

**UNITED STATES DEPARTMENT OF AGRICULTURE**

Farm Service Agency  
Washington, DC 20250

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

**Amendment 5**

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**Approved by:** Deputy Administrator, Farm Loan Programs

*Chris P. Beyershelm*

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**Amendment Transmittal**

**A Reasons for Amendment**

Subparagraph 42 A has been amended to clarify what information is needed in the written description of farm training and/or experience.

Paragraph 69 has been amended to provide additional clarification and examples of how applicants can meet the managerial ability eligibility requirement.

Subparagraph 74 F has been amended to include EM's for equine losses as an eligible loan purpose.

Subparagraph 132 D has been amended to provide additional clarification and examples of how applicants can meet the farm experience FO eligibility requirement.

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

Subparagraph 242 I has been amended to remove restrictions on equine EM losses.

Subparagraph 242 L has been amended to insert EM equine eligibility.

Subparagraph 243 D has been added to address the limitation on equine EM loans.

Subparagraph 246 A has been amended to add security requirements for equine EM loans.

Subparagraph 248 B has been amended to add information on how to value equine for EM loans.

**Amendment Transmittal (Continued)**

<b>Page Control Chart</b>		
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## 41 Obtaining and Filing a Loan Application (Continued)

### E SED Action

SED's will prepare and publicize, at least semi-annually, through newspaper articles, radio announcements, and television broadcasts, that FSA targets direct and guaranteed loan funds to beginning and SDA farmers. These required outreach efforts are in addition to information provided in State or Service Center newsletters.

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

## 42 Complete Loan Application

### A Requirements

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

#### (1) The completed Agency application form;

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

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

Youth loan applications should be filed according to paragraph 44.

#### (2) If the applicant is an entity:

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

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

**(ii) A current personal financial statement from each member of the entity;**

**(iii) A current financial statement from the entity itself;**

## 42 Complete Loan Application (Continued)

## A Requirements (Continued)

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

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

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

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

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

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

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

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

This requirement applies to either new applicants or when significant changes to an--\* applicant's operation have occurred. The applicant will provide the information using FSA-2302.

## 68 Federal Crop Insurance Violations

### A General Requirement

**[7 CFR 764.101(h)] The applicant, and all entity members in the case of an entity, must not be ineligible due to disqualification resulting from Federal Crop Insurance violation, according to 7 CFR Part 718.**

Federal Crop Insurance Act, Section 515(h) provides that a person who willfully and intentionally provides any false or inaccurate information to FCIC or to an approved insurance provider with respect to a policy or plan of FCIC insurance after notice and an opportunity for a hearing on the record, will be subject to 1 or more sanctions that may change the applicant's eligibility for all Federal assistance.

Applicants, as well as individual entity members, will self certify on FSA-2001 that they have not been disqualified. Additionally, RMA will notify the National Office of individuals and entities that have been disqualified as a result of crop insurance violations. The National Office will notify the State Office. State Offices shall notify the appropriate County Office.

**Notes:** See 7 CFR 718.11 for additional information on disqualifications.

Information on individuals and entities disqualified may be obtained from EPLS at [www.epls.gov](http://www.epls.gov). Review of the EPLS web site is not mandatory.

## 69 Managerial Ability

### A General Requirement

For an entity to meet the requirements in this subparagraph, either the individual holding the majority interest in the entity or the individual responsible for the day-to-day operations of the entity must demonstrate sufficient managerial ability as described in this paragraph.

