

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

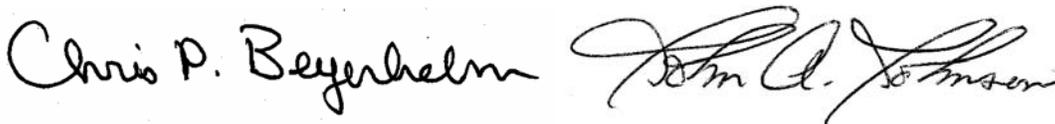
Notice FLP-433

For: State and County Offices

1910-A, 1924-B, 1941-A,
1943-A, 1951-S, 1962-A,
1965-A, 1-FLP, 2-FLP, 3-FLP

**Review of Producers Who Participate in Both
Farm Loan Programs (FLP) and Farm Programs (FP)**

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



1 Overview

A Background

Payment limitation and payment eligibility provisions for multiple programs are addressed in 1-PL. 1-PL, subparagraph 50 A provides that a producer must file CCC-502, CCC-526, and related forms unless otherwise provided, before they can be considered eligible for benefits. CCC-502's are used to collect information to determine whether the producer is operating as an individual, joint operation, or entity. This information is the basis for all payment eligibility and payment limitation determinations.

Applications for FLP loans are processed according to FmHA Instruction 1910-A and 2-FLP. FmHA Instruction 1910-A, Section 1910.4(b) requires a completed FSA 410-1 as part of a complete direct loan application. 2-FLP, subparagraphs 69.5 B and 70 A require completion of either FSA-1980-25 or FSA-1980-28, as applicable, as part of a complete guaranteed loan application. Producers must identify whether they are operating as an individual or entity on FSA-410-1, FSA-1980-25, or FSA-1980-28. The type of farming operation impacts FLP loan eligibility, feasibility, and security requirements.

1-PL, paragraph 52.5 provides for information exchange between COC's and FLP approval officials about producers who participate in both FP and FLP. This information exchange is needed to maintain the integrity of records and representations for participation in all program areas. Therefore, the differences must be resolved when the producer's representation of their farming operation varies between that made for FP benefits, such as DCP and CRP, and that made for direct or guaranteed FLP assistance.

B Notice Issuance

This notice was also issued as Notice PL-144.

Disposal Date	Distribution
October 1, 2007	State Offices; State Offices relay to County Offices

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1 Overview (Continued)

C Purpose

This notice provides guidance to FLP and FP staff about:

- reviewing the farming operations of producers who are currently FLP direct borrowers and participating in FP to:
 - ensure consistency in the farming operation represented to FP and FLP
 - resolve any differences identified
- reviewing the farming operations of producers who request FP or FLP (direct or guaranteed) benefits to ensure consistent representation of the farming operation before approval
- requirements for maintaining a producer's full legal name in the Service Center Information Management System (SCIMS).

D Contact

If there are questions about this notice:

- County Offices shall contact the State Office
- State Offices shall contact:
 - LMD at 202-720-1632 about FLP loan application issues
 - LSPMD at 202-720-4572 about existing FLP borrowers
 - PECD at 202-720-7641 about FP payment eligibility and payment limitation issues.

2 Ensuring Consistency in Representations to FLP and FP

A Producer Responsibilities

Producers are responsible for:

- providing true, complete, and correct information about their farming operation when requesting FLP and/or FP benefits
- resolving any differences in representations to FLP and FP officials.

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2 Ensuring Consistency in Representations to FP and FLP (Continued)

B Review of Producers Currently Participating in FP and FLP

CED's and Farm Loan Managers (FLM's) shall:

- review all producers participating in FP who have outstanding **direct** FLP loans to ensure consistent representations between programs

Notes: This paragraph does **not** apply to guaranteed loans.

Possible actions that may be completed as part of the review include, but are **not** limited to:

- comparing the most recent RC-540 with the CCC-502 data
 - reviewing the subsidiary and entity files for related interests
 - ensuring SCIMS data, such as the type of operation (individual or business), Social Security numbers, or taxpayer identification numbers match information provided by producers on CCC-502 or FSA 410-1
 - comparing FP applications and contracts, MABDIG diagnostic listing, and entity ownership reports, with FLP loan applications or borrower loan records.
- jointly certify to DD, completion of review and notification of affected producers, by COB **October 27, 2006**.

DD's shall:

- ensure CED's and FLM's in their districts work together to complete the required review and resolve any differences
- certify to SED that all existing direct FLP loans in their district have been reviewed by COB **November 3, 2006**.

SED's shall certify to the DAFLP, by FAX at 202-690-3573, compliance with the requirements of this notice by COB **November 17, 2006**.

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2 Ensuring Consistency in Representations to FLP and FLP (Continued)

C Resolution of Differences

When the representations of a producer vary between direct FLP borrowers and FP records under subparagraph B, any differences will be resolved according to the following table.

