent to do so;
- (iv) Consent to the Agency making the loan and taking a security interest in the applicant's interest under the purchase contract as security for the FLP loan;
- (v) Not take any action to foreclose or forfeit the interest of the applicant under the purchase contract because the Agency has acquired the applicant's interest by foreclosure or voluntary conveyance, or because the Agency has subsequently sold or assigned the applicant's interest to a third party who will assume the applicant's obligations under the purchase contract;
- (vi) Notify the Agency in writing of any breach by the applicant; and
- (vii) Give the Agency the option to rectify the conditions that amount to a breach within 30 calendar days after the date the Agency receives written notice of the breach.

The authorized agency official must ensure that conditions are met before closing a loan secured by a land purchase contract. The contract holder must agree to these conditions, in writing, either on a form:

- obtained from the regional OGC
- that includes all items listed in this subparagraph and has been approved by the regional OGC.--*

[7 CFR 764.104(b)(6)] If the Agency acquires the applicant's interest under the purchase contract by foreclosure or voluntary conveyance, the Agency will not be deemed to have assumed any of the applicant's obligations under the contract, provided that if the Agency fails to perform the applicant's obligations while it holds the applicant's interest is grounds for terminating the purchase contract.

94 Exceptions to Security Requirements (Continued)

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 the running record.

95 Appraisals and Values

A Adequate Security

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

A real estate appraisal is required when real estate is taken as basic security and the amount of the loan to be secured by the real estate exceeds \$50,000.

A new real estate appraisal is not required if the latest appraisal report available is not over 1 year old, unless significant changes in the market value of real estate have occurred in the area within the 1 year period.

[7 CFR 764.107(b)] The value of chattels will be established as follows:

An appraisal will be completed to determine market value and applicant equity when:

- an initial loan is made on all chattel property owned by the applicant, and on chattel property to be acquired when the item can be specifically identified
- a subsequent loan is made to refinance chattel debt
- a subsequent loan is made and the existing chattel appraisal is more than 2 years old.

***--[7 CFR 764.107(a)(1)] 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.**

[7 CFR 764.107(a)(2)] The value of livestock and equipment will be established by--* an appraisal completed in accordance with §761.7 (1-FLP) of this chapter.

B Additional Security and Nonessential Assets

--An appraisal is not required when real estate or chattels are taken as additional security or nonessential assets. The authorized agency official, to whom SED delegated authority under 1-FLP, will estimate the market value.--

The authorized agency official must document the value in the running record, along 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)

Part 7 Farm Ownership Loan (FO) Programs**Section 1 FO's****131 Uses****A General**

[7 CFR 764.151] FO loan funds may only be used to:

See subparagraphs B through F for FO uses.

B Farm Purchases

FO funds may only be used to:

[7 CFR 764.151(a)] Acquire or enlarge a farm or make a down payment on a farm.

Examples include, but are not limited to, the purchase of easements, the applicant's portion of land being subdivided, purchase of cooperative stock, appraisal and survey fees, and participation in special FO programs. Downpayments are authorized as a loan purpose subject to the following.

- A deed is obtained and the transaction is properly documented by debt and security instruments.
- Any prior liens meet the FO security requirements for FSA's junior lien position.
- For contract purchases, purchase contracts must properly obligate the buyer and seller to fulfill the terms of the contract, provide the buyer with possession, control, and beneficial use of the property, and entitle the buyer to marketable title upon fulfillment of the contract terms. The deed must be held in trust by a bonded agent until transferred to the buyer. Upon a buyer's default, the seller must give FSA written notice of the default and a reasonable opportunity to cure the default. The applicant must repay any sums advanced by FSA.

131 Uses (Continued)

B Farm Purchases (Continued)

The authorized agency official should advise the applicant to have an understanding with the seller on such items as:

- land description and number of acres
- buildings and fixtures included in the transaction

Note: The applicant should determine the condition of property attached to the land and the working condition of any fixtures with movable parts.

- minerals and the effect any mineral reservation has on the land value and operating it as a farm
- access to the land or any part of it
- the party responsible for taxes and insurance
- the party who will receive the income from the land during the crop year of the transaction.

