

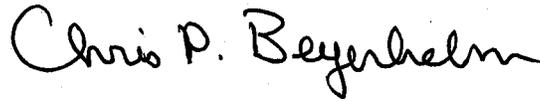
UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

**Direct Loan Servicing – Special
and Inventory Property Management
5-FLP**

Amendment 6

Approved by: Acting Deputy Administrator, Farm Loan Programs



Amendment Transmittal

A Reasons for Amendment

Subparagraph 68 A has been amended to clarify primary loan servicing notification of third parties.

Subparagraphs 195 D and G have been amended to provide guidance on when FSA-851 shall be used and completed.

Subparagraph 433 A has been amended to clarify servicing of judgment accounts.

Subparagraph 533 B has been amended to provide flexibility in completing FSA-2580 and FSA-2581.

Exhibit 13 has been amended to clarify the third party pledge of security notification letter.

Exhibit 14 has been added to provide an example of the youth loan notification letter.

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A Notifying All Parties on a Note of Loan Servicing

For Primary Loan Servicing purposes, all parties who signed the promissory note are considered borrowers and are liable for all the debt.

When a borrower subject to loan servicing notification is:

- an entity comprised of 2 or more individuals, the authorized agency official will provide a loan servicing notification package to the entity and each party who signed the promissory note or pledged security for the loan
- a married couple at the same address, the authorized agency official will provide them 1 loan servicing notification package that is addressed to both parties
- a married or divorced couple at different addresses, the authorized agency official will provide a loan servicing notification package to each person at their own address.

Note: A divorced spouse who has left an operation may seek a release of liability. See paragraph 84 for more information on releasing divorced spouses from liability.

All required subsequent notifications are sent in the same manner.

*--Third parties who pledged property as security or borrowers with YL's will receive Exhibit 13 or Exhibit 14, as appropriate, with the notification to explain why they are being notified and their servicing options.

Note: Exhibits 13 and 14 are both available electronically on the FFAS Employee Forms/Publications Online Website located at <http://165.221.16.90/dam/ffasforms/forms.html>. Select Find Current Forms Using Our Form Number Search and enter "5-FLP Exhibit 13 or 5-FLP Exhibit 14" in the "Form Number" search field. CLICK "Submit".--*

B Offset Notification

According to RD Instruction 1951-C, section 1951.103, the authorized agency official will usually send an offset notification to a borrower who is 90 calendar days past due. The offset notice will be sent Certified Mail, return receipt requested, in a separate envelope from the loan servicing notification package.

69-80 (Reserved)

195 Conservation Contract Review Team**A Policy**

The conservation contract review team determines whether a borrower possesses any land that can fulfill the land eligibility and conservation purpose requirements discussed in paragraph 192.

B When to Establish Conservation Contract Review Team

The authorized agency official establishes a conservation contract review team after conducting a preliminary financial analysis that indicates that a conservation contract could enable either:

- a delinquent or financially distressed borrower to develop a feasible plan with or without primary loan servicing
- a current borrower to develop a feasible plan.

See subparagraphs 194 C and D for more information on conducting a preliminary financial analysis of a conservation contract.

C Conservation Contract Review Team Membership

The authorized agency official establishes a conservation contract review team by inviting representatives from NRCS, FWS, and FSA to participate on the team. At a minimum, a conservation contract review team must have 1 representative from each of these Agencies.

FSA, NRCS, or FWS also may invite representatives of other entities that may have an interest in a conservation contract or may qualify to be a management authority for a conservation contract. Examples of these entities include the following:

- State fish and wildlife agencies
- conservation districts
- National Park Service
- Forest Service
- State Historic Preservation Officer
- State conservation agencies
- State environmental protection agencies
- State natural resource agencies.

The authorized agency official should provide information on the location of the farm FSA is considering for a conservation contract and a general description of the farm's land to all individuals invited to participate on the conservation contract review team.

195 Conservation Contract Review Team (Continued)**D Conservation Contract Review Team's Site Visit**

The conservation contract review team should visit the farm within **15 workdays** of the date the authorized agency official extended invitations to potential conservation contract review team participants.

To facilitate the conservation contract review team's site visit, the authorized agency official may appoint a conservation contract review team coordinator. The coordinator is responsible for establishing the date and time the team meets to review the farm FSA is considering for a conservation contract.

The authorized agency official must invite all affected lienholders and the borrower who applied for a conservation contract to the conservation contract review team's site visit.

During the site visit, the conservation contract review team should survey the entire farm to:

- delineate land tracts that meet conservation contract land eligibility requirements

Note: See subparagraph 192 A for land types eligible for a conservation contract.

- consider which conservation contract purpose, if any, is most appropriate for each eligible land tract, as described in subparagraph 192 D
- consider management plans most appropriate for each land tract where an eligible conservation contract purpose can be established

***--Note:** The FSA representative on the conservation contract review team will complete FSA-851 for all property proposed to be placed under the conservation contract.--*

195 Conservation Contract Review Team (Continued)**G Actions After Reviewing Conservation Contract Review Team Report (Continued)**

If the contract review team has recommended a conservation contract and the authorized agency official determines that the report identifies at least 1 contract eligible area that produces or maintains a feasible plan, the authorized agency official must notify the borrower of the available contract options.