Situation	IF the difference...	THEN...
1	<p>is the result of a husband and wife representing themselves as joint operation for FLP assistance, but combined as a single person for FP</p> <p>Note: If a husband and wife represent themselves as a partnership, corporation, or other form of entity, the representations to FLP and FP must be resolved according to situation 2 or 3 in this table, as appropriate.</p>	<ul style="list-style-type: none"> • no further action is required from the producer • the FLP approval officials and CED shall document the findings in the FLP case file and producer’s CCC-502 file, and continue processing the requested assistance according to the appropriate regulations and directives.
2	<p>did not result in the producer receiving FLP or FP benefits for which they were not entitled</p>	<p>the producer will be provided notice similar to Exhibit 1, signed by both CED and FLM, requiring they resolve the differences before receiving any additional FSA benefits. Producers will have the choice of either resolving the difference now or when they apply for additional benefits by either:</p> <ul style="list-style-type: none"> • providing updated payment limitation and eligibility information according to 1-PL, subparagraph 50 C • reporting changes in the farm operation to the FLP loan official as required by their loan agreements and security instruments. <p>CED’s shall provide updated information regarding payment limitations and payment eligibility to FLM’s or appropriate FLP staff according to 1-PL, paragraph 52.5.</p> <p>FLM shall take appropriate action according to RD Instruction 1962-A or FmHA Instruction 1965-A.</p>

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2 Ensuring Consistency in Representations to FP and FLP (Continued)

C Resolution of Differences (Continued)

Situation	IF the difference...	THEN...
3	resulted in the producer receiving FP or FLP benefits to which they were not entitled	<p>the producer received FP and/or FLP benefits to which they were not entitled:</p> <ul style="list-style-type: none"> • CED shall follow 1-PL, Part 5 • FLM shall proceed according to FmHA Instruction 1951-L. <p>Note: The resolution of benefits for which the producer was not entitled will be considered when evaluating the producer's eligibility, and feasibility if applicable, for any additional benefits.</p> <p>Provisions at 7 CFR 1400.5 and procedure in 1-PL, paragraph 71 may also apply.</p> <p>Appeal rights will be provided for any adverse decisions according to 1-APP.</p>

Exception: No action is necessary if the difference in representations is the result of a producer participating in 2 separate and distinct operations.

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2 Ensuring Consistency in Representations to FP and FLP (Continued)

D Review of Producers Requesting New FP or FLP Benefits

CED’s shall provide new or updated information about payment limitations and payment eligibility for any producer that is an FLP borrower to the FLM or appropriate FLP staff according to 1-PL, paragraph 52.5.

Upon receipt of a request for **direct or guaranteed** FLP loan, loan approval officials shall ensure that the type of farming operation reflected on FSA-410-1, FSA-1980-25, or FSA-1980-28, is consistent with any representation previously made by the producer for FP benefits. Review options provided in subparagraph B may be used to complete this requirement. If any differences in representations of the farming operation are identified, provide notification according to the following table.

IF the application is for...	THEN notify the...
direct loan assistance	applicant that their application is incomplete according to section 1910.4(e) of FmHA Instruction 1910-A. Include text similar to the following in FmHA Guide Letters 1910-A-1 and 1910-A-2, as applicable: “A review of your FSA records revealed inconsistent representations of how your farming operation is conducted. (Provide details of different representations identified in FSA records.) Documentation must be provided to resolve the inconsistencies identified.”
guaranteed loan assistance	lender that the application is incomplete according to 2-FLP, paragraph 97. Include language similar to the following in the applicable notification letters: “A review of our records revealed inconsistent representations of how the applicant’s farming operation is conducted. (Provide details of different representations identified in FSA records.) Documentation must be provided to resolve the inconsistencies identified.”

Exception: A direct or guaranteed loan application will not be considered incomplete if the difference in representations is the result of:

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

Note: DD’s shall ensure compliance with 1-PL and this notice.

3 SCIMS

A Using Producer's Full Legal Name

Once the producer's full legal name has been entered in SCIMS, it shall be used for all future requests for FLP or FP benefits unless it is legally changed.

Sample Notification Letter

This is a sample of a letter that should be modified and sent to producers if differences in representations of the farming operation are identified.

Dear (Insert producer's name.)

A review of your existing FSA records revealed inconsistent representations of how your farming operation is conducted (provide details). This inconsistency must be resolved before any further benefits/assistance may be received.

Please contact this office within 14 calendar days of the date of this letter. Failure to do so may result in FSA being unable to complete the processing of any future requests for benefits/assistance. In addition, further action may be taken by the Agency as to your current benefits/assistance when warranted.

Sincerely,

CED

Farm Loan Manager