C Capital Improvements

FO funds may only be used to:

[7 CFR 764.151(b)] Make capital improvements to a farm owned by the applicant, for construction, purchase or improvement of farm dwellings, service buildings or other facilities and improvements essential to the farming operation. In the case of leased property, the applicant must have a lease to ensure use of the improvement over its useful life or to ensure that the applicant receives compensation for any remaining economic life upon termination of the lease;

FO funds can be used to purchase, improve, or build any type of structure, including a *--dwelling that either adequately meets family needs and is modest in size, cost, and design, provided the structure is related to the farming enterprise. The dwelling shall be located on the farm when FO funds are used to purchase the dwelling. However, if the applicant--* already owns a dwelling located close to the farm, FO funds may be used to repair or improve the dwelling.

An applicant must be the owner of the property, or hold a lease interest for the property, which has a term at least equal to the term of the proposed loan on the property, which the improvement is to be made. In the case of Indian tribal lands, trust properties, and Hawaiian homelands, the applicant's leasehold must show an ownership interest as specified by a State supplement.

132 Eligibility (Continued)

--D Farm Experience--

The applicant:

[7 CFR 764.152(d)] And in the case of an entity, one or more members constituting a majority interest, must have participated in the business operations of a farm for at least 3 years out of the 10 years prior to the date the application is submitted.

Factors to determine participation in the business operations of a farm are similar to those for determining adequate farming experience necessary to ensure a reasonable prospect of success in the operation.

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

Significant responsibilities include, but are not limited to:

- decisions to cull livestock
- selection of seed varieties and weed control programs
- determination of whether equipment should be repaired or replaced
- selection of input suppliers
- selection of feeding programs or strategies.

Applicants must thoroughly document participation in the business operation of a farm and verify that participation was not solely as a laborer. Documentation includes but is not limited to:

- copies of farm business operation related bills or statements with applicant's name
- copies of checks with applicant's signature for payment of farm business operation related goods or services
- written statements from other parties with knowledge of applicant's role and responsibilities in the business operation of a farm.

For an individual applicant to be an operator, the applicant must have materially and substantially participated and provided day-to-day labor and management of the farm for at least 3 years, such that if the individual did not provide these inputs, operation of the farm would have been seriously impaired.

For an entity applicant to be an operator, 1 or more members constituting a majority interest must have materially and substantially participated in the operation of the farm for at least 3 years. Material and substantial participation requires that the members provided a significant amount of management or management and labor necessary for day-to-day activities, such that if the members did not provide these inputs, operation of the farm would have been seriously impaired.

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

Example 1: Jane Doe applies for an FO to purchase a hog farm in Illinois. She is currently practicing law in Seattle. She indicates on her application that she was raised on a family farm in Illinois, where it was her job to feed and tend to the hogs. It turns out the entire family moved to the city of Seattle when she was 12 years old. She is ineligible since she has not operated or participated in the business operations of a farm.

Example 2: Jane Smith applies for an FO to purchase a hog farm adjacent to the 1 currently owned by her mother. She recently graduated from veterinary school. In between college and veterinary school, she spent 4 years working on the family hog farm. Her father had died while she was in college and she assumed responsibility for the farm, and continued to oversee the day-to-day operation of the farm while she attended veterinary school. She is deemed to have complied with this eligibility requirement since she has had significant responsibility for the day-to-day business operations of a farm for more than 3 years.

E Term Limits

The applicant:

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

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

Part 8 Conservation Loan (CL) Program**Section 1 CL's****171 Uses****A General**

[7 CFR 764.231(a)] CL funds may be used for any conservation activities included in a conservation plan including, but not limited to:

- (1) The installation of conservation structures to address soil, water and related resources;**
- (2) The establishment of forest cover for sustained yield timber management, erosion control, or shelter belt purposes;**
- (3) The installation of water conservation measures;**
- (4) The installation of waste management systems;**
- (5) The establishment or improvement of permanent pasture; and**
- (6) Other purposes including the adoption of any other emerging or existing conservation practices, techniques, or technologies.**

***--Note:** On Friday, May 13, 2011, FR notice was published to inform the public that, because of a lack of funding for the CL program, direct CL applications will not be accepted until further notice. Agency officials should advise prospective applicants of the availability of other FSA loan programs.--*

FSA's file will contain either NRCS CPA-1155 or Tool Kit as proof of an approved conservation plan.