**[7 CFR 764.101(i)] The applicant must have sufficient managerial ability to assure reasonable prospects of loan repayment, as determined by the Agency. The applicant must demonstrate this managerial ability by:**

\*--The applicant may satisfy the managerial ability requirement with **any** combination of education, on-the-job training and farm experience, or by meeting **just 1** of these criteria. The level of management ability required will depend on the complexity of the operation and the amount of the loan request. The authorized agency official will consider each application on a case-by-case basis.--\*

**(1) Education. For example, the applicant obtained a 4-year college degree in agricultural business, horticulture, animal science, agronomy, or other agricultural-related field.**

69 **Managerial Ability (Continued)****A General Requirement (Continued)**

\*--To meet the managerial requirement through education alone, the applicant has completed or is completing an educational program in agriculture. Acceptable educational programs include any of the following:

- a 4-year college degree or graduate degree in agriculture business, horticulture, animal science, agronomy, or other agricultural related fields
- a 2-year degree from a technical college in agriculture business, horticulture, animal science, agronomy, or other agricultural related fields
- successful completion of farm management curriculum offered by the Cooperative Extension Service, a community college, adult vocational agriculture program, or land grant university

**Examples:** The Small Farm Program, University of Arkansas-Pine Bluff.

Specialty Crops Program, University of Colorado.

Cultivating Success, University of Idaho Extension, Washington State University Small Farms and Rural Roots.

- successful completion of a community-based, nationally based, non-profit, or similar farm workshop programs

**Examples:** Annie's Project.

Alcorn State University Small Farm Outreach Training and Technical Assistance Program.

Michigan State University Organic Farmer Program.

- other comprehensive agricultural programs that include the following or similar topics:
  - financial records and budget analysis; developing farm business plans; asset management; cost of production and benchmarking
  - risk management; developing a risk management strategy; strengths, weaknesses, opportunities, and threats analysis; business and strategic planning
  - marketing plans and strategy; advertising; product and enterprise diversification.

**Note:** Applicants may meet the managerial requirement through education in conjunction with farm experience or on-the-job training.--\*

## 69 Managerial Ability (Continued)

## A General Requirement (Continued)

**\*--Example:** Vocational or general agriculture classes in high school, provided that the applicant also has experience working on a farm and participated in and successfully completed applicable projects in 4-H, FFA, or another agriculture affiliated group.--\*

**(2) On-the-job training. For example, the applicant is currently working on a farm as part of an apprenticeship program.**

To meet the managerial ability requirement through on-the-job training alone, the applicant is currently:

- \*--working, or has recently worked, as hired farm labor with management responsibilities

**Example:** A hired hand or farm labor team leader who makes independent day-to-day farm management decisions.

- completing, or recently completed, a farm mentorship or internship program with an emphasis on management requirements and day-to-day farm decisions, such as those offerings found through:
  - Rogue Farm Corps
  - Cultivating Success
  - Many Hands Farm Corps
  - The Samuel Roberts Noble Foundation
  - Midwest Organic and Sustainable Education Service Farmer-to-Farmer Mentoring Program
  - Georgia Organics Mentoring Program--\*

## 69 Managerial Ability (Continued)

## A General Requirement (Continued)

- \*--participating, or recently participated, in urban or community-supported agriculture programs which incorporate basic agricultural training, such as:
  - Agriculture Training Institute
  - Refugee Agriculture Partnership Programs
  - Columbia Center for Urban Agriculture
  - Growing Power, Inc.
  - Center for Urban Agriculture at Fairview Gardens
  - Mary Queen of Vietnam Community Development Corporation, Inc., and the Viet Village Aquaponic Park Project.

**[7 CFR 764.101(i)(3)] Farming experience. For example, the applicant has been an owner, manager, or operator of a farm business for at least one entire production cycle.**

**Farm experience of the applicant, without regard to lapse of time between the farm experience and the new application, will be taken into consideration in determining loan eligibility. If farm experience occurred more than 5 years prior to the date of the new application, the applicant must demonstrate sufficient on-the-job training or education within the last 5 years to demonstrate managerial ability.**

If relying solely on farm experience that occurred more than 5 years before the application, the applicant may supplement that experience with:

- recent on-the-job training, such as a mentorship
- recent education, such as extension courses or courses that meet the borrower training requirements established in Part 18.