To notify a borrower who is delinquent or financially distressed, the authorized agency official sends the appropriate offer of loan servicing according to Part 3 and a copy of the contract review team's report to the borrower. To notify a current borrower of the borrower's servicing options, the authorized agency official must send the borrower a memo on FSA letterhead and include a copy of the contract review team's report.

The notification for both delinquent and current borrowers must identify the:

- tracts on the borrower's land that are eligible for a conservation contract
- amount of debt canceled by each contract term on each eligible tract
- tracts that would provide the most benefit for conservation
- costs the borrower will incur to create and maintain a conservation contract
- requirements of FSA-2535
- *--corrective action required by FSA-851 which must be completed by the borrower before FSA approval of the conservation contract.--*

The notification for a delinquent or financially distressed borrower also should include contract terms for each eligible tract that produces a feasible plan.

Final approval authority for a conservation contract will be SED.

195 Conservation Contract Review Team (Continued)**H Adverse Decision on Conservation Contract Request**

The authorized agency official sends a borrower that is delinquent or distressed a notice of mediation and appeal rights according to Part 6 when either:

- FSA finds the borrower to be ineligible for loan servicing, including a conservation contract
- DALRS determines that loan servicing, including a conservation contract, does not enable the borrower to develop a feasible plan
- the authorized agency official determines that the borrower does not possess contract eligible land that enables the borrower to develop a feasible plan.

The authorized agency official sends a current borrower who is not distressed a letter of denial with mediation and appeal rights according to 1-APP when either:

- the authorized agency official determines that the farm operation will not remain feasible after the borrower implements FSA-2535
- the contract review team determines that the borrower's land does not possess a conservation eligible tract.

The authorized agency official sends the borrower a copy of the contract review team's report with the adverse decision notice.

[7 CFR 766.110(l)] Borrower appeals of the Natural Resources Conservation Service's (NRCS) technical decisions made in connection with a Conservation Contract will be handled in accordance with applicable NRCS regulations. Other aspects of the denial of a Conservation Contract may be appealed in accordance with 7 CFR parts 11 and 780.

I Timeframe for Processing Conservation Contract Request

See Part 3 for more information on loan servicing application processing timeframes.

The authorized agency official should process the request for a conservation contract by a current borrower who is not financially distressed in a timely manner.

433 Servicing Judgment Debts Returned by Department of Justice

A Servicing Accounts Returned by Department of Justice

Service accounts returned by the Department of Justice according to the following table.

IF the judgment has...	THEN...
<p>not expired</p>	<ul style="list-style-type: none"> • pursue internal administrative offset according to RD Instruction 1951-C, if collection of farm program payments is possible • refer the account to Treasury for TOP offset and/or cross-servicing, if appropriate; State Offices shall: <ul style="list-style-type: none"> • classify the account as CNC by processing transaction code “3K” with a class of writeoff code “5”, except for employee defalcations and third party judgments • submit FSA-1956-21 to FLOO, Program Reporting Group by FAX at 314-539-6266. <p>Notes: In cases where an acceptable debt settlement offer is received from the debtor before referral to cross-servicing, the State Office may process it according to RD Instruction 1956-B and applicable FLP notices.</p> <p>Referral of the debt to cross-servicing is required unless any of the exceptions under 31 CFR 285.12 apply or if the borrower is determined to no longer be eligible for cross-servicing. * * *</p>
<p>expired (20 years from the date of judgment, unless renewed)</p> <p>Note: If the U.S. Attorney states the judgment expired after 10 years, then consult the Regional Attorney to determine if the judgment can be revived.</p>	<p>cancel the debt according to RD Instruction 1956-B and applicable FLP notices.</p>

434-440 (Reserved)

533 Acceleration Actions**A Preparation of the Case File**

When the borrower meets the conditions for acceleration, the authorized agency official will prepare the case file for acceleration. A State supplement will be issued to describe the required procedures to accelerate FLP accounts, including “chattel only” accounts.

B Civil Rights and Primary Loan Servicing Reviews

FSA-2580 and FSA-2581 are used to document and certify that FSA fully and appropriately considered the borrower for servicing and that there is no evidence of inconsistencies, inequitable treatment, or discrimination complaints.

The authorized agency official will ensure that FSA-2580 has been completed. DD will
--complete FSA-2581, Part A. FSA-2580 and FSA-2581 must be submitted to SED before completing acceleration.--

Note: Only FSA-2581, Part A is required in cases referred for acceleration/foreclosure because of the borrower’s failure to graduate, and for acceleration of nonprogram loans.

SED will submit files and information to the National Office only if required or because of special circumstances. See 1-FLP, Exhibits 12 and 13 for information on determining discrimination complaint status. Once all reviews and FSA-2581, Parts B and C, have been completed indicating that foreclosure can continue, the authorized agency official will
--execute the problem case report.--

C Problem Case

FSA-2550 will be completed to document the status and circumstances of the account when there is real estate security.