Any equipment, conservation practice, conservation project listed on the conservation plan, or anything that is required to carry out the provisions of the conservation plan, including items regularly funded with OL or FO can be funded with CL.

The completed conservation practice must meet NRCS standards.

See Exhibit 2 for definitions of conservation plan, conservation practice, and conservation project.

172 Eligibility

A General Eligibility

[7 CFR 764.232(a)] **The applicant:**

[7 CFR 764.232(a)(1)] **Must comply with general eligibility requirements specified in *--§764.101 except paragraphs (e) and (k) (paragraphs 66 and 71).--***

B No Prior Debt Forgiveness

The applicant:

[7 CFR 764.232(a)(2)] **And anyone who will sign the promissory note, must not have received debt forgiveness from the Agency on any direct or guaranteed loan.**

C CL Individual and Entity Owner and Operator Requirement

The applicant:

[7 CFR 764.232(a)(3)] **Must be the owner-operator or tenant-operator of a farm and be engaged in agricultural production after the time the loan is closed. In the case of an entity:**

(i) The entity is controlled by farmers engaged primarily and directly in farming in the United States;

(ii) The entity must be authorized to operate a farm in the State in which the farm is located.

[7 CFR 764.232(b)] [Reserved].

***--D Term Limits**

CL's are not subject to term limits.--*

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 noneligible enterprise source and the conservation measure may benefit the noneligible 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 noneligible 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:

- (1) The Agency schedules repayment of a CL based on the useful life of the security.**
- (2) The maximum term for loans secured by chattels only will not exceed 7 years from the date of the note.**
- (3) In no event will the term of the loan exceed 20 years from the date of the note.**

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

- maximum loan term (7 years for chattel or 20 years real estate)
- useful life of the security.

The term can be shortened on request of the applicant.--*

*** * ***

--174 Rates, Terms, and Repayment (Continued)*C Repayment**

All CL's are scheduled with annual payments. The repayment schedule may include equal, unequal, or balloon payments, as follows:

- the first payment is due within 18 months
- 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 unequal or interest only installments are scheduled for a nonstreamlined 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
- if a cost share payment is planned, repayment may be scheduled with the cost share portion as the balloon portion, enabling regularly scheduled payments before and after applying the cost share payment.--*

175 Security**A Security Requirements**

[7 CFR 764.235(a)] The loan must be secured:

- (1) In accordance with requirements established in §§ 764.103 through 764.106 (Part 5); and**
- (2) In the order of priority as follows:**
 - (i) By real estate, if available, and then**
 - (ii) By chattels, if determined acceptable by the Agency.**

176-190 (Reserved)

241 Uses (Continued)

C Production Losses (Continued)

The following additional requirements apply when refinancing direct and guaranteed FLP loans.

- Only direct and guaranteed FLP loans made for authorized operating loan purposes may be refinanced.
- The need to refinance the guaranteed loan is the result of the disaster and it is in the Government's best financial interest to do so.

Note: The authorized agency official must document that the guaranteed lender to be refinanced will not restructure the guaranteed loan at rates and terms that would permit the applicant to develop a feasible plan.

- Servicing the direct loan with Primary Loan Servicing or DSA will not result in a feasible plan.
- The applicant is the sole obligor on the loan to be refinanced.

The entire direct or guaranteed FLP loan may not be refinanced if using loan funds to pay only the delinquent installments, current year installments, or both will result in a feasible plan.

Compliance with these requirements shall be documented in the running record of the loan file.

[7 CFR 764.351(b)(7)] Replace lost working capital.

See Exhibit 2 for the definition of working capital.

242 Eligibility

A General

The applicant:

[7 CFR 764.352(a)] Must comply with the general eligibility requirements established at § 764.101 (paragraphs 62 through 72);

--See subparagraphs B through L for EM program specific eligibility. If different from the-- general eligibility according to paragraphs 62 through 72, the information in this paragraph will be substituted for those portions.

B Family Farm and Nonfarm Enterprise

--See paragraph 71, and the definition of family farm in Exhibit 2, for more information on-- determining whether the applicant's farm meets the family farm definition.