The on-the-job training or education does not have to be fully completed, provided the training or education meets the requirements of this subparagraph. When an applicant is determined eligible subject to completion of borrower or on-the job training or education, completion of the action shall be listed as a loan approval condition on FSA-2313.--\*

**69 Managerial Ability (Continued)**

**A General Requirement (Continued)**

To meet the managerial ability requirement through farming experience alone, the applicant \*--may have:

- been an owner of a farm business with management and operator responsibilities for at least 1 entire production and marketing cycle
- been employed as a migrant farm worker and has been elevated to a leadership or foreperson position for at least 1 entire production and marketing cycle and whose responsibilities include crop and field management, livestock health, breeding supervision, labor management or hiring, or general farm management
- been employed as a farm manager or farm management consultant for at least 1 entire production and marketing cycle
- raised on a farm and held significant responsibility for day-to-day management decisions for at least 1 entire production and marketing cycle
- obtained and successfully repaid one FSA Youth-OL.

The applicant may document this experience through FSA farm records or similar documentation.

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

**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). Borrower training requirements for Streamlined CL applicants will be automatically waived. Applicants are required to complete FSA-2370.--\***

**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)] 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 a majority interest must be the operators of a family farm.**

**[7 CFR 764.101(k)(3)] Except for 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**

**73 Final Eligibility Determination (Continued)****B Ineligible Applicants**

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
- notify the applicant in writing, within 5 calendar days, of the determination providing appeal rights according to 1-APP and ECOA and nondiscrimination statements according to 1-FLP, paragraph 41.

**Note:** See paragraph 356 for further guidance on actions to be taken when an application is denied.

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 the case file.

**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.

**74 Limitations****A Program Limitations**

**[7 CFR 764.102(a)]** Limitations specific to each loan program are contained in subparts D through I of this part (Parts 7 through 10).

**B Maximum Loan Limits**

**[7 CFR 764.102 (b)]** The total principal balance owed to the Agency at any one time by the applicant, or anyone who will sign the promissory note, cannot exceed the limits established in § 761.8 of this chapter (1-FLP, paragraph 29).

**C Loan Funds Used in the United States**

**[7 CFR 764.102(c)]** The funds from the FLP loan must be used for farming operations located in the United States.

**D Highly Erodible Soil and Wetlands Conversion**

**[7 CFR 764.102(d)]** The Agency will not make a loan if the proceeds will be used:

**(1) For any purpose that contributes to excessive erosion of highly erodible land, or to the conversion of wetlands;**

**Note:** This includes HEL and wetland provisions administered by either NRCS or the Army Corp of Engineers.

**(2) To drain, dredge, fill, level, or otherwise manipulate a wetland; or**

**(3) To engage in any activity that results in impairing or reducing the flow, circulation, or reach of water, except in the case of activity related to the maintenance of previously converted wetlands as defined in the Food Security Act of 1985.**

**Note:** If NRCS has determined that the applicant has committed any of the above violations, a loan cannot be made until the violation has been corrected.

**E Construction**

**[7 CFR 764.102(e)]** Any construction financed by the Agency must comply with the standards established in § 761.10 of this chapter (1-FLP, Part 5).

**F Non-eligible Enterprise**

**[7 CFR 764.102(f)]** Loan funds will not be used to establish or support a non-eligible \*--enterprise, even if the non-eligible enterprise contributes to the farm. Notwithstanding this limitation, an EM loan may cover qualified equine losses as specified in subpart I of this part.--\*

See Exhibit 2 for the definition of noneligible enterprise.

**75-90 (Reserved)**

## 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 (see definition in Exhibit 2) are similar to those for determining adequate farming experience necessary to--\* ensure a reasonable prospect of success in the operation.

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

\* \* \*

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

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

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

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

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

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

## 132 Eligibility (Continued)

**D Farm Experience (Continued)**

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

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

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

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

**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.**

## 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 M 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 Non-Eligible Enterprise**

See paragraph 71, and the definition of family farm and non-eligible enterprise 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.