D Determining Prior Liens

If current lien information is not in the case file, the authorized agency official will obtain a title or lien search on all security property to determine whether there are any prior liens on the property.

E Property Value

The authorized agency official will include either the estimated value or appraised value of the security in the case file. The authorized agency official may estimate the market value of the property, unless there are prior liens other than a current-year tax lien. If there are prior liens, the authorized agency official must obtain an appraisal to determine the “as is” market value of the property according to 1-FLP, Part 6, unless a State supplement allows the use of an estimated value.

533 Acceleration Actions (Continued)**F Narrative and Deficiency Judgment Recommendation**

The authorized agency official will include in the case file a narrative description of the borrower's financial condition and the conclusion of all appeals and mediation.

The authorized agency official will recommend to the DD whether FSA should pursue a deficiency judgment. To make a recommendation, the authorized agency official will determine whether foreclosure will likely satisfy the borrower's FSA debt. The basic formula for this calculation is:

Sale price - sale costs (if considered separate from recoverable costs and expenses) - recoverable costs and expenses to be charged - prior liens = net proceeds.

This calculation is an estimate. It may not be used as the basis for charging or crediting the borrower's account. In using this formula, the authorized agency official must be aware of what costs are charged to the borrower's account and what costs are deducted from the amount credited to the borrower's account.

If the liquidation will not satisfy the borrower's FSA account, FSA will assess the borrower's financial situation to determine whether further recovery on the account is possible through a deficiency judgment. The authorized agency official will include these findings and a recommendation in the borrower's case file.

G Submitting the Problem Case File

The problem case file will be submitted to the DD as soon as the file is complete or within 90 calendar days of when the borrower meets all acceleration criteria, whichever come first.

***--Third Party Pledge of Security Notification Letter**

Third Party Pledge of Security Notification Letter

This Exhibit may only be revised by SED.

(Use Agency Letterhead format with local return address.)

[Third Party Who Pledged Security name and address]

Dear [Name]:

[Borrower's Name]

This is to inform you that [borrower's name] [has/have] defaulted on the Farm Service Agency (FSA) loan on which you provided a security interest in your real estate or chattel property.

The borrower was sent a loan servicing package on [date] describing FSA's loan servicing programs. The borrower has 60 calendar days from the date the package is received to apply for these programs. If the borrower does not apply, or is determined ineligible, FSA will begin acceleration and liquidation proceedings. We suggest that you keep in contact with the borrower on the status of the default.

The reason for default is:

[State the reason for the default and amount needed to clear the default if applicable.]

--*

***--Third Party Pledge of Security Notification Letter (Continued)**

Third Party Pledge of Security Notification Letter (Continued)

If the account is accelerated, the entire FSA debt becomes due and payable within 30 calendar days from the date of acceleration. If the debt is not paid in full within the 30-calendar-day timeframe, FSA may take the following steps to collect the debt, some of which may affect you.

- (1) Repossess and sell all equipment, livestock, livestock products, and other personal property used to secure the FSA loan.
- (2) Foreclose and sell the real estate mortgaged to FSA.
- (3) Stop all releases and collect all proceeds from the sale of crops, livestock, livestock products, or other security property.
- (4) Take by administrative offset any money owed by Federal agencies to the borrower, and other individuals liable for the debt.
- (5) File lawsuits against those liable for the debt to collect money owed to FSA.

If you have any questions, feel free to contact this office.

Sincerely,

Farm Loan Manager

--*

***--Youth Loan Notification Letter**

Youth Loan Notification Letter

This Exhibit may only be revised by SED.

(Use Agency Letterhead format with local return address.)

[Borrower's Name]
[Borrower's address]

Dear [Name]:

This is to inform you that you have defaulted on the Farm Service Agency (FSA) Youth Loan that you received. Youth Loan funds are not provided to operate a farm and may only be used to pay the expenses associated with an approved project. They cannot receive all the restructuring options described in the attached package. Youth Loans can be rescheduled or deferred, but cannot be placed on Limited Resource interest rates or receive write down or buy out.

The reason for default is:

[State the reason for the default and amount needed to clear the default if applicable.]

If the account is accelerated, the entire FSA debt becomes due and payable within 30 calendar days from the date of acceleration. If the debt is not paid in full within the 30-calendar-day timeframe, FSA may take the following steps to collect the debt, some of which may affect you.

- (1) Repossess and sell all equipment, livestock, livestock products, and other personal property used to secure the FSA loan.
- (2) Foreclose and sell the real estate mortgaged to FSA.
- (3) Stop all releases and collect all proceeds from the sale of crops, livestock, livestock products, or other security property.
- (4) Take by administrative offset any money owed by Federal agencies to you and other individuals liable for the debt.
- (5) File lawsuits against those liable for the debt to collect money owed to FSA.

If you have any questions, feel free to contact this office.

Sincerely,

Farm Loan Manager

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