C Established Farmer

The applicant:

[7 CFR 764.352(b)] Must be an established farmer;

See Exhibit 2 for the definition of established farmer.

Note: Estates are not considered established farmers and are therefore not eligible.

244 Calculating Losses

A Forms for Reporting and Calculating Losses

The applicant will use FSA-2309 to report all yields and acreage information as well as physical losses to FSA.

FSA will use FSA-2311 or the automated FSA-2311 to determine the applicant’s actual production, physical losses, or both.

B Determining Normal Production Yield

Normal production yield is defined in Exhibit 2.

- For NAP insured crops, the NAP APH yield will be used the same as the RMA APH. NAP APH can be obtained from CCC-452 Manual in the producer's file. For all other insured crops, APH will be based upon the APH calculation worksheet completed by the applicant's crop insurance company. A copy of the APH calculation worksheet should be obtained from the crop insurance company and placed in the applicant's file.
- The FP payment yield is a proven yield based on the applicant’s production and not the established yield set by COC.

If county averages are not available, State averages will be used. Normal production yield is calculated according to the following.

IF an applicant...	THEN...
had crop insurance in the disaster year, or the crops are covered under NAP and the Risk Management Crop Insurance Report or CCC-452 lists APH	APH will be used as the normal year yield for the entire commodity, regardless of whether or not the entire crop is insured.
did not insure its crops or had individual commodities that were not insured	the applicant’s actual reliable records for the 3 years immediately before the disaster year will be averaged to determine the normal year yield.
does not have APH and their own reliable records for any or all of the 3 years are not available	*--the applicant’s yield reported to FSA for--* receiving FP payments will be used in each or any of the years that these records are not available.
does not have APH, reliable records, or has not reported yields to FSA for any or all 3 years	county or State averages will be used in any or all of the years these records are not available.

Note: If an applicant had crop insurance in past years but did not have crop insurance during the disaster year, APH for prior years will be ignored and have no bearing when calculating losses. Only the records listed will be used.

244 Calculating Losses (Continued)

C Calculating Production Losses

[7 CFR 764.353(c)] For production loss loans, the applicant's actual crop production loss will be calculated as follows:

Losses to growing crops in designated and/or contiguous counties are used to calculate a production loss.

(1) Subtract the disaster yield from the normal yield to determine the per acre production loss;

See subparagraph D for calculating quality loss adjustments. See subparagraph F for calculation examples.

(2) Multiply the per acre production loss by the number of acres of the farming operation devoted to the crop to determine the volume of the production loss;

(3) Multiply the volume of the production loss by the market price for such crop as determined by the Agency to determine the dollar value for the production loss; and

In July of each year or sooner if information is available, SED shall:

- establish benchmark prices using the average monthly market prices for each commodity for the previous calendar year as shown in the "Agricultural Price" report published by NASS and available on the Internet at <http://usda.mannlib.cornell.edu>, ENTER *--"Prices" in the search box, CLICK "Search", and CLICK "Agricultural Prices"

Notes: Previous years' monthly reports are listed under "Archived Documents".--*

For commodities for which NASS does not keep statistics and issue reports, SED will use other sources, such as NIFA, commodity brokers, local markets, or other reliable sources.

* * *

- issue a State supplement with the unit prices for all commodities produced commercially in the State to be used in calculating all production losses for any disaster that happens in the present calendar year, January through December.

*--**Example:** 2010 prices will be used for disasters occurring between January 1, 2011, through December 31, 2011, and so forth for each subsequent year.--*

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;

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

[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.

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

B Notification of Loan Denial

The authorized agency official notifies the applicant of loan denial 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
- *--appeal or review rights according to 1-APP--*
- ECOA and nondiscrimination statement according to 1-FLP, paragraph 41.

356 Loan Denial (Continued)**C Actions After Denial**

Once the loan application is denied, the authorized agency official will:

- input data into DLS
- close the loan application process.

FSA must maintain applications that have been rejected. See 25-AS for maintaining loan files.

See 1-APP for information on reconsideration if the applicant requests FSA reconsider the loan application for approval.

