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Atomic Energy Commission
Civil Aeronautics Board
Civil Service Commission
Census Bureau
Commodity Credit Corporation
Consumer and Marketing Service
Customs Bureau
Engineers Corps
Equal Employment Opportunity Commission
Farmers Home Administration
Federal Aviation Agency
Federal Communications Commission
Federal Maritime Commission
Federal Power Commission
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General Services Administration
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International Pacific Halibut Commission
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Panama Canal
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Title 7—AGRICULTURE

Chapter XVIII—Farmers Home Administration, Department of Agriculture

CODIFICATION CHANGES

Chapter III of Title 6 entitled "Farmers Home Administration, Department of Agriculture" of the Code of Federal Regulations is transferred to Title 7 as Chapter XVIII. As so transferred and renumbered the text of the regulations is set forth below without substantive change.

FRED A. JILLSON,
Chief, Organization and Development Branch, Business Services Division, FHA.

SUBCHAPTER A—GENERAL REGULATIONS

PART 1800—ADMINISTRATIVE PROVISIONS

Subpart A—Organization and General Functions of the Farmers Home Administration

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1800.2 National Office.
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Subpart A—Organization and General Functions of the Farmers Home Administration

AUTHORITY: The provisions of this Subpart A issued under 5 U.S.C. 1002 and in conformity with Orders of Sec. of Agr., Nov. 27, 1964, Dec. 3, 1964 (29 F.R. 16210, 16840).

§ 1800.1 General.

The Farmers Home Administration was established by Order of the Secretary of Agriculture, dated August 14, 1946 (11 F.R. 9007). Its organization consists of a National Office located in the South Building of the United States Department of Agriculture in Washington, D.C.; a National Finance Office located in St. Louis, Mo.; 42 State Offices (some serving more than one State); and approximately 1,500 local County Offices. This Agency is responsible for loan, grant, and other assistance programs, including Farm Operating, Farm Ownership, Soil and Water, Rural Housing, Emergency, Watershed, Rural Areas Development, and Rural Renewal programs and, in conjunction with the Office of Economic Opportunity, certain loan programs under the Economic Opportunity Act of 1964, and the servicing of similar type loans made by predecessor agencies. The foregoing programs are administered in accordance with regulations and delegations of authority and assignments of functions published in the FEDERAL REGISTER. The regulations are codified in Chapter III, Title 6, Code of Federal Regulations. A general description of the functions of the offices and divisions of the National Office and of the State and County Offices is contained in §§ 1800.2–1800.4.

§ 1800.2 National Office.

(a) *Administrator and Deputy Administrator*—(1) *Administrator.* Responsible for the development of policies and procedures and general direction and supervision of programs assigned to the Farmers Home Administration, under the general direction of the Assistant Secretary for Rural Development and Conservation.

(2) *Deputy Administrator.* Assists the Administrator in formulating and administering the policies and programs of the Farmers Home Administration. Serves as Acting Administrator in the absence of the Administrator.

(b) *Assistant Administrators.* Assist the Administrator in the direction and supervision of the Farmers Home Administration programs as follows:

(1) *Assistant Administrator (Operating Loans).* Responsible for the activities of the Operating and Emergency Loan Divisions.

(2) *Assistant Administrator (Real Estate Loans).* Responsible for the activities of the Farm Ownership and Rural Housing Loan Divisions.

(3) *Assistant Administrator (Community Services).* Responsible for the activities of the Association and Rural Renewal Loan Divisions.

(4) *Assistant Administrator (Management).* Responsible for the activities of the National Finance Office, and the Budget, Personnel, and Business Services Divisions.

(5) *Assistant Administrator (Insured Loan Funds).* Responsible for the insured loan funds activities.

(c) *Staff Offices.* Assist the Administrator in the direction and supervision of the following functions:

(1) *Farm Planning and Supervision Staff.* Responsible for the overall program of farm and home planning and supervision under the several loan programs.

(2) *Program Development and Administrative Coordination Staff.* Responsible for program planning, scheduling and evaluation; developing, coordinating and evaluating training programs; evaluating workloads and staffing; reports and statistical information, and coordination of the review of internal audit reports in the National Office.

(d) *Staff Division.* The Information Division reports directly to the Administrator and is responsible for informational activities. It develops and recommends policies and procedures with respect to such activities, and provides technical advice and assistance to field personnel.

(e) *Program Divisions Under the Direction of the Assistant Administrator (Operating Loans).* Each of the following Divisions is responsible to the Assistant Administrator (Operating Loans) for developing and recommending policies and procedures, for providing advice and assistance to field personnel, and for otherwise assisting in administering programs under its jurisdiction.

(1) *Operating Loan Division.* Responsible for operating loan program, and delegated responsibility for section 302 loans to individuals under the Economic Opportunity Act of 1964 and servicing of similar type loans made by Farmers Home Administration and predecessor agencies.

(2) *Emergency Loan Division.* Responsible for Emergency loan program, and servicing of similar type loans made by Farmers Home Administration and predecessor agencies.

(f) *Program Divisions Under the Direction of the Assistant Administrator (Real Estate Loans).* Each of the following Divisions is responsible to the Assistant Administrator (Real Estate Loans) for developing and recommending policies and procedures, for providing advice and assistance to field personnel, and for otherwise assisting in administering programs under its jurisdiction.

(1) *Farm Ownership Loan Division.* Responsible for the Farm Ownership and individual Soil and Water loan programs and servicing of similar type loans made by Farmers Home Administration and predecessor agencies.

(2) *Rural Housing Loan Division.* Responsible for Rural Housing loan and grant programs.

(g) *Program Divisions Under the Direction of the Assistant Administrator (Community Services).* Each of the following Divisions is responsible to the Assistant Administrator (Community Services) for developing and recommending policies and procedures, for providing advice and assistance to field personnel, and for otherwise assisting in administering programs under its jurisdiction:

(1) *Rural Renewal Division.* Responsible for Rural Renewal and Resource Conservation and Development programs and Rural Areas Development activities of the Farmers Home Administration, for coordination of Rural Renewal project activities of all agencies of

the Department of Agriculture, and for otherwise assisting in the Rural Areas Development program of the Department of Agriculture. Also maintains liaison with other agencies of the Executive Branch in connection with these activities.

(2) *Association Loan Division.* Responsible for Soil and Water association and Watershed programs of loans and advances, including delegated responsibility for loans to cooperative associations under section 303 of the Economic Opportunity Act of 1964, and servicing of similar type loans made by Farmers Home Administration and predecessor agencies.

(h) *The National Finance Office and the Service Divisions of the National Office.* Each of the following Divisions is responsible to the Assistant Administrator (Management) for developing and recommending policies and procedures, for providing advice and assistance to field personnel, and for otherwise assisting in administering functions under its jurisdiction.

(1) *National Finance Office.* Responsible for fiscal and accounting activities and providing service to field offices in connection with supplies, space, property, and purchasing.

(2) *Budget Division.* Responsible for the budget activities, including those pertaining to the State Rural Rehabilitation Corporations.

(3) *Personnel Division.* Responsible for personnel activities, including employment, classification, salary administration, employee relations and development, training, safety, health, and disciplinary actions.

(4) *Business Services Division.* Reponsible for business services, including rules and regulations, forms control, organization, management improvement, property and space management, travel authorizations, and communications, and records management.

§ 1800.4 State Offices.

Each State Office is under the supervision of a State Director who is responsible to the Administrator, in accordance with established policies and delegated authorities, for the Farmers Home Administration programs in one or more States. State Advisory Committees serve in an advisory capacity to the State Directors on all phases of the Farmers Home Administration programs.

§ 1800.4 County Offices.

Each County Office is under the direction of a County Supervisor who is responsible to the State Director, in accordance with established policies and procedures, for the Farmers Home Administration programs in one or more counties. Usually, this office is located in a county seat; however, depending upon the volume of business in certain counties, the County Office located in one county may also serve one or more adjoining counties. The local County Office is the normal channel through which the public is expected to seek information, make application for assistance, and conduct business with the Farmers Home Administration. County or Area Committees, composed of three individuals residing in the county or area, all of whom at the time of appointment shall be farmers, review applications for Farmers Home Administration assistance, make certifications and recommendations with respect to loans, grants, debt settlement, and release from personal liability, and advise on all phases of the Farmers Home Administration programs in the county or area.

Subpart B—Assignment of Functions

AUTHORITY: The provisions of this Subpart B issued under Secretary's Order of Dec. 3, 1964 (29 F.R. 16840).

§ 1800.11 Functions assigned to the Farmers Home Administration.

In the above authority the Secretary of Agriculture assigned and transferred to the Farmers Home Administration all of the functions, powers, duties, and assets under or with respect to:

(a) The Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1921), except those contained in section 342 of said Act (7 U.S.C. 1013a). These assigned functions, powers, duties, and assets pertain to programs authorized under said Act as well as to prior programs and authorities of the Farmers Home Administration and its predecessor agencies; the Farm Security Administration, the Emergency Crop and Feed Loan Offices of the Farm Credit Administration, the Resettlement Administration, and the Regional Agricultural Credit Corporation of Washington, D.C. The Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1921), was made effective on October 15, 1961 (20 F.R. 10031), except (1) the authorization to make and sell insured loans which was made effective by regulations issued on September 13, 1961 (26 F.R. 9307), and (2) the provision of Title IV of the Bankhead-Jones Farm Tenant Act requiring mineral reservations in lands disposed of under Title III of the Act which remained effective until December 7, 1961 (26 F.R. 10031).

(b) Title V of the Housing Act of 1949 (42 U.S.C. 1471), except those pertaining to research.

(c) The Rural Rehabilitation Corporation Trust Liquidation Act (40 U.S.C. 440), and under the trust, liquidation and other agreements entered into pursuant thereto.

(d) Section 8, and those with respect to repayment of the obligations under section 4, of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1006a, 1004).

(e) Rural Areas Development Program activities consisting of (1) furnishing technical information and services in initiating and implementing projects, (2) certifying individual overall economic development programs in rural areas as being consistent with the general objectives of the economic development of rural areas of the United States, and (3) certifying industrial and commercial water facility projects and community facility projects as being consistent with approved overall economic development programs for the areas involved. The foregoing are part of the functions, powers, and duties under the Area Redevelopment Act (42 U.S.C. 2501), delegated by the Secretary of Commerce to the Secretary of Agriculture (26 F.R. 9933).

(f) Rural Renewal Program activities consisting of making loans, making advances for technical assistance, coordination, direction, and supervision of Rural Renewal Projects, and assistance in planning, developing, and carrying out such projects under section 32(e) of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1011(e)).

(g) Section 51(a) of the Alaska Omnibus Act (Note preceding 48 U.S.C. 21).

(h) Loan programs under Part A of Title III and the necessarily related functions in Title VI of the Economic Opportunity Act of 1964 (42 U.S.C. 2841–2845, 2942, 2946) delegated by the Director of the Office of Economic Opportunity to the Secretary of Agriculture (29 F.R. 14764).

(i) Servicing, collection, settlement, and liquidation of:

(1) Deferred land purchase obligations of individuals under the Wheeler-Case Act of August 11, 1939, as amended (16 U.S.C. 590y), and under the item, "Water Conservation and Utilization Projects" in the Department of the Interior Appropriation Act, 1940 (53 Stat. 719), as amended.

(2) Puerto Rican Hurricane Relief loans under the Act of July 11, 1956 (70 Stat. 525).

(j) Disposal of surplus property under the jurisdiction of the Farmers Home Administration which the Secretary of Agriculture is authorized to dispose of by the Administrator of the General Services Administration (40 U.S.C. 486).

§ 1800.12 Functions reserved by the Secretary of Agriculture.

The following functions relating to the assignments described in § 1800.11 have been reserved by the Secretary in the above cited authorities:

(a) Making and issuing notes to the Secretary of the Treasury for the purposes of the Agricultural Credit Insurance Fund as authorized by the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1929), and Title V of the Housing Act of 1949 (42 U.S.C. 1484, 1485(b)), and requesting advances of funds evidenced by said notes and any similar notes executed under prior authorities (including 7 U.S.C. 1005b(j), 1005c(b), 1006e(a), 16 U.S.C. 590x–3(d)); where such notes or requests for advances thereunder would cause the aggregate outstanding unpaid principal balances thereon to exceed $135,000,000, or to exceed $25,000,000 thereof for domestic farm labor housing, or $10,000,000 thereof for rental housing for elderly persons and families.

(b) With respect to the functions assigned in § 1800.11(h):

(1) Prescribing rules and regulation jointly with the Director of the Office of Economic Opportunity.

(2) Requesting the Director of the Office of Economic Opportunity to make advances to the revolving fund estab-

lished pursuant to section 606 of the Economic Opportunity Act of 1964.

(3) Requesting reimbursement from the Director of the Office of Economic Opportunity for the performance of such assigned functions.

(c) Designating areas in which emergency loans may be made (7 U.S.C. 1961).

Subpart C—Delegations of Authority

AUTHORITY: The provisions of this Subpart C issued under Orders of Sec. of Agr., Nov. 27, 1964, Dec. 3, 1964 (29 F.R. 16210, 16840); 7 U.S.C. 1006a, 1006b, 1011(e), 1921, 16 U.S.C. 1004, 1006a, 40 U.S.C. 440, 486, 42 U.S.C. 1471, 2841–2854, 2942, 2946, 43 U.S.C. 451f, Note preceding 48 U.S.C. 21.

§ 1800.21 General.

The authorities contained in this Subpart C apply to all assets, functions, and programs now or hereafter administered or serviced by the Farmers Home Administration, including but not limited to those relating to indebtedness, security, and other assets obtained or contracted through the Secretary of Agriculture, Resettlement Administration, Farm Security Administration, Emergency Crop and Feed Loan Offices of the Farm Credit Administration, Soil Conservation Service in connection with water conservation and utilization projects, Puerto Rico Hurricane Relief Commission and successor agencies in connection with Puerto Rican Hurricane Relief loans to individuals, State Rural Rehabilitation Corporations, the United States of America or its officials as trustee of the assets of State Rural Rehabilitation Corporations, Regional Agricultural Credit Corporations, Defense Relocation Corporations, land leasing and purchasing associations, and other similar associations, corporations, and agencies, and whether the interest of the United States in the indebtedness, instrument of debt, security, security instrument, or other assets is that of obligee, owner, holder, insurer, assignee, mortgagee, beneficiary, trustee or other interest.

§ 1800.22 National Office Staff and State Directors.

The following officials of the Farmers Home Administration, in accordance with applicable laws, are severally authorized, for and on behalf of and in the name of the United States of America or the Farmers Home Administration, to do and perform all acts necessary in connection with making and insuring loans, making grants and advances, servicing loans and other indebtedness, and obtaining, servicing, and enforcing security and other instruments related thereto: The Deputy Administrator; the Assistant Administrator (Operating Loans); the Assistant Administrator (Real Estate Loans); the Assistant Administrator (Community Services); the Director, National Finance Office; each Deputy Director and the Insured Loan Officer, National Finance Office; the Director, Operating Loan Division; the Director, Emergency Loan Division; the Director, Rural Renewal Division; the Director, Farm Ownership Loan Division; the Director, Rural Housing Loan Division; the Director, Association Loan Division; and each State Director within the area of his jurisdiction; and in the absence or disability of any such official, the person acting in his position; and the delegates of any such official. This authority includes but is not limited to authority to:

(a) Effect the assignment of, or the declaration of trust with respect to, insured security instruments to place them in trust with the United States of America as trustee for the benefit of any holder of the promissory note or bond secured by such security instrument.

(b) Acknowledge receipt of notice of sale or assignment of insured loans and security instruments.

(c) Appoint or request the appointment of substitute trustees in deeds of trust.

(d) Execute proofs of claim in bankruptcy, death, and other cases.

(e) Sell or otherwise dispose of real estate or interests therein, and execute and deliver quitclaim deeds, easements, right-of-way conveyances, and other instruments to effectuate such sale or disposition.

(f) Compromise, adjust, cancel, release, charge off, and liquidate indebtedness, including modification of contracts and other instruments.

(g) Consent to sale or assignment of, or sell or assign, direct or insured loans and security instruments, and execute any necessary assignments, endorsements, reinsurance agreements, or other instruments in connection therewith.

(h) Approve and accept transfers of security property or interests therein to the United States of America, and approve and consent to transfers of security property or interests therein to other parties.

(i) Accelerate and declare entire real estate indebtedness due and payable, foreclose or request foreclosures of real estate security instruments by exercise of power of sale or otherwise, and bid for and purchase at any foreclosure or other sale or otherwise acquire real property pledged, mortgaged, conveyed, attached, or levied upon to collect indebtedness, and accept title to any property so purchased or acquired.

(j) Execute agreements to insure and reinsure, and to purchase and repurchase insured loans and security instruments.

(k) Request loan checks from lenders for loans to be insured, insure loans by execution of insurance endorsements, and endorse promissory notes in connection with insurance of loans.

