Subpart J—Management and Collection of Nonprogram (NP) Loans

SOURCE: 58 FR 52646, Oct. 12, 1993, unless otherwise noted.

§ 1951.451 General.

This subpart contains policies and procedures of the Farm Service Agency (FSA) for making, managing, collecting, liquidating, and servicing loans on nonprogram (NP) terms. All references in this subpart to farm real estate, farm property and farm chattels also include nonfarm property that was security for a Farm Credit debt of the FSA.

(a) An NP loan is a loan on terms more stringent than terms for a program loan and it is an extension of credit for the convenience of the Government because the applicant does not qualify for program assistance or the property to be financed is not suited for program purposes. Such loans are made or continued only when it is in the best interest of the Government. NP loans include:

(1) Sale of inventory property on NP terms;

(2) Assumption of a program loan on NP terms;

(3) Loans converted to NP status as a result of receipt of unauthorized assistance;

(4) Loans converted to NP status when only a portion of the security property is being transferred and the FmHA or its successor agency under Public Law 103–354 debt is not paid in full;

(5) Sale of the real property that was security for an FP loan to the previous owner under the Leaseback/Buyback program on NP terms;

(6) Sale of the real property of an FP borrower under the Homestead Protection program; or

(7) FP accounts rescheduled under an accelerated repayment agreement.

(b) C&BP/NP and MFH/NP transactions involving transfer of the security property will be submitted to the National Office for review, authorization and processing guidance. The submission must include a justification for the proposed action, a servicing and management plan, the State Director's recommendations, and the case files. The sale of C&BP and MFH inventory property to NP purchasers will be handled in accordance with subpart C of part 1955 of this chapter.

(c) Borrowers who have program and NP loans will have their loan accounts serviced and liquidated in accordance with the regulation applicable to the particular loan(s). Therefore, NP loans are not eligible for any program servicing except those permitted in this subpart. However, even though the NP loan will not be eligible for program servicing benefits or entitlements, the borrower is not precluded from receiving assistance on the program loan (e.g., having an NP farm loan should not preclude a borrower from being considered for debt restructuring assistance in the form of a deferral, rescheduling, consolidation, etc., on a FP program loan). When the decision has been made to liquidate the program loan of a borrower who is also indebted for an NP loan and the NP security is also additional security for the program loan the NP loan will be accelerated at the same time as the program loan using the program acceleration notice. Likewise, if an NP loan is to be liquidated and the borrower is also indebted for a program loan which serves as additional security for the NP loan the program loan will be accelerated at the same time as the NP loan using the program acceleration notice. Any appeal of an adverse decision involving both an NP and program loan would affect only the program loan.

[58 FR 52646, Oct. 12, 1993, as amended at 61 FR 59778, Nov. 22, 1996]

§ 1951.452 Policy.

NP credit is extended for the convenience of the Government in servicing an existing loan or to facilitate sale of inventory property. Where a borrower has both program and NP loans outstanding, servicing will be according to the regulation applicable to the particular loan(s). NP borrowers are not eligible for program entitlements or servicing actions such as subsidy, moratorium, reamortization, rescheduling, consolidation, deferral, limited resource assistance, buyout, writedown and conservation easements. Neither are NP borrowers subject to occupancy/

operation requirements, graduation or other similar requirements imposed on program borrowers. NP borrowers are required to adequately maintain the security, pay real estate taxes and/or assessments when due or make scheduled escrow installments for taxes and insurance when required by FmHA or its successor agency under Public Law 103–354, and keep buildings insured according to the promissory note and mortgage or security agreement, but may lease all or a portion of the security without FmHA or its successor agency under Public Law 103–354's consent, except as provided in § 1951.460 (a) and (b) of this subpart.

§ 1951.453 [Reserved]

§ 1951.454 Review of adverse decisions.

NP applicants and borrowers are not entitled to appeal rights under subpart B of part 1900 of this chapter or parts 11 and 780 of this title. However, decisions involving NP applicants, borrowers or property are reviewable by the next level supervisor.

[58 FR 52646, Oct. 12, 1993, as amended at 62 FR 10120, Mar. 5, 1997]

§ 1951.455 NP loan making for Single Family Housing (SFH) and farm property (real and chattel).

(a) *Application for NP credit.* Applications for credit on NP terms are made at the County Office serving the area where the property is located or through an approved packager or real estate broker if so instructed by County Office personnel. To apply for NP credit, except Homestead Protection program, standard forms used to process program applications may be utilized or comparable documentation which contains information to establish financial stability, creditworthiness, and repayment ability for the requested credit. However, the loan approval official will have the discretion to determine what information is required to support approval of the loan. For property purchased under the Homestead Protection program the information required to support approval of the loan will be in accordance with subpart S of part 1951 of this chapter. The creditworthiness standards in § 1944.9 of subpart A of part 1944 of this chapter will be used to evaluate an NP applicant's eligibility for assistance to purchase a single family residence. The application is not complete until all information requested by the Agency is received.

(b) *Fees.* In addition, credit reports will be ordered to determine the eligibility of NP applicants requesting FLP credit. A nonrefundable credit report fee will be charged the applicant. The amounts of these fees change periodically; current fees will be quoted by county office personnel upon request. A borrower whose loan is reclassified as NP because unauthorized assistance was received; or only a portion of the security property is being transferred and the FLP debt is not paid in full; or FLP accounts rescheduled under an accelerated repayment agreement will not be required to submit an application or pay the application fee.

(c) *Eligibility restrictions.* If farm property is being purchased or the debt assumed, and an individual or member, stockholder, partner, or joint operator of a proposed entity transferee or purchaser has been convicted after December 23, 1985, under Federal or State law of planting, cultivating, growing, producing, harvesting, or storing a controlled substance (see 21 CFR part 1308, which is exhibit C of subpart A of part 1941 of this chapter (available in any agency office), for the definition of ''controlled substance'') prior to the approval of the credit sale or assumption in any crop year, the individual or entity shall be ineligible for FLP credit for the crop year in which the individual was convicted four succeeding crop years following the conviction. Purchasers will attest on the application form used that as individuals or that its members, if an entity, have not been convicted of such crime after December 23, 1985.

(d) [Reserved]

(e) *Downpayment.* A downpayment must be collected at closing. The minimum downpayment will be based on the purchase price for a credit sale and the current market value (less any prior liens for chattel security) or the debt, whichever is lower, for an assumption. Downpayment requirements vary from time to time and vary by