D Counseling

When discussing a denial decision, the authorized agency official will advise the applicant of potential actions or alternatives that might resolve or help resolve the issues that resulted in the denial of the loan request. Examples include, but are not limited to, obtaining necessary experience or training, restructuring debts, liquidating assets and paying down debts, repaying debt forgiveness, and changing the size or scope of the farm operation.

The authorized agency official should not tell the applicant what actions to take, and make it clear that what is being discussed are options; it is up to the applicant to decide what course of action to take.

Authorized agency officials shall not guarantee that loan approval is certain, especially when that guarantee is based upon an applicant taking a specific action.

* * *

--357 Actions if Loan Denial is Overturned in NAD Final Determination*A Final NAD Determination**

1-APP, subparagraph 135 A requires FSA implement a final determination not later than 30 calendar days after the effective date of the notice of final determination. An appeal determination is administratively final when the provisions of 1-APP, subparagraph 135 B have been met.

B Advising Applicant of Next Steps

The authorized agency official will advise the applicant of the next steps to be taken in application processing according to subparagraphs C through E within 5 workdays of the date the appeal decision becomes administratively final, or the date FSA determines that it will not pursue a further review of the hearing officer's decision, whichever comes first. The contact will be by telephone or in person, with a written followup.

C Obtaining Updated or Revised Information

[7 CFR 764.401(c)] If an Agency loan denial is overturned on administrative appeal, the Agency will not automatically approve the loan. Unless prohibited by the final appeal determination or otherwise advised by the Office of General Counsel, the Agency will:

(1) Request current financial information from the applicant as necessary to determine whether any changes in the applicant's financial condition or agricultural conditions which occurred after the Agency's adverse decision was made will adversely affect the applicant's farming operation;

Note: Adversely affect means that a change unrelated to the issue resolved through appeal will result in an applicant no longer being eligible, the previously developed FBP not being feasible, or in the proposed security being inadequate for the type of loan requested.

If there have been no significant changes to the applicant's financial or farming situation since the date of the original Agency decision, the applicant will initial and date FBP, at which time FBP will be considered current. If the applicant indicates that significant changes have occurred, it is not necessary that all new financial or other information be provided. Only the information that has changed needs to be submitted or revised. Any revised or new documents must be initialed or signed, as appropriate, by both the applicant and authorized agency official.

Note: A significant change is a change that would materially affect the feasibility of, or the eligibility or security for, the proposed loan. Examples include incurring a debt for purchasing livestock, equipment, or planting a crop, loss of livestock or crops because of disaster, material increases or decreases in off-farm income, and entry into or loss of a production, marketing, or lease contract, or other events that effect potential income, expenses, or production capacity.--*

--357 Actions if Loan Denial is Overturned in NAD Final Determination (Continued)*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.

E Evaluating Impact NAD Decision and New or Revised Information

The authorized agency official shall:

[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)

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

E Financial Management Training Requirements

[7 CFR 764.452(c)] 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, at loan closing the applicant must agree in writing (FSA-2371) 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.

The authorized agency official may waive an applicant's previously required training requirements if the applicant has received multiple extensions for unusual circumstances. To waive the requirements, the authorized agency official must determine, based on the criteria outlined in subparagraph 472 B, that the applicant has acquired sufficient financial management or production experience since the training was 1st required.

B Arranging Training With a Vendor

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

--SED's shall 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 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.

Reports, Forms, Abbreviations, and Redelegations of Authority

Reports

Reports Control Number	Title	Reporting Period	Submission Date	Negative Reports	Reference
RPT-1-00-FLP 09-2	SDA Loan Review Summary	Annually	By October 31 each year	Required	355

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 (HELIC) and Wetland Conservation (WC) Certification		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
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-570	Waiver of Eligibility for Emergency Assistance		113
FSA-2001	Request for Direct Loan Assistance		41, 42, 43, 45, 62, 66, 68, 371, 416
FSA-2002	Three-Year Financial History		42, 472
FSA-2003	Three-Year Production History		42, 472
FSA-2004	Authorization to Release Information		42
FSA-2005	Creditor List		42
FSA-2006	Property Owned and Leased		42
FSA-2007	Statement Required by the Privacy Act for Non-Applicants		42
FSA-2008	Recorded Security Instruments (Chattel)		433
FSA-2010	Notification of Exercise of Priority Consideration Under Consent Decree		Ex. 5
FSA-2014	Verification of Income		42
FSA-2015	Verification of Debts and Assets		42, 242
FSA-2026	Promissory Note		Text
FSA-2027	Supplemental Payment Agreement		135, 204
FSA-2028	Security Agreement		91, 416, 419
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 the Use of Proceeds/Release of Chattel Security		419
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