(l) Execute and deliver or approve in writing, suspensions, releases or terminations of assignments of income, renewals, extensions, partial and full releases and satisfactions of security and personal or indemnity liability for indebtedness, waivers, subordination agreements, severance agreements, affidavits, acknowledgments, certificates of residence, evidence of consent, and other instruments or documents.

(m) Require and accept further or additional security.

(n) Accelerate and declare entire non-real estate indebtedness due and payable, and foreclose or request foreclosure of chattel security instruments by exercise of power of sale or otherwise.

(o) Bid for and purchase at any foreclosure or other sale, or otherwise acquire personal property pledged, mortgaged, conveyed, attached, or levied upon to collect indebtedness, and accept title to any property so purchased or acquired.

(p) Take possession of, maintain, and operate security or acquired real or personal property or interests therein, sell or otherwise dispose of such personal property, and execute and deliver contracts, caretaker's agreements, leases, and other instruments in connection therewith, as appropriate.

(q) Execute proofs of loss on insurance contracts and endorse without recourse less payment drafts and checks.

(r) Issue, publish and serve notices and other instruments.

(s) File or record instruments, whether separate instruments, or by making marginal entries, or by use of other methods permissible under State law.

§ 1800.23 State Office Staff and County Office employees.

The following officials and employees of the Farmers Home Administration, in accordance with applicable laws, for and on behalf of and in the name of the United States of America or the Farmers Home Administration, are also severally authorized within the area of their respective jurisdictions to perform the acts specified in paragraphs (k) to (s), both inclusive, of § 1800.22: Chief, Program Operations; Chief, Real Estate Loans; Chief, Operating Loans; Program Loan Officer; Real Estate Loan Officer; Operating Loan Officer; and State Supervisor; each Area Supervisor, County (including Parish) Supervisor, Assistant County Supervisor, Emergency Loan Supervisor, Assistant Emergency Loan Supervisor, or other supervisor or assistant supervisor; and in the absence or disability of any such official or employee, the person acting in his position.

§ 1800.24 Ratification.

All written instruments affecting title to real or personal property, including but not limited to deeds, releases, satisfactions, subordination agreements, severance agreements, consents, waivers, assignments, declarations of trust, and heretofore executed by officials or employees of the agencies or other entities referred to in § 1800.21 to carry out any purpose authorized by law, incident to the administration of programs under the jurisdiction of said agencies or other entities, are hereby approved, confirmed, and ratified.

§ 1800.25 Effect on other regulations.

This Subpart C does not revoke or modify any other delegation or redelegation; instruction, procedure, or regulation issued by, or under authority of, the Administrator of the Farmers Home Administration.

PART 1801—RECEIVING AND PROCESSING APPLICATIONS

Sec.
1801.1 General.
1801.2 Receiving applications.
1801.3 Processing applications.
1801.4 Reaching an understanding.
1801.5 Persons entitled to veterans' preference.

AUTHORITY: The provisions of this Part 1801 issued under R.S. 161, secs. 41, 6, 50 Stat. 528, as amended, 870, sec. 510, 63 Stat. 437, sec. 10, 68 Stat. 735; 5 U.S.C. 22, 7 U.S.C. 1015, 16 U.S.C. 590w, 42 U.S.C. 1480, 16 U.S.C. 590x–3. Provisions interpreted or applied are cited to text in parentheses.

§ 1801.1 General.

This part prescribes the policies and procedures for receiving and processing loan applications and for informing applicants and other interested individuals relative to the services of the Farmers Home Administration and credit available from other credit sources.

(a) The County Supervisor is responsible for seeing that all persons making inquiry about Farmers Home Administration services are given information relative to such services.

(b) Wherever the term "applicant" appears herein, it shall be construed to mean applicant family.

(c) Receiving and processing applications for subsequent Operating loans, Soil and Water Conservation loans to associations, and subsequent Emergency loans, will be handled in accordance with Parts 1831, 1823, Subpart B, and 1832, respectively, of this chapter.

§ 1801.2 Receiving applications.

Applications for Farmers Home Administration assistance will be filed in the County Office serving the area in which the farm to be operated or improved is located; however, if an applicant for an Emergency loan will operate two or more farm units in different counties, his application ordinarily will be filed in the County Office serving the county in which he resides.

(a) The filing of written applications should be encouraged even though funds may not be currently available since applications will be considered in the order received.

(b) Form FHA–197, "Application for FHA Services," will be used by all applicants unless otherwise provided in the authorities referred to in paragraph (c) of § 1801.1.

(c) Supervisory personnel will discuss with each applicant the type(s) of assistance that appears best suited to his particular needs. If after discussing with the applicant his credit needs it appears that he may be able to obtain credit to meet his needs from some other credit source, the County Supervisor should inform him of the availability of such credit and provide him with needed assistance in contacting the credit agency.

§ 1801.3 Processing applications.

(a) Applications will be investigated and submitted to the County Committee for consideration and otherwise processed in the order received except as modified by veterans' preference policies. The County Supervisor will verify the information furnished by the applicant and assemble additional information needed to evaluate properly the applicant's qualifications and credit needs. The County Supervisor will furnish the County Committee before the application is considered, as a minimum, information on the following:

(1) The applicant's reputation for honesty and meeting his obligations. This will include specific information as to the experiences and opinions of others concerning the applicant and the sources of the information.

(2) The applicant's financial condition in relation to the requirements of local creditors, and the efforts that have been made and the results of the applicant's efforts to obtain credit to meet his needs from other credit sources. If the applicant has obtained financing from other creditors in substantial amounts, careful consideration should be given to the possibility of his being able to continue to obtain credit from such sources.

(3) If the applicant will operate the farm, specific information concerning his farm training and experience.

(4) For Operating loans, the size and quality of the particular farm which the applicant will operate, the approximate acreages of crop and pasture lands, the types and conditions of buildings, and the suitability of the farm for the proposed type farming operations. For other types of loans, any available information as to the suitability of the applicant's farm.

(5) The other resources available to the applicant and the approximate amount of credit which will be required.

(6) Any adverse health conditions.

(b) The County Supervisor will analyze the applicant's loan request, giving careful consideration to his experience, abilities, resources, and credit needs, and will tentatively determine which type(s) of Farmers Home Administration loans will most effectively meet the applicant's needs.

(c) After tentatively determining which type(s) of loan(s) will most effectively meet the applicant's needs, the County Supervisor will present the application to the County Committee for consideration. The Committee will interview applicants whenever it is considered necessary for arriving at proper recommendations. This will be done by having the applicant appear at the Committee meeting. After the interview with the applicant is completed and all pertinent facts have been considered, the Committee, in the absence of the applicant, will take action on the application.

(d) The County Supervisor will take the following action immediately after the County Committee's decision regarding the applicant's qualifications:

(1) If the Committee action is favorable, the County Supervisor will proceed promptly in accordance with the applicable loan processing instructions. When favorable action has been taken on an application, the applicant will be notified. Care should be exercised to be sure that the applicant understands that Committee action does not constitute approval of his loan. In notifying the applicant of favorable Committee action, the County Supervisor also, when practicable, will arrange a meeting with the family to proceed with developing the loan docket.

(i) In the case of a Farm Ownership applicant who has not selected a farm but who, in the opinion of the County Committee, is otherwise eligible, the County Supervisor will notify the applicant that preliminary action has been taken on his application but final action will be delayed until he has located and obtained an option on a satisfactory farm. In such a case further loan processing actions will not be taken until the applicant has located a farm.

(ii) In the case of tenant applicants for Operating and Emergency loans, who have not yet leased a farm at the time the application is presented to the Committee, but who, in the opinion of the Committee, are otherwise qualified, the County Supervisor will notify the applicant that final Committee action will be delayed until further information is received concerning the farm to be operated.

(2) When the applicant has been determined eligible for assistance but it is found that a sound loan cannot be made, the discussion between the County Supervisor and the applicant should result in a clear understanding of the reasons why a loan cannot be made. A brief letter confirming the discussion and conclusions should be sent.

(3) If the Committee's action is unfavorable, the County Supervisor will notify the applicant in writing specifically of the actions taken and the reasons therefor and will extend an invitation to call at the County Office for the purpose of discussing in detail with the County Supervisor the reasons for the rejection and, when appropriate, the corrective actions the applicant may take to qualify.

(e) Those applications received when loan funds are not available for processing loans will be investigated and presented to the County Committee for consideration. Applicants who are ineligible will be advised accordingly. Those for whom Committee action is favorable will be notified that funds are presently exhausted but that their applications will be held for consideration until funds are available. When funds become available for processing loans to such applicants, they will be notified by letter that funds are available. Such notice to the applicant will also provide that he should advise the County Office within 15 days if he is still interested in obtaining the loan originally applied for; otherwise, his application may be withdrawn. If the applicant still indicates a desire to obtain a loan, the County Supervisor will review the application with him and if there have been any significant changes that would affect the eligibility of the applicant, the County Supervisor will obtain necessary current information and present the application to the County Committee for reconsideration.

(f) Applications will remain in effect until withdrawn, disapproved, expired, or the loan is made. An applicant may voluntarily withdraw his application at

any time. When a loan will not be made for such reasons as the applicant's obtaining credit from another source, lack of further interest on the part of the applicant, or similar justifiable reasons, the applicant will be so notified and advised that his application will be considered withdrawn unless the County Office receives a notice within 15 days that he desires further consideration.

(g) Applications for Farm Ownership loans received during any fiscal year will remain active during the remainder of that financial year and the subsequent fiscal year unless withdrawn or disapproved or unless the loan is closed. During June of each year, the County Committee in consultation with the County Supervisor will select from the expiring applications those applicants who appear to be eligible and who may wish to renew their applications. The County Supervisor will notify the applicant that it will be necessary to file a new application if he wishes further consideration for a Farm Ownership loan.

§ 1801.4 Reaching an understanding.

Farmers Home Administration lending experience has clearly demonstrated that success in helping farm families depends in large measure on reaching a thorough understanding with each applicant before a loan is approved. A proper understanding will be obtained with all applicants with respect to the basic loan making and servicing policies, the responsibilities of borrowers, and the benefits that may be expected from Farmers Home Administration assistance.

§ 1801.5 Persons entitled to veterans' preference.

Veterans' preference will be extended to any person applying for a Farm Ownership, Farm Housing, Soil and Water Conservation, or Operating loan who has been discharged or released from the active forces of the United States Army, Navy, Air Force, Marine Corps, or Coast Guard under conditions other than dishonorable, and served in any of such forces during (a) the period April 6, 1917, through March 31, 1921, or (b) the period December 7, 1941, through January 31, 1955. For Farm Housing loans, the spouses and children of deceased servicemen also will be given preference. "Deceased servicemen" means men or women who died in service during one of the periods specified in this section.

(Sec. 1, 50 Stat. 522, as amended, 7 U.S.C. 1001; sec. 507, 63 Stat. 436, as amended, 42 U.S.C. 1477)

PART 1802—SUPERVISION AND YEAR-END ANALYSIS

Sec.

1802.1 Supervision.
1802.2 Determining needs for supervisory assistance.
1802.3 Year-end analysis.

AUTHORITY: The provisions of this Part 1802 issued under R.S. 161, secs. 41, 6, 50 Stat. 528, as amended, 870, sec. 510, 63 Stat. 437, sec. 4, 64 Stat. 100, sec. 10, 68 Stat. 735; 5 U.S.C. 22, 7 U.S.C. 1015, 16 U.S.C. 590w, 42 U.S.C. 1480, 40 U.S.C. 442, 16 U.S.C. 590x–3; Order of Acting Sec. Agr., 19 F.R. 74, 22 F.R. 8188.

§ 1802.1 Supervision.

(a) The Farmers Home Administration will provide supervision to each borrower to the extent necessary to achieve the objectives of the loan and to protect the interests of the Government.

(b) The terms "supervision" and "supervisory assistance" as used by the Farmers Home Administration include the broad scope of management services available through the agency to families utilizing Farmers Home Administration credit. The primary objectives of supervision are to assist farm families in making profitable adjustments and improvements that are necessary to place their farming operations on a sound basis, to assist them in the wise use of adequate credit, to assist them to graduate to other sources of credit within a reasonable period of time, and to help protect the interests of the Government.

(c) In order for supervisory assistance to be effective, a thorough understanding must be reached with each applicant at the outset concerning the credit and supervisory assistance which is provided through the Farmers Home Administration, his responsibilities in properly carrying out the proposed farm and home operations, and his responsibilities in caring for and accounting for security property.

(d) The supervisory methods used by the Farmers Home Administration will include long-time farm and home planning, annual farm and home planning, farm family records, year-end analysis and subsequent farm and home planning, farm and home visits, and credit counseling.

§ 1802.2 Determining needs for supervisory assistance.

The Farmers Home Administration County Supervisor will carefully analyze the need for supervision with each family and determine the extent of supervision that will be required to achieve the objectives of the loan and protect the Government's interest.

(a) *Intensive supervision.* Intensive supervision consists of long-time and annual farm and home planning, farm family records, an average of three to five effective farm and home visits per year with one visit perferably within 30 days after the loan is closed, and year-end analysis and subsequent farm and home planning each year. Families who will depend primarily upon farming for their livelihood and who will be making major adjustments and improvements in their farm and home operations ordinarily will receive intensive supervision at least during the first years of their loans. Intensive supervision may be discontinued and only limited supervision given a family which has completed the major adjustments and improvements needed, has adopted the necessary farm and home and money management practices, is meeting its debt payments and other financial obligations satisfactorily, and is otherwise making satisfactory progress. In addition, intensive supervision may be discontinued when a decision has been made to take liquidation action or it is clearly evident that the further extension of such supervision will not benefit the family.

(b) *Limited supervision.* Limited supervision consists of annual farm and home planning in connection with the making of the loan and for subsequent years, if needed; farm family records; at least one supervisory or inspection visit per year, depending upon the family's needs; and, when the loan is delinquent, making personal contacts for the purpose of collection and developing specific written agreements for removing the delinquency. Families which will not be depending primarily on farming for their livelihoods, or will not be making major adjustments and improvements in their farm and home operations, ordinarily will receive only limited supervision. However, intensive supervision should be given such families when it is necessary to achieve the objectives of the loan and protect the Government's interest.

§ 1802.3 Year-end analysis.

Borrowers from the Farmers Home Administration who are receiving intensive supervision as prescribed by § 1802.2 of this part will, with the assistance of the County Supervisor, analyze their farm and home operations at the close of each year as a basis for improving those operations for the following year. This analysis will be made in the County Office or some other convenient meeting place selected by the County Supervisor in connection with the completion of the farm and home plan for the succeeding year. Such analysis is in fact an integral part of subsequent planning. The record book and inventory, Forms FHA–195 or FHA 432–1 and FHA–195A or FHA 432–2; the past year's Farm and Home Plan, Form FHA–14 or FHA 431–2; Form FHA 431–1, "Long-Time Farm and Home Plan"; and when available, Forms FHA 432–3 to 432–8, "Enterprise Analysis Sheets," will provide the basic sources of information for the analysis.

(a) *Purposes of year-end analysis.* The year-end analysis is a process by which the family, with the assistance of the County Supervisor, reviews and evaluates the past year's farm and home operations to determine those phases of their operations which were carried out successfully, as well as those which need further improvement. This involves an analysis of such factors as financial progress, production efficiency and effectiveness in carrying out improved management practices.

(b) *When to make the analysis.* Analysis of the past year's operations in conjunction with the completion of the farm and home plan for the next year will take place after the crop year is completed and will cover the full crop year, except when there are borrowers whose business for the year is sufficiently complete to permit an estimate of the year's income and expenses prior to the end of the year with sufficient accuracy to permit a meaningful analysis.

(c) *Preparation for the analysis.* Before the end of the crop year, the County

Supervisor will send each family a notice of the date, time and place for meeting to make the year-end analysis and will furnish them with a new record book and, if required, a new five-year inventory. The County Supervisor also will instruct the family to prepare for the analysis by:

(1) Completing all business transactions and settling all accounts, so far as practicable, before closing the year's records.

(2) Completing all records and summaries in their past year's record book.

(3) Entering the inventory for the next year on Form FHA–195A or FHA 432–2 as of the end of the crop year.

(4) Entering the financial statement, Table A, of their next year's farm and home plan in the new record book.

(5) Completing the "Actual" columns of the past year's farm and home plan, Tables B to K, and lines 4 to 7 on page 1.

(6) Thinking through their farm and home operations and reaching tentative decisions concerning their plan for the next year. All families should be encouraged to make tentative entries in Tables B, C, and E of the farm and home plan for the next year and some families may also be asked to make entries in the budget tables F through K of the farm and home plan. Such entries should be made in pencil for possible revision during the analysis.

