

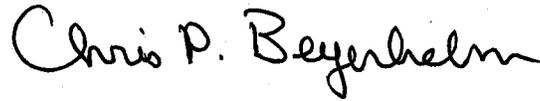
UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

Special Programs
6-FLP

Amendment 11

Approved by: Acting Deputy Administrator, Farm Loan Programs



Amendment Transmittal

A Reason for Amendment

Subparagraph 41 D has been amended to provide that the actual rents received from lands purchased with loan funds will be used to calculate the average rental value.

Exhibit 2 has been amended to change the definition of "Rental Value."

Note: The provisions in this amendment are based on revisions to 7 CFR Part 770 contained in a final rule published in the Federal Register on September 12, 2007, and will become effective on October 12, 2007.

Page Control Chart		
TC	Text	Exhibit
	2-71, 2-72	2, page 7, 8

41 Debt Write-down (Continued)

D Rental Value Write-down

[7 CFR 770.10(e)(4)] The Agency may reduce the unpaid principal and interest on any loan, so the annual loan payment for the remaining term of each loan equals the average of annual rental value of the land purchased by each such loan for the *--immediately preceding 5-year period provided:--*

- (i) The loan was made more than 5 years prior to the rental value writedown;**
- (ii) The description of the land purchased with the loan funds and the rental values used to calculate the 5-year average annual rental value of the land have been certified by the Department of the Interior.**

Note: To support the determination of the 5-year average annual rental value, the tribe or tribal corporation must provide and identify the number of acres that were purchased with FSA loan funds. DOI's BIA must certify in writing as to the validity of the figures used by the tribe requesting the write-down.

- *--(iii) The borrower provides a record of any actual rents received for the land for the preceding 5 years, which will be used to calculate the average rental value. This record must be certified by the Department of the Interior. For land that has not been leased or has not received any rental income, the borrower must provide a market value rent study report for the preceding 5 years, which identifies the average annual rental value based on the market data. The market value rent study report must be prepared by a certified general appraiser and meet the requirements of USPAP.**

Note: The rental value of improvements on a specific parcel is not considered in the calculation of the 5 year average rental value of the land.

For a parcel of land that does not have 5 years of rental history from which to determine the 5 year average rental value, a rental value will be assigned for the years of no rental history based on the rent received for leased land of like value and purpose.

Example: A parcel of pasture land has rented for years 1, 2, and 3 for \$18 per acre, but not for years 4 and 5. Similar adjacent pasture land with a 5 year rental history has received rent in the following amount:

- year 1, \$18 per acre
- year 2, \$19 per acre
- year 3, \$21 per acre
- year 4, \$21 per acre
- year 5, \$25 per acre.

The subject parcel will be assigned a rental rate of \$21 for year 4 and \$25 for year 5. The average 5 year rental value will be the average of the 3 years of rents received and the assigned values for year 4 and 5. $\$18 + \$18 + \$18 + \$21 + \$25 = \$100 \div 5 =$ average rental rate of \$20.--*

42 Reserve Accounts

A Releasing Reserve Account Funds

[7 CFR 770.10(e)] Existing reserve accounts may be released for the purpose of making ITLAP loan payments or to purchase additional lands, subject to the following;

- (1) a written request is received providing detailed use of the funds;**
- (2) the loan is not delinquent;**
- (3) the loan is adequately secured by a general assignment of tribal income.**

43 Graduation

A Graduation Requirement

FSA-2621 and FSA-1927-1 contain requirements about graduation.

B Borrower Action

If at any time it appears to Agency officials that the tribe is able to refinance the loan, in whole or in part, by obtaining a loan for such purposes from responsible cooperative or private credit sources, at reasonable rates and terms for loans for similar purpose and periods of time, the tribe will, upon request of the Agency, apply for and accept such loan in sufficient amount to repay the Agency.

44-54 (Reserved)

Part 3 (Reserved)

55-65 (Reserved)

Definition of Terms Used in This Handbook (Continued)

Native American Tribe

[7 CFR 770.2 (b)] Native American tribe is:

- (1) An Indian tribe recognized by the Department of the Interior; or
- (2) A community in Alaska incorporated by the Department of the Interior pursuant to the Indian Reorganization Act.

Ordinary and Necessary Expenses

[NOFA I.] Ordinary and necessary expenses are the operating expenses directly related to the horse breeder business, including, but not limited to taxes, feed, veterinary expenses, fixtures, and farm maintenance.

Participated In the Business Operations of a Farm

[NOFA I. (Part 8)] Participated in the business operations of a farm or ranch means that the buyer has:

- (a) been the owner, manager or operator of a farm business for the year's complete production and marketing cycle as evidenced by tax returns, FSA farm records or similar documentation;
- (b) been employed as a farm manager or farm management consultant for the year's complete production and marketing cycle; or
- (c) participated in the operation of a farm by virtue of being raised on a farm or worked on a farm with significant responsibility for the day-to-day decisions for the year's complete production and marketing cycle.

Pilot State

[NOFA I. (Part 8)] Pilot State is any of the 9 States participating in the Beginning Farmer and Rancher Land Contract Guarantee Pilot Program. Those States are California, Indiana, Iowa, Minnesota, Nebraska, North Dakota, Oregon, Pennsylvania, and--* Wisconsin.

Readily Available

[NOFA I.] Readily available is when the insurance is sold by insurance agents in the applicant's normal trade area.

Rental Value

--[7 CFR 770.2(b)] Rental value for the purpose of rental value write-down's, equals the average actual rental proceeds received from the lease of land acquired under ITLAP. If there are no rental proceeds, then rental value will be based on market data according to Sec. 770.10(e)(4).--

Definition of Terms Used in This Handbook (Continued)

Reservation

[7 CFR 770.2 (b)] **Reservation** is lands or interest within:

- (1) The Native American tribe's reservation as determined by the Department of the Interior; or
- (2) A community in Alaska incorporated by the Department of the Interior pursuant to the Indian Reorganization Act.

Reserve

[7 CFR 770.2 (b)] **Reserve** is an account established for loans approved in accordance with regulations in effect prior to February 8, 2001, which required that an amount equal to 10 percent of the annual payment be set aside each year until at least one full payment is available.

Note: Regulations in effect before February 8, 2001, were published in 7 CFR 1823, Subpart N. Further guidance was contained in FmHA Instruction 442.11.

*--Review Official

[7 CFR 772.2(b)] **Review official** is an Agency employee, contractor, or designee who is authorized to conduct a compliance review of a Minor Program borrower under this part.--*

Security

[7 CFR 773.2] **Security** is real estate or personal property pledged as collateral to assure repayment of a loan in the event there is a default on the loan.

Security (Applies to Part 7)

[NOFA I.] **Security** is property or right of any kind that is subject to a real or personal property lien. Any reference to "collateral" or "security property" will be considered a reference to the term "security."

Seed Producer

[7 CFR 774.2] **Seed producer** is a farmer who has produced a 1999 crop of grass, forage, vegetable or sorghum seed for sale to AgriBioTech under contract.

A contract includes a sales contract with AgriBioTech or its predecessor organizations for the sale of 1999 grass, forage, vegetable, or sorghum seed. In addition, written or oral extension of a previous year's contract is also acceptable.