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
FSA-2302	Description of Farm Training and Experience		42, 472
FSA-2303	Notice of Farm Loan Programs Application Received		45
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-2308	Notice of Eligibility for FSA Assistance		73
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		91, 352, 472
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
FSA-2341	Certification of Attorney		372, 397, 451
FSA-2342	Certification of Title Agent		372, 397, 451
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
FSA-2370	Request for Waiver of Borrower Training Requirements		70, 472
FSA-2371	Agreement to Complete Training		473
FSA-2375	Agreement to Conduct Production or Financial Management Training		493, 494
FSA-2376	Borrower Training Course Evaluation		494

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

Forms (Continued)

Number	Title	Display Reference	Reference
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		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
RD 1940-22	Environmental Checklist for Categorical Exclusions		45
Schedule F (Form 1040)	Profit or Loss from Farming		246
UCC-1	National Financing Statement		92, 93, 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
BCIS	Bureau of Citizenship and Immigration Services	Ex. 8, 9
CONACT	Consolidated Farm and Rural Development Act	1, 69, Ex. 16
CAT	Catastrophic Risk Protection Endorsement	113, 244
CL	Conservation Loans	Text, Ex. 2
EPLS	Excluded Parties List System	68
FFA	Future Farmers of America	69, 227
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
Lo-Doc	low documentation	2, 43, 191, 216, Ex. 2
NPO	nonprofit organization	72
PRWORA	Personal Responsibility and Work Opportunity Reconciliation Act of 1996	Ex. 2, 8
SDMS	State Directive Management System	3, 355
ST	softwood timber	94, Ex. 2

Re delegations of Authority

None

State Supplements

The following lists required State supplements.

Subparagraph	State Supplements
3 C	<p>Notary Acknowledgement</p> <ul style="list-style-type: none"> To provide the appropriate State required text.
--3 F	<p>State Created Forms--</p> <ul style="list-style-type: none"> Address the use of all State created forms, except the State specific FSA-2029, which does not need to be included.
3 D and 371 C	<p>Signature Requirements</p> <ul style="list-style-type: none"> As required by State law for individuals, entities, and trusts.
42 A	<p>Married Couples Applying as a Joint Operation</p> <ul style="list-style-type: none"> Issued when applicable to provide guidance on married couples applying as a joint operation.
--72 D--	<p>Trust Issues</p> <ul style="list-style-type: none"> Security requirements. * * * Unique State statutes.
91 B	<p>Adequate Security - 3rd Party Pledge</p> <ul style="list-style-type: none"> In States where property is not held in fee simple or where DOJ lacks jurisdiction a State supplement may be necessary upon the advice of OGC.
92 D	<p>Real Estate Security - Fixtures and Equipment</p> <ul style="list-style-type: none"> A State supplement may be necessary upon the advice of OGC, to further explain taking a security interest in fixtures.
92 F and 131 C	<p>Leasehold Estates in Hawaii, Puerto Rico, and American Samoa</p> <ul style="list-style-type: none"> Unique State/territory statutes. <p>*--Note: Must be submitted for preapproval.--*</p>
94 D	<p>DOJ Jurisdiction Issues: When FSA Cannot Obtain a Valid Lien</p> <ul style="list-style-type: none"> 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.
--114 B--	<p>Mortgage Clause, for Required States Only</p> <ul style="list-style-type: none"> If using a mortgage clause other than the standard mortgage clause on FSA-2320 has been made mandatory by State law or insurance regulation.