(d) *Making the analysis.* The analysis will consist of a review and evaluation by the family and County Supervisor of the strong and weak points in the farm and home operations. It is the responsibility of the County Supervisor to see that the family understands that the aim of the year-end analysis is to provide a basis for making further improvements in the organization of the farm and home business, increasing production efficiency, and improving money management. As decisions are reached during the analysis discussion, they will be recorded in the farm and home plan for the next crop year.

(e) *Completing next year's farm and home plan.* Since the chief purpose of the analysis is to improve the family's farm and home operations for the next year through better planning, completion of the next year's farm and home plan will be an integral part of the analysis. The year-end analysis provides the occasion for completing the continuous planning that has been carried on throughout the year by the family and supervisor. The long-time farm and home plan and the tentative entries made by the family on the next year's farm and home plan should be examined in the light of conclusions and decisions agreed upon during the analysis. The subsequent farm and home plan also will be completed.

PART 1803—SUPERVISED BANK ACCOUNTS

Sec.

1803.1 General.
1803.2 Use of supervised bank accounts.
1803.3 Establishing accounts.
1803.4 Authority to countersign checks.
1803.5 Deposits and withdrawals.
1803.6 Unexpended loan funds.
1803.7 Closing accounts.

AUTHORITY: The provisions of this Part 1803 issued under R.S. 161, secs. 41, 6, 50 Stat. 528, as amended, 870, sec. 510, 63 Stat. 437; 5 U.S.C. 22, 7 U.S.C. 1015, 16 U.S.C. 590w, 42 U.S.C. 1480.

§ 1803.1 General.

Supervised bank accounts, as referred to in this part, are those required to be established by borrowers in banks of their choice under a deposit agreement entered into by the borrower, the bank, and the Government on Form FHA–192, "Deposit Agreement." Under such agreements, the deposits are assigned to the Government as security for repayment of the indebtedness of the borrower, and withdrawals are permitted only by order of the borrower and the countersignature of a representative of the Government. The primary purpose of such accounts is to protect the interest of the Government in the disbursement of loan funds.

§ 1803.2 Use of supervised bank accounts.

The deposit of funds in a supervised bank account will be governed by the following:

(a) *Borrowers with Operating, Emergency, Special Livestock, or other production-type loans.* (1) Operating, Emergency, Special Livestock, or other production-type loan funds will be deposited in a supervised bank account when the County Supervisor determines that the use of the supervised bank account is necessary to assure the correct expenditure of all or any portion of the loan funds.

(2) Funds representing the proceeds from the sale of mortgaged property, including the proceeds of insurance on mortgaged property and the proceeds of assignments of agricultural income, will be deposited in the supervised bank account when:

(i) Such funds have been released under the provisions governing servicing security for loans in accordance with Part 1871 of this chapter and are to be expended in carrying out major farm and home maintenance, improvements or practices, or for the replacement of mortgaged livestock or farm and home equipment, and the County Supervisor determines that it is necessary to use the supervised bank account to assure that the funds will be available for such purposes; or

(ii) The borrower also is indebted for a Farm Ownership or a Farm Housing loan and deposits of income are made in the supervised bank account as provided in this section.

(*a*) Any deposits of income which are to be applied as a payment on the borrower's Operating, Emergency, Special Livestock, or other production-type loan indebtedness will be withdrawn immediately and applied to the account in accordance with provisions governing collections.

(b) *Borrowers with Farm Ownership and Farm Housing loans.* (1) Insured Farm Ownership and direct Farm Ownership or Farm Housing loan funds will be deposited in a supervised bank account on the date of loan closing after it has been determined that the loan can be closed except when all of the proceeds of the check are distributed at the time of loan closing. Funds representing a borrower's down payment or cash contribution also will be deposited in a supervised bank account prior to or at the time of loan closing. When the title is held jointly with the right of survivorship, a joint supervised bank account will be established from which either the husband or wife can withdraw funds.

(2) In exceptional cases, where a borrower with either an insured Farm Ownership loan or a direct Farm Ownership or Farm Housing loan has demonstrated inability to accumulate funds sufficient for the prompt payment of taxes, assessments, property insurance premiums, and maintenance costs, the County Supervisor may request such a borrower to deposit sufficient income in a supervised bank account for these purposes. In order for such deposits to be made from the proceeds of assignments of agricultural income, it will be necessary that assignment checks be drawn jointly to the order of the borrower and the Farmers Home Administration.

(3) A borrower with either an insured Farm Ownership loan approved after September 17, 1954, or a direct Farm Ownership or Farm Housing loan will not accumulate income in a supervised bank account for payment on such loans. However, when assignments are taken to make payments on loans and payments on taxes, assessments, property insurance premiums, and maintenance costs, the entire assignment check may be deposited in a supervised bank account, provided such check is drawn jointly to the order of the borrower and the Farmers Home Administration. A check will be drawn immediately on the supervised bank account in the amount to be paid on the loan and will be forwarded to the Finance Office.

(4) A borrower with an insured Farm Ownership loan approved on or before September 17, 1954, generally will not deposit income in a supervised bank account as a means of accumulating funds for payment on his loan. However, such a borrower who makes small payments frequently should be encouraged to use a supervised bank account to accumulate funds for a substantial payment before such funds are transmitted to the Finance Office, so that remittances to the note holder will be less frequent. In order for such deposits to be made from the proceeds of assignment of agricultural income, it will be necessary that assignment checks be drawn either jointly to the order of the borrower and the Farmers Home Administration or to the order of the bank in which the supervised bank account is established.

(5) When a borrower agrees to deposit income in a supervised bank account he will sign a letter of request. If the County Supervisor believes that an assignment is desirable he will have the borrower and the purchaser sign an original and two copies of Form FHA–80, "Assignments of Proceeds from the Sale

of Agricultural Products," or other assignment form approved by the Attorney in Charge.

(6) Property insurance loss funds will be deposited in the supervised bank account in accordance with § 1806.5 of this chapter.

(c) *Borrowers with Soil and Water Conservation loans*—(1) *Loans to individuals.* Insured or direct Soil and Water Conservation loan funds advanced to an individual will be deposited in a supervised bank account on the date of loan closing after it has been determined that the loan can be closed, unless the loan funds will be spent soon after loan closing and the County Supervisor is satisfied that the borrower will use the funds for the purposes for which the loan was made. If the loan funds are to be deposited in the supervised bank account, any funds furnished by the borrower to supplement his loan also will be deposited in the supervised bank account if required by the loan approval official.

(2) *Loans to associations.* Insured or direct Soil and Water Conservation loan funds advanced to an association will be deposited in a supervised bank account on the date of loan closing after it has been determined that the loan can be closed, unless the loan funds will be spent soon after loan closing. If the loan funds are to be deposited in the supervised bank account, any funds furnished by the borrower to supplement the loan also will be deposited in the supervised bank account not later than the date of loan closing.

(d) *Other deposits.* Deposits in supervised bank accounts other than those specifically authorized under this section will not be permitted.

§ 1803.3 Establishing accounts.

While each borrower will be given an opportunity to choose the bank in which his supervised bank account will be established, unless otherwise authorized in writing by the Administrator, supervised bank accounts will be established only in banks whose deposits are insured by the Federal Deposit Insurance Corporation. Ordinarily, a borrower who obtains an insured loan will be expected to establish such account with the lender who furnished the loan funds, if the lender is a local banking institution. In making arrangements with banks, only one supervised bank account will be maintained for any one borrower regardless of the amount or source of funds. However, in those instances in which a borrower with a supervised bank account receives an insured loan from another bank and the bank furnishing the funds requests the borrower to deposit the loan funds in that bank, the borrower may maintain two accounts provided only one supervised account will be maintained after the insured loan funds are expended. For each account, an original and two copies of Form FHA–192 will be executed by the borrower, the bank, and the County Supervisor. Authority to execute Form FHA–192 on behalf of the Government may be redelegated by County Supervisors to persons under their supervision. If an agreement is already in existence and additional funds are to be deposited, a new agreement on Form FHA–192 is not required unless requested by the bank.

§ 1803.4 Authority to countersign checks.

County Supervisors are authorized to countersign checks drawn on supervised bank accounts and may redelegate this authority to persons in bonded positions under their supervision, provided that such persons are considered capable of exercising countersigning authority.

§ 1803.5 Deposits and withdrawals.

(a) *Deposits.* (1) A borrower will be notified immediately of loan check or any other deposits made and will be furnished a copy of the deposit slip.

(2) Personnel of the Farmers Home Administration will accept funds from a borrower for deposit in a supervised bank account ONLY in the form of a check or money order endorsed by the borrower "For Deposit Only." In addition to the endorsement by the borrower, joint checks received for deposit will be endorsed by the County Supervisor as provided in regulations governing collections. A check made payable solely to the Government, or any agency thereof, and a joint check where the Treasurer of the United States is a joint payee, may not be deposited in a supervised bank account.

(b) *Withdrawals.* (1) A check will be issued payable to the appropriate payee who, in justifiable circumstances, may be the borrower. However a check will never be issued payable to "Cash." The purpose of the expenditure will be indicated on the face of the check.

(2) Ordinarily, a check will be countersigned before it is delivered to the payee. However, in justifiable circumstances such as when excessive travel on the part of the borrower or the Government would be involved, or the consummation of good purchases would be prevented, and the County Supervisor is assured the borrower can select goods and services in accordance with the plans, a check may be delivered to the payee by the borrower before being countersigned. When a check is delivered to the payee before being countersigned, the County Supervisor must make it clear to the borrower, and, when possible, clear to the payee, that such check will be countersigned only if the quantity and quality of items purchased are in accordance with approved plans. When a check is delivered to the payee before it is countersigned, it will bear the following legend in addition to the legend for countersignature: "Valid only upon Countersignature of Farmers Home Administration." In such case, the check must be presented by the payee or his representative to the County Office of the Farmers Home Administration servicing the account for the required countersignature. Such a check must be accompanied by a bill of sale, invoice, or receipt signed by the borrower, clearly showing the goods or services purchased by the borrower and the cost thereof or similar information must be indicated on the check. Such a check is not valid unless countersigned and should not be placed in banking channels before the countersignature is affixed.

(3) For real estate loans or grants the number and date of the check will be inserted on all bills of sale, invoices, receipts, and itemized statements for materials, equipment, and services. For such loans or grants, the bills of sale, invoices, receipts, and itemized statements will be given to the borrower or grantee after the bill has been paid or they may be filed in his case folder until all items of development have been completed, at which time they will be returned to him. For all other types of loans they will be returned to borrowers after review by a County Office employee authorized to countersign checks.

(4) Checks to be drawn on a supervised bank account will bear the legend:

Countersigned, not as co-maker or endorser.

_____, _____,

Farmers Home Administration.

(Sec. 339, 75 Stat. 318, sec. 510, 63 Stat. 437; 7 U.S.C. 1989, 42 U.S.C. 1480; Order of Secretary of Agriculture, 19 F.R. 74, 26 F.R. 8403 27 F.R. 5005, 9957)

§ 1803.6 Unexpended loan funds.

After completion of authorized loan fund expenditures, any unexpended loan funds will be applied promptly on the borrower's loan account as a refund.

§ 1803.7 Closing accounts.

Supervised bank accounts also will be closed upon the death of a borrower, except joint survivor accounts; when a borrower is in default and it is determined that no further assistance will be given; and when a borrower is no longer classified as "active."

(a) *Deceased borrowers.* Upon the death of a borrower, the County Supervisor ordinarily will request the State Director to make demand upon the bank for the balance on deposit in the borrower's supervised bank account. Funds in the supervised bank account of a deceased borrower normally will not be used for any purpose other than payment of the borrower's indebtedness. The deceased borrower's family ordinarily will be considered as a new case and the needs of the family should be met through the normal channels of the Farmers Home Administration program. However, there may be exceptions to this rule as, for example, when commitments have been made on the basis of the deceased borrower's approved plans and the borrower has received goods or services as a result. In such cases, upon the recommendation of an authorized representative of the estate of the deceased borrower, and with the approval of the Attorney in Charge as to the legality of each such transaction, the State Director is authorized to approve the use of deposited funds for the payment of such commitments.

(b) *Borrowers in default.* Whenever it is not possible or practicable to get a borrower who is in default and whose supervised bank account is to be closed to sign a check, the County Supervisor will request the State Director to make demand upon the bank for the balance on deposit in the borrower's supervised bank account.

(c) *Reclassified borrowers.* Supervised bank accounts of borrowers who are no longer classified as "active" will be closed in the manner set out in the preceding paragraph, except that when a balance remains in the supervised bank account of a borrower who has repaid his indebtedness, the County Supervisor simply will notify the bank in writing that the Government cancels its rights under the "Deposit Agreement," including its countersignature authority.

PART 1804—PLANNING AND PERFORMING DEVELOPMENT WORK

Sec.
1804.1 General.
1804.2 Definitions.
1804.3 Policy for planning development.
1804.4 Responsibilities for planning development.
1804.5 Salvage or disposition of surplus structures and use or sale of timber, sand, and stone.
1804.6 Performing development.

AUTHORITY: The provisions of this Part 1804 issued under secs. 333, 339, 75 Stat. 314, 318, secs. 509, 510, 63 Stat. 436, 437; 7 U.S.C. 1982, 1989, 42 U.S.C. 1479, 1480; Orders of Sec. of Agr. 19 F.R. 74, 26 F.R. 8403, 27 F.R. 5005, 9957, except as otherwise noted.

§ 1804.1 General.

(a) This part prescribes the policies, methods, and responsibilities with respect to planning and performing development work for a Farmers Home Administration real estate loan or grant. In connection with Rural Housing loans these provisions concerning planning and performing development may not apply to multiple-unit projects that are more extensive in scope. In these instances the Farmers Home Administration may require compliance with other methods of planning and performing development.

(b) The Farmers Home Administration booklet, "A Guide for the Construction of Farm Buildings," will assist program personnel, particularly those who are responsible for advising the applicant in planning construction, approving plans and specifications, and inspecting construction.

§ 1804.2 Definitions.

(a) "Development" means construction and land development.

(b) "Construction" means such work as erecting, repairing, remodeling, relocating, adding to, or salvaging any building or structure, and the installation or repair of, or addition to, heating and electric systems, farmstead wells and water systems, sewage disposal systems, walks, steps, driveways, and landscaping.

(c) "Land development" means items such as terracing, clearing, leveling, fencing, drainage and irrigation systems, ponds, forestation, permanent pastures, perennial hay crops, basic soil amendments, and other items of land improvements which conserve or permanently enhance productivity.

§ 1804.3 Policy for planning development.

(a) *Extent of development.* For a Farm Ownership loan, the plans for development will include the items necessary to put the farm in a livable and operable condition at the outset consistent with the planned farm and home operations. For other types of loans, the plans will include those items essential to achieving the objectives of the loan. In the case of grants, the plans will include those items of minor repair and improvement as agreed upon between the applicant and the County Supervisor.

(1) *Construction.* New dwellings and service buildings included in the development plan should be adequate but modest in size and cost. Dwellings and other buildings which are excessive in size to the needs of the family and the farm, or which are elaborately or expensively designed or which are significantly more expensive than adequate but modest buildings will not be approved. (See Part 1822 of this chapter for more specific guides covering new or partially completed buildings.) All new buildings to be constructed and all alterations and repairs to buildings will be planned to conform with good construction practices. All improvements to the property will conform to applicable laws, ordinances, and regulations which relate to safety and sanitation of the buildings. Adequate plans, specifications, and estimates will be provided to fully describe the work. See Section 300 of Farmers Home Administration booklet, "A Guide for the Construction of Farm Buildings," for information that should be included in the plans and specifications.

(2) *Land development.* Land development will be planned by the applicant with the advice of the County Supervisor after giving consideration to the practices recommended by Agricultural Colleges, Extension Service, Soil Conservation Service, or other recognized agricultural authorities. Adequate plans and descriptive material will be provided to fully describe the work. In planning land development with the applicant, the County Supervisor will encourage him to use any cost-sharing assistance consistent with his plans that may be available to him through Agricultural Conservation Programs.

(b) *Method for performing development work.* Development work may be planned to be performed by the contract method, the borrower method, or a combination of both the contract and borrower methods. Every effort should be made to perform all major items of development by the contract method. All contract work should be performed by the person, firm, or company qualified to provide the service. Development work may be performed by the borrower method only when (1) it is not practicable to do the work by the contract method, (2) the borrower possesses the necessary skill and managerial ability to complete the work satisfactorily, (3) such work will not interfere seriously with the borrower's farming operation, and (4) the County Supervisor is available to property advise the borrower and inspect the work.

(c) *Completion of development work.* All work included in the development plan will be scheduled for completion as quickly as practicable and no later than 15 months from the date of loan closing, except that an item of land development, or a portion thereof, may be scheduled for completion at a later date when more than the 15 months' completion time would be required to establish such land development practices for the area. However, the completion time for land development should not exceed 24 months.