**242 Eligibility (Continued)****I Qualifying 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 at least 30 percent 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 qualifying 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 chattel 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:**

- (1) The applicant, including all owners must meet all of the eligibility requirements;**
- (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**
- (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:**

**(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. Chattel 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**

**(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 chattel, 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 chattel property is the established market value (most recent appraisal/value) before the disaster.

For chattels only, if the applicant did not have an insurance policy in affect at the time of the disaster, the authorized agency official shall 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:**

- (1) The amount of credit necessary to restore the farming operation to its pre-disaster condition;**
- (2) In the case of a physical loss loan, the total eligible physical losses caused by the disaster; or**
- (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.--\*

## 245 Rates, Terms, and Repayment (Continued)

**F Repayment of Loans for Physical Losses to Real Estate**

**[7 CFR 764.354(b)(5)] The repayment schedule for EM loans for physical losses to real estate is based on the applicant's repayment ability and the useful life of the security, but in no case will the term exceed 40 years.**

The specific term of a loan is determined by the applicant's projected ability to repay based on the farm operating plan.

The loan term is the minimum period of time that the projected ability to repay will allow. Loan terms are considered in 5-year increments.

**Example:** If a 15-year term would not result in a feasible plan, then 20 years would be considered, then 25 years, and so on until the projected installment results in a feasible plan.

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:**

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

FSA may take the following as security.

- In the case of an entity, personal assets held by individual members when all the security held by the entity does not meet the requirement for additional security up to 150 percent of the loan amount. The entity will select and notify FSA which assets will be offered as security for the loan.
- A lien on all nonessential assets held by the applicant and any individual entity members, with an aggregate value exceeding \$5,000, if the assets cannot be sold to reduce the amount of the loan request before loan closing.

**Note:** The value of nonessential assets taken as security according to subparagraph 91 E cannot be used to meet the 150 percent requirement of this section.

See Exhibit 2 for the definition of nonessential 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:**

**(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.

**(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;**

**(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.

**(4) The applicant has provided the Agency an assignment on any USDA program payments to be received.**

**247 Real Estate Security Requirements****A Title Clearance Requirements**

**[7 CFR 764.355(d)] For loans over \$25,000, title clearance is required when real estate is taken as security.**

**[7 CFR 764.355(e)] For loans of \$25,000 or less, 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 which is signed by the applicant, names the record owner 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.**

**248 Appraisal and Valuation Requirements****A Establishing Values for Real Estate**

SED may issue a State supplement waiving the real estate appraisal requirement for an applicant receiving only an EM. The State supplement shall:

- establish the conditions under which the requirement to obtain an appraisal may be waived, which must apply to all applicants
- require that the estimated value of security be established and documented in the running record by someone, other than the authorized agency official, who has been delegated this authority by SED based on adequate experience and knowledge of methods for evaluating security values
- establish procedures allowing an applicant to dispute the estimated value of security by having an appraisal completed, at their expense, by an appraiser meeting the qualification requirements in 1-FLP, paragraph 145.

248 Appraisal and Valuation Requirements (Continued)

**B Establishing Values for Assets Damaged by Disaster**

**[7 CFR 764.356(a)] In the case of physical losses associated with livestock, the applicant must have written documentation of the inventory of livestock and records of livestock product sales sufficient to allow the Agency to value such livestock or livestock products just prior to the loss.**

**[7 CFR 764.356(b)] In the case of farm assets damaged by the disaster, the value of such security shall be established as of the day before the disaster occurred.**

**\*--[7 CFR 764.356(c)] In the case of an equine loss loan:**

**(1) The applicant's Federal income tax and business records will be the primary source of financial information. Sales receipts, invoices, or other official sales records will document the sales price of individual animals.**

**(2) If the applicant does not have 3 complete years of business records, the Agency will obtain the most reliable and reasonable information available from sources such as the Cooperative Extension Service, universities, and breed associations to document production for those years for which the applicant does not have a complete year of business records.--\***

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)



## 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		69, 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
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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 Redelegations 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
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