State Supplements (Continued)

Subparagraph	State Supplements
133 D	<p>State Water Rights, Irrigation Issues, and Restrictions on Land Drainage</p> <ul style="list-style-type: none"> • State all requirements to be met, including the acquisition of water rights. • Define areas where development of ground water for irrigation is not recommended. • Define areas where land drainage is restricted.
136 A	<p>Mortgage Requirements for Subsequent Loans</p> <ul style="list-style-type: none"> • A State supplement shall be issued about when to obtain a new mortgage for a subsequent loan.
152 B	<p>Median Size Farm</p> <ul style="list-style-type: none"> •*--Guidance addressing what constitutes a median size farm for each county in the State.--*
202 H	<p>Term Limit Requirements</p> <ul style="list-style-type: none"> • If needed to reissue any existing State supplements on term limit requirements to comply with the term limit provisions.
244 C	<p>Unit Price on Commodities</p> <ul style="list-style-type: none"> • Guidance on unit prices for all commodities produced commercially in the State.
248 A	<p>Waiver of Real Estate Appraisal Requirements for EM</p> <ul style="list-style-type: none"> • Guidance about waiving the real estate appraisal requirements for an applicant receiving only EM.
--374 A--	<p>State Requirements for Filing Liens</p> <ul style="list-style-type: none"> • Forms to use, directions for completion, and correct way to make the lien a matter of public record.
397 B * * *	<p>Purchase Contracts and Fixtures</p> <ul style="list-style-type: none"> • Forms to use, directions for completion, and correct way to make the lien a matter of public record.

State Supplements (Continued)

Subparagraph	State Supplements
399 B	<p>Correcting Errors in Recorded Security Instruments</p> <ul style="list-style-type: none"> • SED shall issue a State supplement, subject to OGC’s review and approval, providing guidance in correcting errors in recorded security instruments.
418 C	<p>Milkbase or Grazing Permits Financed or Taken as Security</p> <ul style="list-style-type: none"> • Forms to use, directions for completion, acknowledgement by the payor, and correct way to make the form a matter of public record.
418 D	<p>Perfecting Liens on Stock in Coop Associations</p> <ul style="list-style-type: none"> • Forms to use, directions for completion, and correct way to make the form a matter of public record.
418 E	<p>Perfecting Liens on Motor Vehicles</p> <ul style="list-style-type: none"> • Forms to use, directions for completion, and correct way to make the form a matter of public record.
418 F	<p>Liens on Fixtures and Equipment</p> <ul style="list-style-type: none"> • Forms to use, directions for completion, and correct way to make the form a matter of public record.
433 B	<p>FSA Responsibilities for Documents</p> <ul style="list-style-type: none"> • States shall issue directions on how documents are to be handled in their respective State.
--473 B	<p>Training Vendors</p> <ul style="list-style-type: none"> • States shall issue a list of approved training vendors.--

Note: SED’s shall:

- issue supplements according to 1-AS, paragraph 216
- obtain approval of State supplements according to 1-AS, paragraph 220.

Information Needed to Submit an FSA Direct Loan Application

Note: Exhibit 5 is available in a fillable format at <http://intranet.fsa.usda.gov>. CLICK “FFAS Employee Forms/Publications Site” and CLICK “Find Current Forms Using Our Form Number Search”. For “Form Number”, ENTER “3-FLP Exhibit 5”.

*--

3-FLP, Exhibit 5
(Use Agency Letterhead format with local return address.)
[Name and Address]
INFORMATION NEEDED TO SUBMIT AN FSA DIRECT LOAN APPLICATION
Dear [Name] : Date [MM-DD-YYYY]
Please provide the items marked with an “X” in the box so that your request for loan assistance can be considered. Any required forms are enclosed. Additional copies of forms, if needed, can be obtained at http://forms.sc.gov.usda.gov/eForms/welcomeAction.do?Home .
<input type="checkbox"/> 1) FSA-2001, “Request for Direct Loan Assistance”.
<input type="checkbox"/> 2) FSA-2301, “Request for Youth Loan”.
<input type="checkbox"/> 3) For entity applicants only:
<input type="checkbox"/> a. Copies of any Organizational and Operation Documents (e.g., Charter, Articles of Incorporation, Bylaws, Partnership or Joint Operation Agreement, etc.).
<input type="checkbox"/> b. Any evidence of current registration with relevant state regulatory agencies (good standing).
<input type="checkbox"/> c. A duly adopted resolution to apply for and obtain financing.
<input type="checkbox"/> d. A balance sheet not more than 90 days old for the entity.
<input type="checkbox"/> e. A balance sheet not more than 90 days old for each individual entity member.
Note: If there are no individually owned assets then husband and wife joint operations may submit a consolidated balance sheet.
<input type="checkbox"/> 4) Notification of Exercise of Priority Consideration under Consent Decree (FSA-2010), or similar written request, if you are exercising your right to priority consideration. If FSA does not receive your written notice, your application will be processed in the normal manner.
<input type="checkbox"/> 5) FSA-2002, “Three-Year Financial History”, or similar form acceptable to the Agency. Also provide tax returns, including Schedule F, for the past three years, or each year you have been in business, whichever is less. You may be asked to provide supporting documentation if you provide financial summaries. If the financial history has been previously provided, complete <u>only</u> for those years not previously provided.
Note: Provide 3 years balance sheets, if available.