(d) *Funds for development work.* The total cash cost of all planned development will be shown on Form FHA 424–1, "Development Plan." Planned development will be financed by funds provided in the loan, cash on hand before loan closing, Agricultural Stabilization and Conservation Service program payments, or the sale of property in accordance with § 1804.5 of this Part 1804. Income to be earned after loan closing will not be considered for financing items of development planned on Form FHA 424–1.

§ 1804.4 Responsibilities for planning development.

Planning construction and land development and obtaining technical services in connection with plans, specifications, and cost estimates are the responsibility of the applicant, with such assistance from the County Supervisor as may be necessary to insure that the development is properly planned.

(a) *Responsibility of the applicant.* (1) When technical services are required, the applicant will arrange for obtaining these services from qualified technicians, tradesmen and recognized plan services. He will be responsible for furnishing the County Supervisor with sufficient information to describe fully the planned improvements and the manner in which they will be accomplished.

(2) When items of construction or land development require plans and specifications, the applicant will provide the County Supervisor with one copy of the plans and specifications. Approval will be indicated on all sheets of the plans and at the end of the specifications, and both instruments will be a part of the loan docket. After the loan is approved, the borrower will provide himself and the contractor with conformed copies of the approved plans and specifications. After the work is completed the approved copy may be returned to the borrower. Items not requiring plans and specifications may be described in narrative form.

(i) Section 300 of the "Guide for the Construction of Farm Buildings" shows the drawings that should be included in the plans for dwellings and other farm building construction.

(ii) Plans for land leveling, irrigation, or drainage should include a map of that portion of the farm to be improved showing the existing conditions with respect to soil, topography, elevations, depth of topsoil, kind of subsoil, and natural drainage, together with the proposed land development.

(iii) When land development consists of, or includes, the conservation and use of water for irrigation or domestic pur-

poses, the information submitted to the County Supervisor will include a statement as to the source of the water supply, right to the use of the water, and the adequacy and quality of the supply. In States which do not have laws governing the use of water for domestic or irrigation purposes, the applicant will be required to furnish evidence to meet the requirements governing the use of water specified in Part 1821 of this chapter.

(3) Whenever possible, the applicant will pay with personal funds any charges made for technical services in connection with his proposed development. If this cannot be done, the cost of such services may be included in the loan.

(b) *Responsibility of the County Supervisor.* (1) Visit each farm or site to be improved for the purpose of seeing the farm or site on which the development is proposed. In case of a Farm Ownership loan, the County Supervisor and the applicant will determine the items of development necessary to put the farm in a livable and operable condition at the outset.

(2) Discuss with the applicant the Farmers Home Administration's requirements with respect to good construction and land development practices.

(3) Advise the applicant regarding plans, specifications, estimates, and other related material which the applicant must submit to the County Supervisor for review before the loan can be developed. He should outline to the applicant the information that will be included in the plans, how the cost estimates should be prepared, the number of sets of plans, specifications, and cost estimates required, and the necessity for furnishing such information promptly. He should advise the applicant regarding the specification forms, FHA 424–2, "Dwelling Specifications," and FHA 424–3, "Service Building Specifications," which are available to the applicant through the Farmers Home Administration.

(4) Advise the applicant regarding publications, plans, engineering data, and other technical advice and assistance available through local, State, and Federal agencies, and private individuals and organizations.

(5) When appropriate, offer suggestions as to how plans and specifications might be altered to improve the facility and better serve the needs of the borrower. The County Supervisor may assist the borrower in making revisions to the plans. For revisions that require technical determinations which the County Supervisor is not able to make, the applicant will be requested to obtain additional technical assistance.

(6) Review the proposed method of doing the work and determine whether the work can be performed satisfactorily under the proposed method.

(7) Arrive at an understanding with the applicant as to the date each item of development will be started and completed.

(8) Prepare Form FHA 424–1 in accordance with the Forms Manual Insert after a complete understanding has been reached between the borrower and the County Supervisor regarding the improvements to be made. After Form FHA 424–1 has been prepared and the County Supervisor is reasonably sure that the loan can be made, he will request an appraisal of the farm or nonfarm tract, if one is required.

(9) Instruct the applicant not to incur any debts prior to loan closing for materials or labor or make any expenditures for such purpose with the expectation of being reimbursed from loan funds.

(c) *Responsibility of the Area Supervisor or the employee who makes the appraisal.* The employee who will make the appraisal will review Form FHA 424–1, plans, specifications, and the cost estimates to determine whether or not they are sufficiently complete to describe the work and are the types of improvements that appropriately can be financed with a Farmers Home Administration loan. He should determine that sufficient drawings are available, whether or not complete specifications and cost estimates are available, and whether or not they appear to be reasonably complete. He should also determine whether or not the plans, specifications, and cost estimates were prepared by competent and reliable persons. In the case of Farm Ownership loans, he should see that the planned farm development will place the farm in a livable and operable condition at the outset and that adequate facilities for the planned farming operation will be available. When appropriate, he will make suggestions for improving the plans and cost estimates. Generally, the applicant will be contacted by the employee who will make the appraisal of the farm or nonfarm tract to review the proposed development.

§ 1804.5 Salvage or disposition of surplus structures, and use or sale of timber, sand, and stone.

(a) In planning the development, the applicant and the County Supervisor, to the extent practicable, should use salvage from old buildings, and timber, sand, gravel, and stone from the property.

(b) In cases where real estate is taken for security, the borrower may sell surplus buildings, timber, sand, gravel, or stone that is not to be used in performing planned development and use the net proceeds in paying the costs of performing planned development work.

(1) When it is agreed that the applicant will dispose of materials, such agreement will be recorded in the narrative of Form FHA 424–1, which as a minimum will identify the property to be sold, show the estimated net proceeds to be received, and indicate the approximate date by which the property will be sold and also provide that the borrower will deposit the net proceeds in the supervised bank account and apply any excess net proceeds as an extra payment on the loan.

(2) The agreement will be considered by the Government as modifying the mortgage contract to the extent of authorizing and requiring the Government to release the identified property subject to the conditions stated in the agreement without payment or other consideration at the time of release, regardless of whether or not the mortgage specifically refers to Form FHA 424–1 or the agreement to release. (Sec. 331, 75 Stat. 312, 7 U.S.C. 1981.)

(3) In case the loan will be secured by a junior lien, before the loan is approved, any prior mortgagee must give written consent to the proposed sale and the use of the net proceeds.

(4) Releases requested by the borrower or the buyer will be prepared in accordance with applicable release procedure.

§ 1804.6 Performing development.

All development work planned and agreed upon will be performed as expeditiously as possible after the closing of the loan.

(a) *Review prior to performing work.* After loan closing and prior to beginning development work, the County Supervisor will review planned development with the borrower. Adequacy of the plans and specifications as well as the estimates will be checked to make sure the work can be completed within the time limits previously agreed upon and with available funds; also, check items and quantities of materials the borrower has agreed to furnish and dates by which each item of development should be started in order that the work may be completed on schedule. If any changes in the plans and specifications are proposed, they should be within the general scope of the work as originally planned. Changes must be approved and processed in accordance with paragraphs (b) (6) and (e) of this § 1804.6. The appropriate procedure for performing development should be explained to the borrower. Copies of Farmers Home Administration Forms that will be used during the period of construction should be given to the borrower. He should be advised as to the purpose of each form and at what period during construction the form will be used.

(b) *Development performed by contract method.* The contract method means performance of the work in accordance with an executed contract other than a lump-sum agreement made under the borrower method in accordance with paragraph (c) (1) (i) of this § 1804.6. Form FHA 424–6, "Construction Contract," will be used, except that for jobs involving the construction of wells, sprinkler irrigation systems, pumps, and similar items, other contract forms may be used, provided such forms customarily are used in the area and adequate provision has been made for the protection of the borrower with respect to compliance with the plans and specifications, payments for work, inspections, acceptance and completion of the work, and so forth. The United States (including Farmers Home Administration) will not become a party to a construction contract or incur any liability thereunder.

(1) *Surety bond.* (i) Surety bond will be furnished in any case where, in the opinion of the County Supervisor, a surety bond appears advisable in order to protect the borrower against default of the contractor; or the borrower requests a surety bond; or the contract provides for partial payments in the

amount of 90 percent of the value of the work in place and the value of materials suitably stored at the site.

(ii) Any surety bond required in connection with a contract will guarantee both performance and payment in a penalty amount equal to the amount of the contract. A surety bond will be obtained from a bonding company legally doing business in the State where the land is located. Such a bond properly executed will be furnished by the contractor prior to the signing of the contract by the borrower and will be filed in the borrower's case folder. Form FHA 424–8, "Performance and Payment Bond," may be used at the option of the borrower. Any other form of performance and payment bond must be acceptable to the County Supervisor. It must run in favor of the United States of America, acting through the Farmers Home Administration as trustee for the borrower, and must contain substantially all the terms and conditions set forth in Form FHA 424–8. The United States (including Farmers Home Administration) will incur no liability under any performance and payment bond provided in connection with a construction contract.

(2) *Obtaining bids.* The borrower will be advised to obtain bids on the development work to be performed by the contract method from as many qualified contractors, dealers, or tradesmen, as practicable, either by inviting bids or by direct negotiations. If competitive bidding is practicable, Form FHA 424–5, "Invitation for Bid (Construction Contract)," or other similar invitation bid form may be used. All contractors from whom bids are requested should be informed regarding time and place for opening bids, surety bond requirements, time or performance of the work, liquidated damages, and the method of payment. When applicable, a copy of Form FHA 424–6 also should be provided for their information.

(3) *Selection of contractor and awarding the contract.* When bids on the farm development work have been obtained, the borrower, with the assistance of the County Supervisor, will consider the bids and the contractor's qualifications to perform the work. On the basis of these considerations, the borrower will select a contractor and award the contract.

(4) *Acceptance of the contract and method of payment.* Contracts found to be acceptable will be approved by the County Supervisor and a copy signed by the borrower and the contractor will be retained by the Farmers Home Administration until the work is complete. When Form FHA 424–6 is used, the appropriate payment clause will be inserted in the contract. When other contract forms are used, the payment clause customarily used by the contractor may be used provided the method of payment conforms generally with one of the methods authorized by the Farmers Home Administration.

(5) *Estimating partial payments.* When partial payments are to be made, the contractor will prepare and submit, for approval of the borrower and the County Supervisor, an estimate of the value of the work in place for each partial payment. When the contract provides for partial payments for materials at the site, the contractor also may prepare and submit, for the approval of the borrower and the County Supervisor, an estimate of the value of any materials suitably stored at the site. On major items of construction, the contractor, prior to receiving his first partial payment, may be required to submit a breakdown of the contract price into its major components, such as foundation, framing, roofing, siding, millwork, painting, plumbing, heating, electrical, and so forth. This breakdown is for use by the borrower and the County Supervisor in estimating the partial payments.

(6) *Effecting changes in the contract.* Changes in the contract may be made only at the request of the borrower, upon approval of the County Supervisor, and upon acceptance by the contractor. Form FHA 424–7, "Contract Change Order," will be executed by all three parties before such changes are put into effect by the contractor.

(7) *Payments for contract work.* Prior to making final payment on any contract where a surety bond is not used, the County Supervisor will have in his possession Form FHA 424–9, "Certificate of Contractor's Release" (form letter from the contractor certifying full payment of all materials and labor, and releasing the borrower from any claims), executed by the contractor, and Form FHA 424–10, "Release by Claimants," executed by all persons who furnished materials or labor in connection with the contract, unless a State Instruction has been issued which makes the use of Form FHA 424–10 unnecessary. The borrower should furnish the contractor with a copy of this form at the beginning of the work in order that the contractor may obtain these releases as the work progresses. The State Director may permit exceptions which:

(i) Will not require the use of Form FHA 424–10, if, under existing State statutes, the furnishing of labor and materials gives no right to a lien against the property, or

(ii) Will make the use of Form FHA 424–10 optional in those cases where, because of the nature of the work and the reputation of the contractor, the County Supervisor and the borrower have reason to believe that no claims or liens will be made against the borrower or the property. When Form FHA 424–10 is not used, the contractor will execute Form FHA 424–9 with the last paragraph deleted.

(c) *Development work performed by borrower method*—(1) *Ways of performing the work.* The borrower will use one or more of the following methods of performing work:

(i) Purchase the material and equipment and do the work himself.

(ii) Utilize lump-sum agreements for minor items or minor portions of items of development, the total cost of which does not exceed $2,000, such as labor, material, or labor and material for small service buildings, repair jobs, or land development; or for material and equipment which involve a single trade and will be installed by the seller, such as the purchase and installation of heating facilities, electric wiring, wells, painting, liming, or sodding. Generally, such agreements will be in writing; however, if circumstances warrant, the County Supervisor may waive this requirement when the agreement involves a relatively small amount.

(2) *Acceptance and storage of material on site.* The County Supervisor will advise the borrower that the acceptance of material as delivered to the site and the proper storage of the material will be his responsibility. The County Supervisor will advise the borrower regarding insurance of material.

(3) *Payment for work done by the borrower method*—(i) *Payments for labor.* Before the County Supervisor countersigns checks for payment of labor, he will require the borrower to submit a completed Form FHA 424–11, "Statement of Labor Performed," for each hired workman performing labor during the pay period. Ordinarily, checks drawn in payment for labor will be made payable to the workman involved. However, under justifiable circumstances, when the borrower has made payment for labor with personal funds and has obtained signatures of the workmen on Form FHA 424–11 as having received payment, the County Supervisor may countersign a check made payable to the borrower reimbursing him for these expenditures. Under no circumstances will the County Supervisor permit funds to be withdrawn from the supervised bank account to pay the borrower for his own labor or labor performed by any member of the borrower's household.

(ii) *Payment for equipment or materials.* Before the County Supervisor countersigns checks in payment for equipment or materials, he ordinarily will have in his possession an invoice from the seller covering the equipment or materials to be purchased. In case an invoice from the seller is not available at the time the check is issued, an itemized statement of equipment or materials to be purchased may be substituted for such an invoice until a paid invoice from the seller is furnished the County Supervisor, at which time the itemized statement may be destroyed. When an invoice includes equipment or materials for more than one item of farm development, the appropriate part of the cost to be charged against each item of farm development will be indicated on the invoice by the borrower, with the assistance of the County Supervisor. When an invoice from the seller is available at the time the check is drawn, there will be indicated on the check the invoice number as well as the purpose of the expenditure. If the invoice is unnumbered the invoice date will be inserted on the check. The appropriate number and date of the check will be inserted on all invoices and itemized statements. Ordinarily, checks drawn in payment for equipment or materials will be made payable to the seller.

Under justifiable circumstances, when the borrower has made payment for equipment or materials with personal funds and furnishes a paid invoice from the seller, the County Supervisor may countersign a check made payable to the borrower to reimburse him for these expenses.

(iii) *Payments made under lump-sum agreements.* Payments under lump-sum agreements will be made only when all items of equipment and materials have been furnished, labor has been performed as agreed upon, and the work has been accepted by the borrower and the Farmers Home Administration.

(iv) *Additional requirements applicable to payments made under borrower method.* (*a*) The check number and date of payment will be indicated on each paid Form FHA 424–11, invoice, itemized statement for materials, and written lump-sum agreement.

(*b*) Each paid Form FHA 424–11, invoice, itemized statement for material, and written lump-sum agreement will be given to the borrower after the bill has been paid or they may be filed in the borrower's case folder until all items of farm development have been completed, at which time they will be returned to the borrower.

(*c*) Whenever the County Supervisor or the borrower has reason to believe that there may be any possibility of claims or liens attaching against the property, the borrower will be required to obtain the signatures of appropriate claimants on Form FHA 424–10.

(d) *Inspection of development work.* The following policies will govern the inspection of all development work:

(1) *Responsibility for inspection.* Periodic and final inspections of all development work will be made by the County Supervisor and Assistant County Supervisor. On jobs involving more difficult technical problems, the County Supervisor may request the assistance from the State Office. Qualified technicians from the Extension Service or the Soil Conservation Service may be requested to assist on any such jobs.

(2) *Frequency of inspections.* The County Supervisor or Assistant County Supervisor will inspect development work as frequently as necessary to assure that construction and land development conform with the plans and specifications. He will make a final inspection at the earliest possible date after completion of the planned development. When several major items are involved he will make final inspection upon completion of each item.

(i) For major new buildings and major additions to existing buildings, inspections should be made at the following stages of construction and at such other stages of construction as determined by the County Supervisor.

(*a*) Stage 1. When foundation excavations are complete and footing forms or trenches are ready for pouring concrete and subsurface installations are roughed-in.

(*b*) Stage 2. When building is enclosed, structural members still exposed, and, when applicable, roughing-in for heating, plumbing, and electrical work is in place and visible.

(*c*) Stage 3. When the structure has been completed.

(ii) When irrigation equipment and materials are to be purchased and installed, a performance test under actual operating conditions by the person or firm making the installation should be required before final acceptance is made. The test should be conducted in the presence of the borrower, a qualified technician, and, when practicable, the County Supervisor. If the County Supervisor is not present at the performance test, he should request the technician to furnish him a report as to whether or not the installation meets the requirements of the plans and specifications.

