

**For:** State and County Offices

**Debt Forgiveness and Eligibility for Direct Operating Loans**

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

*Alminda (Dee) Cole*

**1 Overview**

**A Background**

The Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (1999 Appropriations Act), that became law on October 21, 1998, modified the prohibitions on annual operating loans to borrowers that received debt forgiveness.

**B Purpose**

This notice provides guidance on the debt forgiveness limitation on eligibility for direct operating loans since previous guidance has expired.

**Notes:** For guaranteed loan applicants, see 2-FLP, paragraph 108 C.

For emergency loan applicants, see 3-FLP, paragraph 163 K.

The 1999 Appropriations Act does not impact debt forgiveness limitations for direct farm ownership applicants established in FmHA Instruction 1943-A, Sections 1943.12 (a)(8) and (b)(10).

**2 Contact and Action**

**A Contact**

State Offices shall refer questions about this notice to Mike Hinton, LMD, at 202-720-1472.

<b>Disposal Date</b>	<b>Distribution</b>
June 1, 2004	State Offices; State Offices relay to County Offices

## Notice FLP-314

### 2 Contact and Action (Continued)

#### B Borrowers Receiving Loans After a Debt Forgiveness

FmHA Instruction 1941-A, Sections 1941.12 (a)(8) and (b)(11) only address eligibility criteria restrictions for applicants who have received debt forgiveness based on the provisions of the Federal Agriculture Improvement Act of 1996.

Under the provisions of the 1999 Appropriations Act, now incorporated into Section 373 of the Consolidated Farm and Rural Development Act, borrowers who are current on all payments under a confirmed bankruptcy reorganization plan may be eligible to receive annual operating loans.

According to the Bankruptcy Code, for cases under:

- Chapter 11, the debt is technically discharged when the plan is confirmed; debt forgiveness occurs
- Chapters 12 and 13, the discharge occurs in 3 to 5 years when payments under the plan have been completed; debt forgiveness occurs
- Chapter 12 and 13, debt forgiveness occurs when a borrower has completed all payments according to the plan and the unsecured FLP claim is written off.

**Note:** A borrower who has successfully completed a bankruptcy reorganization will be considered to be current on the plan, if the borrower does not subsequently become delinquent on any loans covered by the plan.