--*

Information Needed to Submit an FSA Direct Loan Application (Continued)

*--

3-FLP, Exhibit 5

- 6) FSA-2003, "Three-Year Production History", or similar form acceptable to the Agency, for the past three years, or each year you have been in business, whichever is less. If production history has been previously provided, complete only for those years not previously provided.
- 7) FSA-2004, "Authorization to Release Information".
Note: If you are relying on non-farm income or other assets of a non-applicant spouse to generate positive cashflow or pay family living expenses he/she must execute an FSA-2004 or provide their 2 most recent earning statements.
- 8) FSA-2005, "Creditor List".
- 9) FSA-2006, "Property Owned and Leased". Attach a copy of the legal descriptions of any farm property owned, or to be acquired, and if applicable, any lease, contracts, options and other agreements with regard to the property.
- 10) FSA-2007, "Statement Required by the Privacy Act", required from anyone who will sign loan or security documents, but is not the applicant or an entity member.
- 11) Projected farm operating plan which includes a balance sheet and cash flow for the next 12 months. You may use the Farm Business Plan Worksheets: the FSA-2037, "Balance Sheet" and FSA-2038, "Income and Expenses", or similar forms acceptable to the Agency.
- 12) Most recent account statement for credit cards, loans, and all other bank accounts. Any original documents you submit will be returned to you.
- 13) Credit Report Fee made payable to the Farm Service Agency for the type of applicant:
Individual \$ _____ Joint \$ _____ or Commercial \$ _____
- 14) FSA-2302, "Description of Farm Training and Experience," For entity applicants, provide for each individual member involved in managing or operating the farm.
- 15) FSA-2370, "Request for Waiver of Borrower Training Requirements".
- 16) Verification of any other non-farm income (i.e., social security, rental income, pension).
- 17) RD-1940-20, "Request for Environmental Information".
- 18) AD-1026, "Highly Erodible Land Conservation and Wetland Conservation Certification".
(Initial Application and Subsequent Application when there have been changes to the real estate farmed.)
- 19) For construction loans only:
 - a. A copy of any plans and specifications for the improvements you intend to make.
 - b. A description of any planned development, the proposed schedule and cost estimate.

Page 2

--*

Information Needed to Submit an FSA Direct Loan Application (Continued)

*--

3-FLP, Exhibit 5

- 20) For EM only:
 - FSA-2309, "Certification of Disaster Losses".
 - FSA-2310, "Lender's Verification of Loan Application".
- 21) For CL only:
 - a. NRCS Approved Conservation Plan.
 - b. Financial Statement (Streamlined CL's).
- 22) Other

A DECISION CANNOT BE MADE ON A LOAN REQUEST WITHOUT ALL INFORMATION REQUESTED IN THE LETTER. HOWEVER, AFTER REVIEW OF THE PROVIDED INFORMATION FSA MAY REQUEST ADDITIONAL INFORMATION NECESSARY TO COMPLETE PROCESSING YOUR APPLICATION. THIS WILL IN SOME CASES, INCLUDE WRITTEN EVIDENCE OF YOUR INABILITY TO OBTAIN CREDIT ELSEWHERE.

Please contact this office if you need help. We can help you complete the requested forms, explain what information we need, and answer any questions about the information requested in this letter. If we cannot assist you by phone, we will schedule an appointment to meet with you.

Sincerely,

Enclosures

Page 3

--*