(iii) For irrigation and drainage construction where part or all of the work will be buried or backfilled, interim inspections should be made at such stages of construction that compliance with plans and specifications can be determined.

(3) *Recording inspections and correction of deficiencies.* All periodic and final inspections will be recorded on Form FHA 424–12, "Inspection Report." It will be the responsibility of the County Supervisor to follow-up on the correction of deficiencies reported on Form FHA 424–12. If the borrower or the contractor refuses to correct the deficiencies, the County Supervisor will report the facts to the State Director who will determine the action to be taken. No inspection will be recorded as a final inspection until all deficiencies have been corrected.

(e) *Making changes in development plan.* Changes in the development planned on Form FHA 424–1 may be made at the request of the borrower in accordance with this paragraph.

(1) *Authority of the County Supervisor.* The County Supervisor is authorized to approve changes in Form FHA 424–1 provided:

(i) The change is for the purpose for which loan funds for the type of loan involved can be used.

(ii) Sufficient funds are deposited in the borrower's supervised bank account to cover the contemplated changes when the change involves additional funds to be furnished by the borrower.

(iii) The change will not adversely affect the soundness of the operation or the Government's security. If the County Supervisor is uncertain as to the probable effect the change would have on the soundness of the operation or the Government's security, he should obtain the advice of the State Director prior to approving the change.

(2) *Limitation of County Supervisor's authority.* In justified cases the State Director may limit the authority of County Supervisors for approving certain kinds of changes in the use of loan funds.

(3) *Recording changes on Form FHA 424–1.* Changes in the development plan, except extensions of time, will be recorded in the narrative of Form FHA 424–1. However, when Form FHA 424–7 is used it will not be necessary to record the changes in the narrative. Changes made in the narrative will be initialed by the borrower and the County Supervisor.

(i) Any changes which involve an increase or decrease in the cash cost, transfer of funds between items, or the addition or deletion of items of development will be summarized on the front of Form FHA 424–1, by striking through the original figures or items and writing in the changes.

(ii) Extensions of time will be shown only on the front of Form FHA 424–1 by striking out the existing date and writing in the new date.

PART 1805—VOLUNTARY DEBT ADJUSTMENT

Sec.

1805.1 General.
1805.2 Methods.
1805.3 Processing applications for voluntary debt adjustment.

AUTHORITY: The provisions of this Part 1805 issued under sec. 4, 64 Stat. 100, secs. 337, 339, 75 Stat. 316, 318; 40 U.S.C. 442; 7 U.S.C. 1987, 1989; Order of Sec. of Agr., 19 F.R. 74, 22 F.R. 8188, 26 F.R. 7888, 8403.

§ 1805.1 General.

(a) When the adjustment of debts appears necessary to establish a sound financial position and to carry on a sound farming operation, voluntary debt adjustment assistance will be provided in accordance with the provisions of this part to a farmer or rancher upon request to the County Supervisor, including applicants for loans from the Farmers Home Administration. However, assistance will not be given to any farmer or rancher in avoiding the payment of an obligation within his reasonable ability to pay. It is expected that adjustments will be made on the basis that each debtor will meet his obligations to the full extent of his ability to pay considering his assets, income, and the demands on his income.

(b) Debts owed to the Farmers Home Administration will not be adjusted pursuant to this part but will be considered for settlement in accordance with Parts 1864 and 1872 of this chapter.

§ 1805.2 Methods.

After a determination is made that a debtor's financial situation and debt paying ability is such that adjustment of his debts is necessary, attempts to assist the debtor in adjusting his debts will be made along the following lines as the situation demands:

(a) *Rearrangement of payment terms.* If the debt is not in excess of the debtor's ability to pay over a reasonable period of time, an effort will be made to get the creditor(s) to extend the time for repayment so as to enable the debtor to retire the debt in an orderly manner. This may require such changes as reamortization, rearrangement of payment dates, or suspension of payments during periods of low income. It may be desirable in some situations for a debtor to refinance his present indebtedness with other creditors in order to effect terms

that can be met or to consolidate his debts.

(b) *Reduction of debts.* If, all debts considered, the debtor cannot be expected to pay his creditor(s) in a reasonable period of time, an amount which can be repaid will be determined by the County Supervisor and the applicant and, as needed, with the advise of the County Committee. An effort will then be made to get the creditor(s) to reduce the indebtedness in line with this determination, taking into consideration the priority of liens involved, the security for the debts, and other pertinent factors.

(c) *Other methods.* It may be necessary in some cases to reduce interest rates, to transfer to a creditor some property not needed in the farm business in exchange for a full or partial release from an obligation, or to work out various other arrangements with creditors. The most equitable method for all parties of interest should be chosen so long as it brings the total indebtedness within the debtor's ability to pay in an orderly manner.

(d) *Combination of methods.* The more complex cases may require a variety of methods or combinations of methods in accomplishing an adjustment which will be reasonable and equitable to all parties of interest.

§ 1805.3 Processing applications for voluntary debt adjustment.

(a) Applications for voluntary debt adjustment will be made on Form FHA 410–1, "Application for FHA Services." The applicant will be required to give complete information concerning his assets, debts, farming or ranching operations, and any other information which has a bearing on his debt paying ability. This will be accomplished by the use of Form FHA 431–2, "Farm and Home Plan," plus any other documents and supplemental information as needed in the individual case.

(b) If the information developed as outlined in paragraph (a) of this section shows a need for an adjustment of debts, and a proposed method and amount of adjustment is determined, the information will be made known to the creditors involved who will be invited to make proposals for the adjustment of the debts they hold. This preliminary contact with creditors may be made by the debtor or the County Supervisor, depending on the circumstances in the case. If the proposals made in response to this contact are adequate for a reasonable and equitable adjustment, the proposals will be formalized into written agreements in accordance with paragraph (d) of this section. If the original proposals are not acceptable, additional negotiations with the individual creditors may be advisable.

(c) When a satisfactory adjustment cannot be reached in accordance with paragraph (b) of this section, it usually will be advisable to invite part or all of such creditors to attend a meeting with the debtor, the County Supervisor, and if determined advisable, the County Committee for the purpose of discussing the debtor's situation and attempting to arrive at appropriate adjustments. Any satisfactory arrangements reached at this meeting will be formalized into written agreements in accordance with paragraph (d) of this section.

(d) Each satisfactory agreement reached for the adjustment of a debt will be documented on Form FHA 440–11, "Debt Adjustment Agreement," and executed by the creditor and the debtor. Revisions will be made in Form FHA 440–11 when necessary to reflect the agreement reached between the creditor and the debtor. Any such revision will be initialed by both parties. Form FHA 440–11 will be prepared and executed in an original and two copies. The original will be delivered to the debtor, one copy will be delivered to the creditor, and the other copy will be filed in the County Office files.

PART 1806—REAL PROPERTY INSURANCE

Sec.

1806.1 General.
1806.2 Companies and policies.
1806.3 Coverage requirements.
1806.4 Examining and servicing of insurance.
1806.5 Losses.
1806.6 Property insurance with Stock Company Association.

AUTHORITY: The provisions of this Part 1806 issued under sec. 41, 50 Stat. 528, as amended, sec. 510, 63 Stat. 437, sec. 10, 68 Stat. 735; 7 U.S.C. 1015, 42 U.S.C. 1480, 16 U.S.C. 590x–3. Interpret or apply secs. 3, 43, 50 Stat. 523, as amended, 530, as amended, sec. 12, 60 Stat. 1076, as amended, sec. 502, 63 Stat. 433, secs. 9, 10, 68 Stat. 735; 7 U.S.C. 1003, 1017, 1005b, 42 U.S.C. 1472, 16 U.S.C. 590x–2, 590x–3.

§ 1806.1 General.

(a) *Authority.* This part applies to property insurance on buildings on farms securing the interest of the United States of America in connection with Farm Ownership, Farm Housing, Other Real Estate, and Soil and Water Conservation loans secured by real estate mortgages.

(b) *Borrower to furnish insurance.* The real estate mortgage executed by the borrower provides that he will furnish and continually maintain and pay for insurance on buildings situated or constructed on the farm, in companies, in amounts, and on terms and conditions satisfactory to the Farmers Home Administration for the term of the loan.

(c) *Borrower's selection of company.* The borrower will be given free choice in selecting the insurance company from which he desires to obtain his insurance, provided that the insurance issued by such company complies in all respects with all of the requirements set forth in this part.

(d) *Failure of borrower to provide insurance.* Upon failure of the borrower to furnish and pay for insurance in accordance with the requirements of this part, the Farmers Home Administration will secure the necessary insurance and charge the cost to the borrower's account.

(e) *Responsibility.* The County Supervisor is responsible for taking all actions in connection with insurance as may be necessary to protect the security interest of the Farmers Home Administration.

§ 1806.2 Companies and policies.

Property insurance policies or other evidence of insurance will be accepted from borrowers when the requirements outlined herein are complied with fully.

(a) *Companies.* The companies must be licensed to do business in the particular State or territory, or specifically authorized by State law to transact business within the State or territory where the property is located.

(b) *Standard policies.* The policies must be the standard fire insurance policy and be so identified. The standard policy is the one containing "Standard Provisions" adopted or recommended by legislative action or by order of the supervising insurance authorities of the State or territory in which the security is located. The original policy must be submitted to the County Supervisor by the borrower, except that a certificate of insurance, a copy of the policy, or other evidence of insurance is acceptable for loans which are secured by other than a first lien if the mortgage clause includes the name(s) of prior mortgagee(s).

(1) *Binders.* Whenever there is a justifiable reason for not issuing a policy or endorsement, as required, a written binder will be acceptable for a period not to exceed 30 days from the effective date of the insurance. The written binder must have attached the approved form of mortgage clause. Such a binder will be submitted to the County Supervisor in lieu of an insurance policy or endorsement and the insurance policy or endorsement will be submitted on or before the expiration date of the binder.

(c) *Loss or damage covered.* Properties must be insured against loss or damage by fire, lightning, windstorm, hail, explosion, riot, civil commotion, aircraft, vehicles, and smoke.

(d) *Effective date of insurance.* If there are insurable buildings located on the farm, the borrower will arrange with his agent or company to have adequate insurance in force at the time of loan closing so that the policy will properly insure the borrower and the mortgagee(s). When new buildings are erected or major improvements are made to existing buildings, such insurance will be made effective as of the date materials are delivered to the property. The County Supervisor will make no payments from loan funds for labor or materials until the borrower has furnished adequate insurance to protect the interest of the Farmers Home Administration in the property including the buildings being erected or improved.

(e) *Term.* The borrower will be required to furnish insurance for a term of not less than one year.

(f) *Mortgage clause.* The standard mortgage clause (without contribution) must be attached to or printed in the policy or Form FHA 426–2, "Property Insurance Mortgage Clause (Without Contribution)," must be attached to the policy. If the use of a mortgage clause, other than the standard mortgage clause

(without contribution) has been made mandatory by the laws or insurance regulations of any state, such form will be acceptable to the Farmers Home Administration upon prior approval by the National Office. Whenever a new mortgage clause including the interest of the Farmers Home Administration is issued after the policy has been in force, the new mortgage clause must be signed by an authorized agent or officer of the company that issued the policy.

(1) The United States of America (Farmers Home Administration) and all other mortgagees whose interests are insured by the policy will be shown in the mortgage clause in the order of priority of their mortgages.

(2) The name "United States of America (Farmers Home Administration)" will be named payee in the mortgage clause for direct and insured loan mortgages naming the Farmers Home Administration as mortgagee, whether in its own right or as trustee under a 2(f) agreement pursuant to the Rural Rehabilitation Corporation Trust Liquidation Act (40 U.S.C. 440).

(3) The name "United States of America (Farmers Home Administration) as First Mortgagee or as Statutory Agent and Insurer of Such Mortgagee," will be named payee in the mortgage clause for insured Farm Ownership mortgages naming the lender as mortgagee, whether the mortgage is held by the original or a subsequent lender or by the insurance fund or by the Farmers Home Administration under a trust assignment or declaration of trust.

(4) In case of real estate mortgages securing more than one type of Farmers Home Administration loan to the same borrower, the United States of America (Farmers Home Administration) will be named in the mortgage clause appropriately for each type of loan.

(g) *Evidence of premium payment.* (1) When Form FHA–878 is attached to the policy, no evidence of premium or assessment payment is required.

(2) When a mortgage clause other than Form FHA–878 is used, the borrower will be required to furnish, with the policy, proper evidence that the premium has been paid for the full term of the policy. The evidence of premium payment may be a receipted bill, the policy stamped "Premium Paid," the endorsement renewing or continuing the policy stamped "Premium Paid" or letter or statement signed by the agent or company stating the premium has been paid. In case the policy is written by an assessment mutual insurance company on an annual assessment basis, proper evidence will accompany the policy to show that the most recent annual assessment has been paid. When Form FHA–878 cannot be used in a state, evidence of premium payments may be waived upon determination by the National Office of the probability that the Government will not be required to pay defaulted premiums.

(h) *Policy restrictions* Any insurance having restrictions which limit the amount of collectible insurance to less than Farmers Home Administration requirements, must have such restrictions eliminated or modified to afford the required protection; otherwise, the policy will not be accepted. Policies will not be accepted if, under the terms of the policies or local laws, contributions or assessments may be made against the Farmers Home Administration, nor when, by the terms of the policy or other conditions, loss payments are contingent upon action by the Board of Directors, the policyholders, or the members.

§ 1806.3 Coverage requirements.

The County Supervisor should encourage the borrower for his own protection to insure for their depreciated replacement value (actual cash value) all buildings which are essential to the operation of the farm or the repayment of the loans. The minimum insurance to be furnished on insurable buildings located on land taken as security for the loan, which insurance will be distributed among the most essential buildings, is prescribed below:

(a) *Loans secured by a first lien.* (1) When the unpaid balance of the loan is equal to or greater than the depreciated replacement value of the buildings that are essential to the operation of the farm and any other buildings that have significant security value, all such buildings will be insured for their depreciated replacement value or the cost of essential buildings adequate for the farm which can be built for amounts less than the depreciated replacement values of the existing buildings. Insurance will not be required on buildings that are not essential for the operation of the farm and do not have significant security value, or are in such a state of disrepair that the cost of insurance would be prohibitive.

(2) When the unpaid balance of the loan is less than the depreciated replacement value of the buildings that are essential for the operation of the farm and any other buildings that have significant security value, the total amount of insurance must be at least equal to the unpaid balance of the loan, or the cost of essential buildings adequate for the farm which can be built for amounts less than the depreciated replacement values of the existing buildings.

(3) When, by use of loan funds or otherwise, buildings are erected or substantial improvements are made to essential buildings, or to other buildings which have a substantial security value, insurance will be provided in accordance with subparagraphs (1) or (2) of this paragraph, whichever is applicable.

(b) *Loans secured by other than first liens.* The amount of insurance on buildings in the case of Farmers Home Administration loans secured by other than a first lien shall be the same as required in paragraph (a) of this section with the understanding that the unpaid balance of the loan shall be deemed for this purpose to be the amount of the total real estate mortgage indebtedness owed all prior mortgagees named in the mortgage clause, and the Farmers Home Administration's debt secured by the real estate mortgage.

(c) *Exception of buildings from insurance.* Upon written request of the borrower, the County Supervisor may approve the following exceptions:

(1) Insurance need not be carried on any buildings if the hazards are so slight because of the character and construction of the building, or the cost of the insurance so high in comparison with the value of the building that, according to common standards of judgment, it should not be insured, including but not limited to windmills, wind pumps and their towers, silos, fire-cured tobacco barns, potato or root cellars, and stone smokehouses.

(2) In cases where the unpaid balance of the Farmers Home Administration loans and any prior liens have been reduced to $1,000, or less, all property insurance may be dispensed with provided the County Supervisor determines that the value of the farmland itself is sufficient to protect the Farmers Home Administration in its collection of the amount of the outstanding indebtedness.

§ 1806.4 Examining and servicing of insurance.

(a) *Examination by County Office of policies, evidence of insurance, endorsements, and binders.* Upon receipt in the County Office of a policy, evidence of insurance, endorsement, or binder submitted by a borrower, it will be examined promptly by the County Supervisor for compliance with the requirements of this part. If the insurance is found to be acceptable, it will be placed in the borrower's case folder.

(1) *Unacceptable policies.* (i) When the borrower furnishes any policy or evidence of insurance which does not meet the requirements of this part, such policy or evidence of insurance will be returned to the borrower with the reasons why it is not acceptable.

(ii) If the borrower does not furnish acceptable insurance within 15 days from the date the unacceptable insurance was returned, the County Supervisor will submit a completed Form SCA–1, "Insurance Order," to the Stock Company Association.

(2) *Release of mortgage interest.* Where the borrower's loan has been paid in full and the satisfaction or release of the mortgage has been executed, the County Supervisor will execute the following Release of Mortgage Interest on the mortgage clause attached to the policy, or evidence of insurance, and transmit it with the paid-in-full note and satisfaction:

It is understood and agreed that the interest of the United States of America in the property insured hereunder ceased as of (date of final payment), and that the Government shall have no interest in any loss or damage to such property occurring thereafter.

(3) *Lost or misplaced policies.* When an unexpired insurance policy or evidence of insurance is lost or misplaced, it will be necessary to obtain a replacing policy or evidence of insurance. The County Supervisor is authorized to sign a Lost Policy Receipt on behalf of the Farmers Home Administration.

(4) *Disposition of expired policies.* All expired policies or evidences of insurance held by the Farmers Home Administration for borrowers will be returned to borrowers one year following expiration, except that such policies or evidences of insurance will be delivered to the borrower, upon request, within one year after expiration.

(b) *Special servicing of insurance—* (1) *Vacancy or unoccupancy.* If the County Supervisor has knowledge that a farm is vacant or unoccupied, or that the occupancy has changed from owner to tenant, he will examine the policy to determine whether the policy permits such conditions. Unless the insurance permits such condition, the County Supervisor will immediately notify, in writing, the company or agent. In any case where there is an additional premium due because of vacancy, unoccupancy, or tenant occupancy, and upon demand to the Farmers Home Administration from the company or agent because the borrower cannot, or will not, pay the additional premium, it may be paid by Standard Form 1034, "Public Voucher for Purchases and Services other than Personal," to the company or agent.

(2) *Transfer of farm.* If the County Supervisor has knowledge that a borrower's farm is being transferred during the term of the insurance, the County Supervisor must be supplied immediately with an endorsement signed by the company or agent, changing the name of the assured to that of the transferee; or the transferee must obtain other insurance acceptable to the Farmers Home Administration. If other insurance is obtained, the old policy or record of insurance will be returned to the transferor, unless there is an unsettled loss. If there is an unsettled loss, the policy or evidence of insurance will not be returned until the claim has been settled satisfactorily. Acceptance of the new policy or endorsement from an ineligible person will not constitute consent by the Government to the transfer.

(3) *Voluntary conveyance of farm to Government and foreclosure.* After a foreclosure sale has been held or after a deed of conveyance to the Government in lieu of foreclosure has been filed for record, the County Supervisor will return the insurance policy to the borrower for cancellation; however, if there is an unsettled loss with respect to the property, the policy will not be returned until such loss has been settled. When the borrower receives the policy, he may cancel the insurance and obtain the unearned premium check from the insurance company.

§ 1806.5 Losses.

(a) *General.* In case of loss covered by insurance, the County Supervisor is authorized to take such steps as are necessary to protect the interest of the Farmers Home Administration in the property against further damage and to collect the amount of the loss. When serious problems arise with respect to protecting the property from further damage, or an amicable settlement cannot be reached, or when legal action appears to be necessary, the matter will be referred to the State Director. The State Director is authorized to execute Proofs of Loss, and other forms as may be required in connection with Proofs of Loss, for the Farmers Home Administration when borrowers will not, or cannot, execute such forms.

(1) *Reporting loss.* It is the responsibility of the borrower, under his policy, to notify immediately the company or agent of any loss or damage to insured property. The borrower also should notify the County Supervisor. When requested, the County Supervisor will inform the borrower of all insurance in force covering the risk according to Farmers Home Administration records. If the borrower will not, or cannot, report the loss to the insurance company, the County Supervisor will notify the company or agent.

(2) *Protective repairs.* The borrower must immediately take the required steps to protect his property temporarily from further damage from any causes after a loss, regardless of the estimated amount of such loss. It will be the responsibility of the County Supervisor to determine whether the emergency protection is being made. In unusual cases when the borrower cannot, or will not, arrange adequate protection for the property, the County Supervisor will arrange for the emergency protection. Such costs will be paid from the insurance loss funds when received from the company.

(3) *Completing adjustment.* The borrower must complete the adjustment of loss with the company or its authorized representatives. The County Supervisor, upon request of the borrower, may consult with the borrower regarding the loss adjustment, but will not enter into negotiations with insurance adjusters or company representatives relative to the adjustment or settlement of losses on borrower property, or make any commitments, or sign any forms in connection with the adjustment of the loss. Under no circumstances will the Farmers Home Administration waive any rights which it may have against the company.

(4) *Reinstatement after loss.* In cases where insurance in the amount of the loss is not reinstated automatically by the provisions of the policy, it will be the responsibility of the County Supervisor to have the borrower reinstate as much of the insurance as may be necessary to fulfill the requirements of the Farmers Home Administration.

(b) *Loss drafts—when loan is secured by a first mortgage.* (1) A loss draft which in the opinion of the County Supervisor represents a satisfactory adjustment of the loss will be endorsed immediately without recourse and deposited in the borrower's supervised bank account, except:

(i) When the amount of the loss is $500 or less and the borrower will use the funds for repairing or replacing the building, the loss draft may be endorsed without recourse and given to the borrower upon satisfactory proof that the repairs or replacements have been made, or upon satisfactory assurance that the work will be performed.

(ii) Where the buildings are not to be repaired or replaced, and other suitable buildings are not to be erected, the insurance funds will be applied as an extra payment to the borrower's real estate loan account unless authorized by the National Office for other disposition in accordance with the general principles applicable to the use of proceeds from the sale of a part of the security under Part 1872 of this chapter.

(iii) Where the records show that the real estate indebtedness has been paid in full, the loss draft will not be endorsed but will be returned to the company or agent, accompanied by a statement that the borrower's real estate indebtedness has been satisfied.

(c) *Loss drafts—when loan is secured by other than first mortgage.* (1) When the loss draft does not include the interest of a prior mortgagee, it will be processed as provided in paragraph (b) of this section.

(2) When the loss draft includes the interest of a prior mortgagee, the County Supervisor is authorized to endorse and process the draft as follows:

(i) When the prior mortgagee will permit the use of such loss funds to repair or restore the damaged building, the draft may be endorsed without recourse upon satisfactory proof that the repairs or replacements have been made or upon satisfactory assurance that the work will be performed.

(ii) When the amount of the draft does not exceed the amount of the indebtedness then secured by the prior mortgage as stated in writing by the holder of the prior mortgage, and the holder of the prior mortgage has agreed in a written statement to the County Supervisor that he will apply such funds as a payment on the borrower's prior mortgage indebtedness, the draft may be endorsed without recourse.

(iii) When the amount of the draft exceeds the amount of the indebtedness then secured by the prior mortgage, as stated in writing by the holder, and he has agreed in writing to pay such indebtedness from the loss funds, the draft will be endorsed without recourse only after all parties named as payees in the draft have signed an agreement to deliver the draft "in escrow" to a bank acceptable to the named parties. The agreement will specify the manner in which the funds will be disbursed by the bank, as escrow agent, to the several mortgagees named in the draft. After the loss funds have been collected by the bank, it will issue cashier's checks in the manner prescribed in the escrow agreement.

(iv) Drafts which have been endorsed by other payees will be endorsed immediately without recourse. Such drafts or other loss funds will be processed in accordance with the methods described in paragraph (b) of this section.

(d) *Repairs and replacements.* When any loss payments have been deposited in the borrower's supervised bank account, all repairs or replacements done by or under the direction of the borrower, or by contract, will be planned, performed, inspected, and paid for in the same man-

ner as improvements financed with loan funds. Any balance remaining from such loss proceeds after all repairs and replacements, and other authorized disbursements, have been made will be applied as an extra payment on the borrower's real estate loan account unless authorized by the National Office for other disposition in accordance with the general principles applicable to the use of proceeds from the sale of a part of the security under Part 1872 of this chapter.

§ 1806.6 **Property insurance with Stock Company Association.**

(a) *Insurance ordered by the Farmers Home Administration.* Upon failure to the borrower to provide and maintain insurance acceptable to the Farmers Home Administration, the County Supervisor immediately will request insurance from the Stock Company Association for the protection of the security interest of the Farmers Home Administration in the property. The request will be made on Form SCA–1, furnished by the Stock Company Association.

(1) After completing Form SCA–1 in accordance with the requirements set forth in § 1806.3, the original and one copy will be sent to the Stock Company Association, 1422 K Street, N. W., Washington 5, D. C., unless otherwise directed.

(2) Insurance ordered from the Stock Company Association will be for the protection of the borrower(s) and the Farmers Home Administration, and will not include the name of any other mortgagee who might have a prior or subsequent lien on the property. The County Supervisor will not collect the premium from the borrower or issue a Standard Form 1034. In all cases where the insurance is ordered by the Farmers Home Administration from the Stock Company Association, the premium will be paid by the Finance Office and charged to the borrower's account for the loan secured by the real estate mortgage.

(b) *Losses—Stock Company Association.* Any loss or damage to property insured by the Stock Company Association will be subject to the provisions of § 1806.5 except as follows:

(1) It will be the responsibility of the borrower to notify the County Supervisor promptly of any loss or damage to property insured by the Stock Company Association. Immediately following such notification, the County Supervisor will prepare a Form FAR 2, "Notice of Loss." The original and one copy should be sent to the Stock Company Association at the address shown in paragraph (a) (1) of this section, unless otherwise directed.

(2) The loss draft, when issued by the Stock Company Association, will be sent to the County Office servicing the particular loan and the County Supervisor will process such loss draft in accordance with § 1806.5.

(3) It will be the responsibility of the borrower to make his own adjustment with a representative of the Stock Company Association, and the amount of loss when adjusted shall be paid to the borrower and the Government as their interest may appear.

PART 1807—TITLE CLEARANCE AND LOAN CLOSING

Sec.

1807.1 General.
1807.2 Initial loan cases.
1807.3 Office of the General Counsel—Initial loan case.
1807.4 Subsequent loans not in connection with transfers or credit sales.
1807.5 Additional requirements in connection with loans to homestead entrymen, contract purchasers of farm units from the Bureau of Reclamation, and certain Indians.
1807.6 Cancellation of loan.

AUTHORITY: The provisions of this Part 1807 issued under secs. 307, 339, 75 Stat. 308, 318, secs. 502, 510, 63 Stat. 433, as amended, 437, sec. 4, 64 Stat. 100; 7 U.S.C. 1927, 1989, 42 U.S.C. 1472, 1480, 40 U.S.C. 442; Orders of Sec. of Agr., 19 F.R. 74, 26 F.R. 8403, 27 F.R. 5005, 9957.

§ 1807.1 **General.**

(a) *Farm Ownership, Rural Housing, and Individual Soil and Water Conservation loans.* This part contains the title clearance and loan closing authorities, policies, and procedures for all Farm Ownership, Rural Housing, and individual Soil and Water Conservation loans, except loans in connection with transfers and assumption agreements or credit sales by the Farmers Home Administration.

(b) *Other types of loans and transactions.* Title clearance and closing of all other loans and transactions involving real estate security will be handled as provided in regulations applicable thereto.

(c) *Definition of terms.* As used in this part "title clearance" includes title examination and title insurance; "mortgage" includes deed of trust and deed to secure debt; "borrower" means the loan applicant; "title insurance company" includes its local representatives, agents, and attorneys; and "Farmers Home Administration" refers to the United States of America acting through the Farmers Home Administration. Also, a loan is considered to be closed when the mortgage is filed for record.

(d) *Methods of title clearance and loan closing.* Title clearance and loan closing will be handled by title insurance companies approved by the State Director and attorneys designated by the State Director whenever such companies and attorneys will furnish all the services required by this part. When complete services are available from more than one source, the borrower or the seller, or both, as appropriate, will choose a single source to be used. In any county or area where the State Director is unable to obtain the services of a designated attorney or a title insurance company that will furnish complete services, and in cases of a mortgage on a leasehold, and in any exceptional or complex case or situation in which the State Director determines with the advice of the Office of the General Counsel that it would be more reasonable or practical, the services of the Office of the General Counsel may be used. When the services of the Office of the General Counsel are to be used on a county or area basis, the State Director with the advice of the Office of the General Counsel will determine whether the title clearance and loan closing will be accomplished with the assistance of a local attorney, title insurance company, or other method. In other cases, the title clearance and loan closing will be handled as the Office of the General Counsel deems appropriate.

(e) *Designation of attorneys.* The State Director, upon the advice and concurrence of the Office of the General Counsel as to professional qualifications, will designate attorneys in each county or area in which it is possible to have them furnish all the legal services required of such attorneys by this part.

(f) *Approval of title insurance companies.* The State Director will approve any company issuing satisfactory title insurance policies, licensed to do business in the state, which has or will agree or states in writing (by exchange of letters, publication of services, or otherwise) that it can validly and will furnish for a stated charge, a title insurance binder, a mortgagee or joint protection title insurance policy (hereinafter referred to as "mortgagee title policy"), and all of the related services prescribed herein, provided:

(1) The mortgagee title policy will be in such form and will contain only such standard types of exceptions as are approved in advance by the State Director with the advice of the Office of the General Counsel.

(2) The title insurance company understands that the request for insurance and services will be made by sellers or borrowers and that no cost of insurance or services will be charged to or paid by the Farmers Home Administration on an insured lender.

(3) The title insurance company representative who supervises the closing is authorized to receive, and give receipts for, the company's charges.

(g) *Costs of title clearance and loan closing.* Neither the Farmers Home Administration nor an insured lender will be responsible for any costs of title clearance or loan closing. The costs of title clearance and loan closing will include any costs of abstracts of title, land surveys, attorney's services, title insurance, obtaining curative material, notary fees, documentary stamps, recordation costs, and other expenses necessary to make the loan. The borrower or the seller, or both will be responsible for payment of all costs of title clearance and loan closing and will arrange before the loan is closed for such payment. In cases involving the purchase of land, the option should contain their agreement.

(h) *County Supervisor's responsibilities.* The County Supervisor will:

(1) Provide the borrower, and seller if land is being acquired, with the name and address of the designated attorney and approved title insurance companies.

(2) Furnish to the selected designated attorney or title insurance company or Form FHA–826 or FHA 427–4, "Transmittal of Title Information," all the information and documents called for therein concerning the loan to be made or insured, including any waivers, ease-

ments, and so forth, and Farmers Home Administration forms or other documents necessary to effect title clearance and loan closing.

(i) *Ordering title examination or insurance.* Application for title cearance and loan closing services will be made by the borrower or the seller, or both, to a insurance company selected by the loan applicant or seller, or both. Application for title insurance will be made on forms furnished by the company and will request issuance of a form of mortgagee title policy approved by the State Director in an amount at least equal to the amount of the loan. The borrower also may obtain an owner's policy or a combination policy if he desires. The mortgagee named in the policy will be the "United States of America," except that if a direct loan is being made with State Rural Rehabilitation Corporation trust funds, the name of the mortgagee will be "United States of America, Trustee of the assets of (name of State Rural Rehabilitation Corporation)." The borrower will instruct the designated attorney or title insurance company to deliver the preliminary title opinion or title binder to the County Supervisor.

§ 1807.2 Initial loan cases.

(a) *Services.* Title clearance and loan closing services to be provided by designated attorneys and title insurance companies will include examining title; preparing, obtaining, or approving simple curative material, conveyances, and security instruments; advising borrowers, and sellers if land is being acquired, regarding the adequacy of the legal description of the farm; issuing either preliminary and final title opinions or certificates of title, or title insurance binders and mortgagee title policies; and performing other legal services necessary to close the loan properly. The designated attorney or title insurance company will advise the County Supervisor, upon his request, as to the nature and legal effect of outstanding interests or title defects to assist him in determining whether such outstanding interests or defects affect the value of the farm or its operation and which must be corrected in order for the Government to obtain from the borrower a lien of the required priority upon a title merchantable in fact. The designated attorney or title insurance company will be expected to perform these services with diligence and dispatch so that the loan can be closed without unnecessary delay.

(b) *Examination of title.* At the proper time, the County Supervisor will notify the borrower, and seller if land is being acquired, that they should employ the designated attorney or title insurance company to examine title and perform the other legal services in connection with title clearance and loan closing, and that they should furnish to the designated attorney or title insurance company any needed abstracts of title or other title evidence for use to the extent possible to reduce the cost to the borrower.

(1) *Scope of search.* The designated attorney or title insurance company will determine whether there are any judgments or pending suits in State or Federal courts, Federal or State tax claims (including taxes which under State law may become a lien superior to a previously attaching mortgage lien), or bankruptcy, insolvency, or probate proceedings, involving any part of the farm, whether already owned by the borrower or to be acquired with loan funds, or involving the borrower, or the vendor in a land acquisition case, which would prevent the Farmers Home Administration from obtaining an enforceable mortgage lien of the required priority. Title examination upon which this determination will be based will include such searches of the records, or certificates from the clerks, of the appropriate United States district courts as may be necessary in the particular State.

(2) *Period of search.* When title insurance is obtained, title examination will cover such period of time as the title insurance company determines necessary in order to insure the Farmers Home Administration mortgagee interest in the title. In other cases the title search must cover the shortest period necessary to include one of the following:

(i) A warranty deed from a party other than the United States which has been of record for at least 40 years.

(ii) A Farm Ownership, Farm Housing, or individual Soil and Water Conservation (not Water Facilities) security instrument.

(iii) A patent or deed from the United States, except that where such patent or deed recorded within 40 years was issued under the Federal homestead or reclamation laws or where title is held under but a patent or deed has not been issued under such laws, the search must cover either 40 years or the period necessary to include the entry or purchase contract whichever is shorter.

(c) *Preliminary title opinion or title insurance binder.* When the services of a designated attorney are used, he will issue his preliminary title opinion to the County Supervisor. The preliminary title opinion will be on Form FHA–312 or FHA 427–9, "Preliminary Title Opinion," or if that form is not legally sufficient in a particular State, the State Director with the advice of the Office of the General Counsel, may approve a satisfactory State form. When title insurance is obtained, the title insurance company will furnish the County Supervisor a title insurance binder disclosing the defects in and encumbrances against the title, the conditions to be met to make the title insurable, and the curative or other actions to be taken before loan closing. The binder also will include a commitment to issue an approved mortgagee title policy in an amount at least equal to the amount of the loan.

(d) *Title exceptions.* Upon receipt of the preliminary title opinion or title insurance binder, the County Supervisor will:

(1) Check the opinion or binder carefully to see that it is complete in all respects. If any required information is omitted or if the standard form of opinion or binder is amended, the County Supervisor will not accept the opinion or binder but will return it for completion or correction. If the designated attorney or title insurance company is unable or unwilling to complete or correct it, the County Supervisor will send it with a full explanation to the Office of the General Counsel, which may approve or disapprove it.

(2) Determine that the legal description covers all the property rights, including water rights, intended to be taken as security and whether the opinion or binder shows exceptions, reservations, encumbrances, or defects which must be corrected, eliminated, or waived. The County Supervisor will consult with the designated attorney, title insurance company, or the State Director when he needs advice in making these determinations.

(3) Waive any exceptions which he or the State Director determines will not affect adversely the suitability, security value, or successful operation of the farm.

(4) Submit any exceptions which will affect adversely the title to the farm or its suitability, security value, or successful operation to the State Director. The State Director may waive them conditionally. If necessary, the County Committee will reconsider the suitability of the farm for a loan and prepare a new certification. If it is favorable and the conditions imposed in the State Director's waiver can be met, the County Supervisor will inform the designated attorney or title insurance company.

(e) *Preparation of deeds, mortgages, and curative instruments.* The designated attorney or title insurance company will prepare or approve deeds, mortgages, affidavits, releases, and other simple curative documents necesary for title clearance and loan closing. Farmers Home Administration mortgage forms will be used in all cases and other Farmers Home Administration forms, whenever possible.

(1) *Type of estates—joint tenancy, entirety, or other.* (i) Where land is acquired with loan funds and the State law permits, both the title to the land being acquired and the title to any part of the farm already owned will be vested in the borrower and spouse with right of survivorship, or at the election of the borrower as community property in a State having community property laws under which all community property goes to the surviving spouse when the other spouse dies without disposing of his or her share by will, subject to the following exceptions:

(*a*) Upon written request of the borrower in any case in any State, title may be vested in any way which will permit obtaining the required mortgage lien.

(*b*) When one spouse is under disability of minority or mental incompetency and it is necessary under State law in order for the Farmers Home Administration to obtain a valid lien not subject to disaffirmance and enforceable against the security property including

all interests therein required to be mortgaged, title will be vested in the eligible spouse only.

(c) When the eligible spouse is a citizen and the other spouse is a noncitizen, title will be vested only in the citizen, if possible under State law.

(ii) In all other cases title may be held in any manner which will permit obtaining the required mortgage, except that subdivision (i) (c) of this subparagraph will apply in noncitizen cases.

(2) *Preparation of deeds.* Deeds will be prepared as follows:

(i) Except for conveyances from the United States and subject to the following additional exceptions, conveyance of title to borrowers must be by general warranty deed. The usual and appropriate form of deed may be accepted from fiduciary or straw parties. Upon the prior approval of the Administrator in any case where the seller refuses to give a general warranty deed, a quitclaim or special warranty deed may be accepted of the title it conveys is approved by the Office of the General Counsel as free from substantial objections. If the grantors or their predecessors in title acquired the property by conveyance from the Farmers Home Administration or one of its predecessor agencies, a special warranty deed may be used warranting against title defects arising subsequent to that conveyance.

(ii) The deed should show the exceptions, reservations, liens, and other encumbrances subject to which the loan is being made. Where customary, the legal description of the land should include a provision further identifying the security as that described in an earlier conveyance identified by date, parties, and recording data.

(iii) Each deed should recite a legal consideration.

(3) *Preparation of mortgage.* The designated attorney or title insurance company will obtain from the County Supervisor the proper type of Farmers Home Administration mortgage form, which will be prepared as follows:

(i) *Forms.* Form FHA–127___, or FHA 427–2 (State) will be used for all direct loans. Form FHA–177___, or FHA 427–1 (State) will be used for all insured loans. Form FHA–157 or FHA 427–3 (State) Rider will be used as attachment to Form FHA–127___ or FHA 427–2 (State) or FHA–177___ or FHA 427–1 (State) when a loan is made to a homestead entryman or to a contract purchaser of a farm unit from the Bureau of Reclamation.

(ii) *Number of copies.* Ordinarily it will only be necessary to prepare the original and one copy of the mortgage, the original to be recorded in the public records and then retained in the Farmers Home Administration County Office and the copy to be delivered to the borrower. An additional copy will be necessary in States where the original is retained by the recorder. Additional copies also will be necessary in some cases in which the interests of other parties are involved. The County Supervisor will conform the needed copies and distribute them to the proper parties at the time of loan closing or as soon as possible thereafter.

(iii) *Persons required to execute mortgage.* The mortgage will be executed by the borrower and all other persons having interests in the farm which are required in each case to be mortgaged. Persons required to sign the mortgage should use exactly the same names in which they hold title, and each person who signs the promissory note and the mortgage should sign both with exactly the same name.

(iv) *Title exceptions.* The mortgage must describe specifically by reference or other method sufficient under State law, the exceptions, reservations, liens, and other encumbrances subject to which the loan is being made, except that any exceptions and reservations so numerous or with descriptions so lengthy as to increase substantially legal or recording costs, may be described by use of a general statement similar to the following: "Subject, however, to all valid outstanding easements, rights-of-way, mineral leases, mineral reservations, and mineral conveyances of record."

(v) *Releasing or retaining existing mortgages in refinancing cases.* If any outstanding Farmers Home Administration real estate loan is not being refinanced, the mortgage with respect thereto will not be superseded or released; the mortgage, the note therein secured or described, and any related mortgagee title policy will remain in force. When there is an outstanding Farmers Home Administration direct or insured real estate mortgage against the property and the loan which the mortgage secures is being refinanced with the current loan, the mortgage for the loan being refinanced will be superseded and will be released at the time of loan closing, unless it is legally necessary to keep the existing mortgage in effect in order to have a valid lien.

(vi) *Notes to be described in mortgages.* (a) In the case an insured loan, only the note evidencing the insured loan being made will be described in the mortgage, and under no circumstances will a direct note and an insured note be described in one mortgage. If, at the time an insured loan is being made, any other kind of loan (whether insured or direct) is being made simultaneously or additional security is desired for a loan already outstanding, it will be necessary to take a separate mortgage on the form appropriate for the other loan.

(b) When a direct loan is being made, the note will be described in the mortgage. When two or more direct loans are made to the same borrower on the same security and closed simultaneously, only one mortgage will be taken and the notes for all such loans will be described in the mortgage. Notes evidencing existing direct loans to borrowers receiving a new direct loan will also be described in the new mortgage unless prohibited by Farmers Home Administration regulations or policies or deemed by the loan official inadvisable in the particular case. When a subsequent direct Farm Ownership, Rural Housing, or Soil and Water Conservation loan is being made without refinancing the initial loan, the initial loan and subsequent loan notes will be described in the mortgage, except that, where a subsequent loan mortgage is being taken without covering additional land, and describing the initial loan note would result in a higher title insurance premium for the subsequent loan, the State Director may allow the subsequent mortgage to additionally secure the initial loan by cross-reference to be inserted in the mortgage rather than by description of the initial loan note; a mortgage taken from a transferee will describe the assumption agreement executed by the transferee instead of the earlier related note as the instrument secured, and the term "note" is to be interpreted accordingly in this Part 1807 of this chapter.

(c) For a direct Farm Ownership or a Farm Housing loan, the "Due date of final installment" to be shown in the mortgage, and for an insured Farm Ownership loan, the date to be inserted in "the final installment being due on _____, 19__," is determined by adding the number of years over which the loan is payable to the date of the promissory note. For all other direct loans and for insured Soil and Water Conservation loans, it is the final installment date shown on the promissory note.

(vii) *Alteration of mortgage form.* A mortgage form may be altered by deletion, revision, or addition pursuant to authorization by the State Director or in a special case where it is necessary in order to comply with the terms of loan approval prescribed in accordance with pertinent Farmers Home Administration regulations. No other alterations in the printed mortgage forms may be made without prior approval of the National Office.

(f) *Loan closing.* The designated attorney or the title insurance company will arrange with the County Supervisor, the borrower, the seller if land is being acquired, and other necessary parties for the time and place of loan closing. The designated attorney or the title insurance company will assist with the loan closing to determine that the Farmers Home Administration obtains a valid mortgage lien on the property of the priority required by the Farmers Home Administration, subject only to such other encumbrances, reservations, and exceptions as have been permitted by the County Supervisor or the State Director. Where a second mortgage Farm Ownership loan is being made simultaneously with another Farmers Home Administration loan (both subject to a prior lien), the other Farmers Home Administration loan will be deemed secured by a third lien.

(1) *Disbursement of loan funds.* Loan funds will not be disbursed prior to filing of the mortgage for record. However, when necessary, loan funds may be placed in escrow before the mortgage is filed for record for disbursement after it is filed. Loan funds for the payment of a lien may be disbursed only upon receipt of a discharge, satisfaction, or release (or assignment where necessary to protect the interest of the Government),

except that funds may be disbursed, after the mortgage is filed for record, to a reputable lienholder in reliance on his written agreement to deliver the instrument upon receipt of a specified sum.

(2) *Title examination and liens or claims against borrowers.* The designated attorney or title insurance company will examine the title and will check for liens or claims against the borrower from the terminal date of the preliminary title examination to and including the time of recording the current mortgage. If there are no entries of record during the period except the documents required in connection with title clearance and any partial releases or subordinations previously approved by the Farmers Home Administration, the loan may be closed. If there are any other entries of record during this period, the loan will not be closed until such entries have been cleared of record, or administratively waived if appropriate. The designated attorney or title insurance company should advise the County Supervisor of the nature of such intervening instruments, the legal method by which they may be eliminated, and the effect they may have on obtaining a valid mortgage of the priority required.

(3) *Certificate of inspection.* The County Supervisor will prepare a certificate of inspection which will show the condition of the farm at or shortly before the time of loan closing. Form FHA–874 or FHA 427–7, "Certificate of Inspection," will be used, except that if it is not satisfactory for use in a particular state, the State Director may approve a State form using the same title. The designated attorney or title insurance company will see that the certificate is executed by the County Supervisor or by some other Farmers Home Administration employee, including County Committeemen, acquainted with the facts.

(4) *Taxes and assessments.* The designated attorney or title insurance company will ascertain that all taxes and assessments against the property which are due and payable are paid at or before the time of loan closing. Certificates or receipts should be produced from the taxing authorities to show that taxes or assessments which are due and payable have been paid and, if possible, such certificates or receipts should be kept in the borrower's County Office loan docket with the other loan papers. Where the seller and the borrower have agreed to prorate taxes or assessments which are not yet due and payable for the year in which the loan closing takes place, the seller will pay his portion at the time of loan closing. If the taxes and assessments cannot be paid at the time of loan closing, the amount of taxes and assessments to be paid by the seller will be deducted from the selling price of the land.

(5) *Prior lienholders' agreements.* If other persons hold liens, purchase contracts, or other security interests, herein called liens, which will remain against the property as a prior lien after the loan is closed, it may be necessary for them to limit their rights thereunder in certain cases.

(i) Forbearance agreements will be obtained where the County Supervisor determines that protection of the Government's interest requires the prior lienholder to agree to one or more of the following:

(*a*) Not to declare his lien in default or accelerate the indebtedness thereunder for a specified period without the written consent of the State Director.

(*b*) Not to make advances for purposes other than taxes, insurance, or payments on other prior liens when his lien secures future advances which the designated attorney, title insurance company, or Office of the General Counsel determines would, under State law, have priority over the mortgage being taken or any mortgage already held or insured by the Farmers Home Administration.

(*c*) To consent to the Farmers Home Administration's making the loan and taking the mortgage, if the prior lien prohibits such loan or mortgage without consent.

(*d*) Not to enforce without the written consent of the State Director as long as the Farmers Home Administration has an interest in the property, any unsatisfactory payment terms or other specified provisions of the prior lien which in the opinion of the County Supervisor would endanger the security position of the Farmers Home Administration.

(ii) Notice of foreclosure or assignment agreements will be obtained in those states whose laws permit junior liens of private parties to be extinguished by foreclosure of a prior lien without the junior lienholders being made parties or being given actual notice.

(iii) In a State in which forbearance agreements only are needed, they will be obtained on Form FHA–446 or FHA 427–8, "Agreement with Prior Lienholder," or, if that form is not legally satisfactory for use in a particular State, on another form approved by the Farmers Home Administration. When only notices of foreclosure or assignment are required, a separate form for such purpose will be used. When both forbearance agreements and notices of foreclosure or assignment are required, Form FHA–446 or FHA 427–8 may be amended in order to serve both purposes or a substitute form approved by the Farmers Home Administration may be used for both purposes, or Form FHA–446 or FHA 427–8 may be used and the notice agreement obtained on a separate form approved by the Farmers Home Administration.

(iv) When a forbearance or notice agreement is required, the designated attorney or title insurance company will determine at the time of loan closing that it is properly completed and executed and, if required by State law, sealed and witnessed; also, that it is properly acknowledged by the prior lienholder and recorded, if recording is required by the Farmers Home Administration.

(6) *Affidavit of sellers.* If land is being acquired, the designated attorney or title insurance company may require that an affidavit of sellers be properly completed and executed at, or shortly prior to, the time of loan closing. This affidavit may be on Form FHA–875 or FHA 427–6, "Affidavit of Sellers," or if that is not legally sufficient in a particular State, a substitute form approved by the Farmers Home Administration may be used. The affidavit will not be recorded unless State law permits and the designated attorney or title insurance company considers it necessary.

(7) *Deeds and curative material.* The designated attorney or title insurance company will determine that deeds, releases, and curative material are properly completed, executed (sealed and witnessed if required by State law), acknowledged, and filed for record at the proper time.

(8) *Promissory note.* The designated attorney or title insurance company will determine that the promissory note is properly completed and executed. The borrower and any person whose signature on the note is necessary to obtain the required mortgage lien will sign the note. In addition, the borrower's spouse, even where not required to sign the note for lien purposes, will sign the note unless he or she is under disability of minority or mental incompetency or is a noncitizen or is excused from signing the note for substantial reasons deemed by the State Director to be justifiable. The note will be dated the date the mortgage is filed for record, except that it may be executed and dated earlier if execution on that date is impossible and the borrower is advised that interest will accrue on the loan from the date of the note.

(9) *Assignment of future income.* If Form FHA–253 or FHA 443–16, "Assignment of Income from Real Estate Security," is required in a particular case, the County Supervisor will prepare the form and have it available for execution by the borrowers at the time of loan closing. The designated attorney or title insurance company will see that the form is properly completed, executed (sealed and witnessed if required by State law), and acknowledged by the borrowers.

(10) *Mortgage.* The designated attorney or title insurance company will see that the mortgage is properly completed, executed, sealed and witnessed if required by State law, acknowledged, and filed for record. The mortgage will be executed and dated the date of the note, except that if that is impossible for one or more of the signers of the mortgage, it may be executed on a different date but not before the date of the note.

(11) *Affidavit of borrowers.* The designated attorney or title insurance company may require that an affidavit of borrowers be properly completed and executed at the time of loan closing. This affidavit may be on Form FHA 427–5, "Affidavit of Borrowers," or if that is not legally sufficient in a particular State, on another form approved by the Farmers Home Administration. Statements in the form should be modified as necessary to make them factually correct. The affidavit will not be ac-

knowledged and recorded unless State law permits and the designated attorney or title insurance company considers it necessary.

(12) *Other services of designated attorneys and title insurance companies.* The designated attorney or title insurance company will assist and advise the County Supervisor, when necessary, in the preparation, completion, obtaining execution, acknowledgment, recordation, and so forth, of documents required in particular cases. Standard FHA forms will be used for such purposes whenever possible. The designated attorney or title insurance company will maintain close communication with, and keep the County Supervisor advised, as to the progress of the title clearance and preparation of loan closing material.

(13) *Final opinion or mortgagee title policy*—(i) *Final opinion.* As soon as possible after loan closing, the designated attorney will issue his final opinion to the County Supervisor. The final opinion will be on Form FHA–313 or FHA 427–10, "Final Title Opinion," or if that form is not legally sufficient in a particular State, on another form approved by the Farmers Home Administration. Since issuance of final opinion will not be held up pending return of recorded instruments, it may not be possible for the final title opinion to show full recording information in all cases, but it should at least show the time of filing, filing number, and as much other recording information as is available. Attached to the final opinion will be all required documents then available, including any which the County Supervisor had furnished to the designated attorney and were not previously returned. With the approval of the designated attorney, arrangements may be made with the recorder to forward or deliver instruments to the proper parties after recordation.

(ii) *Mortgagee title policy.* As soon as possible after loan closing the title insurance company will issue to the County Supervisor the mortgagee title policy in favor of the Government as it appears as mortgagee. The policy shall be subject only to approved standard exceptions and such outstanding encumbrances, exceptions, and reservations as were waived administratively in writing by the Farmers Home Administration.

§ 1807.3 Office of the General Counsel—Initial loan case.

In any county, area, or case in which the services of the Office of the General Counsel are to be used, the title clearance and loan closing will be accomplished in accordance with the provisions of § 1807.2 of this part and closing instructions issued by that Office. As soon as the loan has been closed, a local attorney or title insurance company representative and the County Supervisor will initial or certify the original of the closing instructions to show that the requirements thereof have been met.

§ 1807.4 Subsequent loans not in connection with transfers or credit sales.

Title clearance and closing of subsequent loans to which this part is applicable will be handled as follows:

(a) *By designated attorney or Office of the General Counsel.* Title clearance and loan closing will be the same as provided for in §§ 1807.2 and 1807.3 of this part, respectively, with respect to initial loans, except that a preliminary title opinion will not be required on land already owned by the borrower and mortgaged to the Farmers Home Administration for a Farm Ownership, Farm Housing, or Soil and Water Conservation (not Water Facilities) loan. The final title opinion on such land will cover the period subsequent to recordation of the initial loan mortgage. If title clearance is to be handled by the Office of the General Counsel, the County Supervisor will also forward the initial loan mortgage to the Office of the General Counsel.

(b) *With title insurance.* Title clearance and loan closing with title insurance will be the same as provided for in § 1807.2 of this part with respect to initial loans except that:

(1) Title insurance will be obtained only when additional land is being acquired or the initial loan is being refinanced with the subsequent loan. If the same title insurance company is being used as the one which issued title insurance in connection with the initial loan, it should only be necessary to examine title to the land already owned by the borrower from the time of issuance of the existing mortgagee title policy.

(2) Regardless of whether the initial loan is being refinanced, the new mortgagee title policy will cover the entire farm including the land already owned and any land being acquired.

(3) If the initial loan is being refinanced, the new mortgagee title policy will cover the entire amount of the subsequent loan, including the amount of the initial loan being refinanced. But, if the initial loan is not being refinanced, the new mortgagee title policy will insure only the amount of the subsequent loan.

§ 1807.5 Additional requirements in connection with loans to homestead entrymen, contract purchasers of farm units from the Bureau of Reclamation and certain Indians.

Whenever loans are made subject to agreements with other Government agencies, the title clearance and loan closing requirements of special instructions with respect thereto, as well as those of this part, will be applicable.

§ 1807.6 Cancellation of loan.

If for any reason it is determined that the loan cannot be made, the County Supervisor will promptly notify the borrower and those who are involved in the particular case at the time the determination is made, such as sellers (if land is being acquired), designated attorney, other local attorney, Office of the General Counsel, and title insurance company or its local representative.

PART 1808—NONDISCRIMINATION IN MULTIPLE-UNIT HOUSING

Sec.
1808.1 Purpose.
1808.2 Scope.
1808.3 Nondiscrimination in use and occupancy.
1808.4 Mortgage covenant.
1808.5 Violations.

AUTHORITY: The provisions of this Part 1808 issued under secs. 510, 514, 515, 63 Stat. 437, 75 Stat. 186, 76 Stat. 671, 42 U.S.C. 1480, 1484, 1485. E.O. 11063, 27 F.R. 11527. Orders of Sec. of Agr., 19 F.R. 74, 26 F.R. 8403, 27 F.R. 5005.

§ 1808.1 Purpose.

The purpose of the regulations in this part is to put into effect provisions of Executive Order 11063, dated November 20, 1962, 27 F.R. 11527, in connection with housing loan programs of the Farmers Home Administration described in § 1808.2.

§ 1808.2 Scope.

The regulations in this part apply to loans of the following types to finance housing and related facilities of more than two living units:

(a) Domestic farm labor housing loans under section 514 of the Housing Act of 1949.

(b) Senior citizens rental housing loans under section 515 of the Housing Act of 1949.

§ 1808.3 Nondiscrimination in use and occupancy.

In the case of every such loan closed after November 20, 1962, the borrower shall not discriminate, or permit discrimination by any agent, lessee, or other operator, in the use or ocupancy of the housing or related facilities because of race, color, creed, or national origin.

§ 1808.4 Mortgage covenant.

In the case of every such loan closed after receipt by the County Supervisor of Administration Letter 777 (444), the mortgage or other security instrument shall contain the following covenant:

Borrower covenants and agrees that borrower will not discriminate, or permit discrimination by any agent, lessee, or other operator, in the use or occupancy of the housing or related facilities financed in whole or in part with the loan in connection with which this instrument is given, because of race, color, creed, or national origin.

§ 1808.5 Violations.

Discrimination in violation of the regulations in this part shall constitute default under the mortgage or other security instrument held by the Government in connection with the loan.

PART 1809—APPRAISAL OF FARMS

Sec.
1809.1 General.
1809.2 Definitions of values to be recommended.
1809.3 Long-time commodity prices, costs and other basic appraisal data.

AUTHORITY: The provisions of this Part 1809 issued under R.S. 161, secs. 41, 6, 50 Stat.

528, as amended; 870, sec. 510, 63 Stat. 437, sec. 4, 64 Stat. 100, 5 U.S.C. 22, 7 U.S.C. 1015, 16 U.S.C. 590w, 42 U.S.C. 1480, 40 U.S.C. 442. Interpret or apply sec. 2, 50 Stat. 523, as amended; 7 U.S.C. 1002.

§ 1809.1 General.

(a) *Appraisals required.* An appraisal report will be required in connection with each initial Farm Ownership and Farm Housing loan, and in connection with each Soil and Water Conservation loan in excess of $5,000 to be secured by a lien on the farm to be improved. An appraisal report also will be prepared when required by Farmers Home Administration regulations or when requested by the County Committee, County Supervisor, or State Director in connection with making subsequent loans, initial Soil and Water Conservation loans not in excess of $5,000, and servicing loans where real estate is taken as security.

(b) *Employees authorized to appraise farms.* For the purpose of this part, an "appraiser" is an employee of the Farmers Home Administration who has been designated in writing to appraise farms.

(c) *Appraisal forms.* Form FHA–596, "Appraisal Report," and Form FHA–596B, "Map of Farm," will be used in recording appraisals. In addition, when a farm under consideration is to be irrigated or is located in a drainage or levee district, or when minerals, timber, or other rights are leased, reserved, or exempted, Form FHA–596A, "Supplemental Report (Irrigation, Drainage, Levee, and Minerals)," will be used to the extent applicable.

(d) *Real estate improvements to be considered.* In making an appraisal, the appraiser will consider the real estate improvements already on the farm and those to be made by the applicant in connection with the loan, rather than those real estate improvements that a typical operator would have.

(e) *Typical owner-operator.* In appraising the farm, the appraiser will assume that the farm will be operated by a typical owner-operator for the area in which the farm is located. Such operator will be representative of the farmers in the area who possess average skills and managerial ability. The typical operator to be assumed should not be one who is significantly above or below average in managerial ability for the area. For example, the appraiser will assume that the operator would be a typical dairyman if the farm being appraised is in an area where both dairy farming and corn-hog farming have proven successful and the farm has building and land resources, including improvements to be made in connection with the loan, which make it more suitable for dairying.

§ 1809.2 Definitions of values to be recommended.

(a) *Normal earning capacity value.* This value is defined as the maximum amount that can be invested safely in a family-type farm consistent with the net income that the farm unit reasonably can be expected to produce, after any planned land and building improvements are completed. A distinction will be made between "normal earning capacity" and "normal earning capacity value." The term "normal earning capacity" means the long-time average annual production and income that reasonably can be expected from the farm. The term "normal earning capacity value" is an expression of the value of the farm based on its normal earning capacity. It is determined in connection with family-type farms being considered for Title I loans. For a normal earning capacity appraisal, the appraiser will:

(1) Make the following assumptions:

(i) The farm will be operated by a typical owner-operator for the area.

(ii) Cropping and livestock systems used are typical for the farm under consideration and will maintain the anticipated productivity. In determining the proper cropping system, the appraiser will take into account acreage allotments for the basic crops.

(iii) Average crop yields and livestock production estimates are used for the farm under consideration.

(iv) Approved commodity prices and farm operating costs are employed in estimating net income.

(v) The farm will be improved as shown in the Farm Development Plan.

(vi) The normal farm operating and family living expenses, the cost of necessary farm and equipment repairs and replacements, and principal and interest payments will be met out of farm income.

(vii) Income credited to the farm will include only income from the sale of farm commodities.

(2) Consider the amount that could be invested in the farm based upon capitalization of the net farm income available for payment on real estate loans. The minimum capitalization rate will be six percent. Farming systems which include major enterprises considered to be high-risk enterprises, or farms located in areas with unusual hazards such as droughts, hail, flood, and frosts which cause yields to fluctuate to the extent that net farm income is reduced significantly at rather frequent intervals, should be capitalized at rates higher than six percent.

(3) Determine the normal earning capacity value which should be consistent with and supported fully by the earning ability of the farm. Such value, however, is not merely a mathematical computation resulting from capitalization of the net farm income available for payment on the real estate loan(s). Some other factors that he must consider in determining normal earning capacity value are:

(i) The desirability of the farm for a home.

(ii) The adaptability of the farm for alternative systems of farming.

(iii) Natural characteristics of the farm that would cause it to remain productive or characteristics that would cause production to decline because of such factors as erosion or leaching.

(b) *Normal market value of farm as improved.* This value is defined as the amount a typical purchaser would, under normal conditions, be willing to pay and be justified in paying for the farm, as improved, for farming purposes and for any nonagricultural assets the farm may have. This value is reflected by prices at which comparable properties in the community have been sold for similar use over a period of years, assuming long-time prices and costs. This value assumes that the farm normally may be expected to sell for that amount with a reasonable amount of effort and that the purchaser is a willing but not anxious buyer and the seller is a willing but not forced seller. Some of the important factors that the appraiser must consider in determining the normal market value are:

(1) Net farm earnings to the owner-operator and to the landlord based on long-time prices and cost.

(2) Improvement shown on the Farm Development Plan.

(3) Hazards of weather and high-risk enterprises.

(4) Location of farm with respect to:

(i) Off-farm employment opportunities and dependability of such employment.

(ii) Community services such as schools, churches, markets, trading centers, and roads.

(5) Condition and suitability of buildings.

(6) Condition and productivity of land.

(7) Nonagricultural assets such as timber, gravel, stone, or proven minerals.

(8) The price at which comparable properties in the area have sold. These prices will be adjusted to normal market values.

(9) Opinion of informed people who are familiar with real estate values in the area such as agricultural leaders, real estate brokers, and private and cooperative lenders.

(c) *Normal market value of acreage to be purchased.* This value will be determined as outlined in paragraph (b) of this section, except that planned improvements to be made by the applicant in connection with the loan will not be considered.

(d) *Present market value of farm as improved.* This value is defined as the amount a typical purchaser would be willing to pay and be justified in paying for the farm, as improved, for farming purposes and for any nonagricultural assets the farm may have. This value assumes that on the current market the farm may be expected to sell for that amount with a reasonable amount of effort and that the purchaser is a willing but not anxious buyer and the seller is a willing but not forced seller. In determining present market value, the appraiser will consider the same factors as listed in paragraph (b) of this section as they apply to present conditions rather than normal conditions.

§ 1809.3 Long-time commodity prices, costs, and other basic appraisal data.

Long-time prices for farm commodities, long-time farm operating and family living costs, and other basic appraisal data will be used in the preparation of Form FHA–596.

(a) *Long-time commodity price schedules.* A State schedule of long-time farm commodity prices will be prepared by the State Director. Each State schedule will be submitted to the National Office for approval before issuance.

(b) *Cost schedules.* A State schedule of cost items will be prepared by the State Director.

(c) *Other basic appraisal data.* The State Director will assemble other basic appraisal data for use of employees authorized to appraise farms as an aid to securing greater consistency in appraisals. All available sources of materials such as publications of Agricultural Experiment Stations, Agricultural Colleges, United States Department of Agriculture, and so forth, should be utilized in developing and assembling the data. Such data will include to the extent practicable:

(1) A listing of recognized systems of farming, and the areas in the State where applicable.

(2) Standard crop rotations for various soils, conditions, and enterprises.

(3) Approved feed tables.

(4) Hired labor cost figures.

(5) Machinery requirements and depreciation rates.

(6) Tractor expense data.

(7) Values of buildings and depreciation rates.

(8) Method of determining the cash expense for family living.

(9) Capitalization rates.

(10) Other items which will be helpful to appraisers.

PART 1810—RATES ON, AND TERMS AND CONDITIONS OF THE INSURANCE OF, INSURED LOANS

Sec.

1810.1 Definitions.
1810.2 General.
1810.3 Rates payable by borrowers on insured loans.

AUTHORITY: The provisions of this Part 1810 issued under sec. 510, 63 Stat. 437, sec. 514, 75 Stat. 186, secs. 307, 308, 309, 339, 75 Stat. 308, 309, 318, sec. 515(b), 76 Stat. 671, sec. 517, 79 Stat. 498; 42 U.S.C. 1480, 1484, 1485(b), 1487, 7 U.S.C. 1927, 1928, 1929, 1989; Orders of Sec. of Agr., 29 F.R. 16210, 16840, 30 F.R. 14049.

§ 1810.1 Definitions.

As used in this part:

(a) "Insurance fund" means the Agricultural Credit Insurance Fund made available under section 309(a) of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1929(a)), or the Rural Housing Insurance Fund made available under section 517(e) of the Housing Act of 1949 (42 U.S.C. 1487(e)).

(b) "Farm Ownership loan" means a loan insured under sections 302 and 303 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1922, 1923).

(c) "Soil and Water loan" means a loan insured under sections 304 and 306 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1924, 1926).

(d) "Labor Housing loan" means a loan insured under section 514 or section 517(b) of the Housing Act of 1949 (42 U.S.C. 1484, 1487(b)).

(e) "Senior Citizens Rental Housing loan" means a loan insured under section 515(b) or section 517(b) of the Housing Act of 1949 (42 U.S.C. 1485(b), 1487(b)).

(f) "Rural Housing loan" means a loan insured under section 517(a) of the Housing Act of 1949 (42 U.S.C. 1487(a)). A Rural Housing loan is insured under clause (1) of the section if the borrower's family income is low or moderate, and under clause (2) if the income is above moderate.

(g) "Public body" means a borrower whose obligations bear interest exempt from Federal income taxation.

§ 1810.2 General.

(a) The Farmers Home Administration insures loans made initially with money supplied by other lenders. The agency also makes loans out of the insurance fund and then sells and insures them, and resells on an insured basis loans previously purchased from insured holders. In any such type of case, collections are made by the Farmers Home Administration as agent of the insured holder and then transmitted to the holder. Depending upon the terms of the contract of insurance in each case, the agency may (1) retain an agreed portion (the "annual charge") of the collections on the loan, (2) pay the insured holder the entire collections on the loan annually, or (3) pay the entire collections plus an additional amount annually. Also, the contract of insurance may give the insured holder the optional right to require the Farmers Home Administration to repurchase the loan within a designated time interval after the lapse of a specified "fixed period" following the date of the insurance contract. Each insurance contract provides for the annual rate of yield which the insured holder is entitled to receive in addition to principal.

(b) Rates payable by borrowers are specified in § 1810.3.

(c) Current information regarding yield rates to lenders and fixed periods may be obtained from any county or State office of the Farmers Home Administration or from its national office at 14th and Independence Avenue SW., Washington, D.C. 20250. A list of the county and State offices is contained in the Directory of Organization and Field Activities of the Department of Agriculture, Agriculture Handbook No. 76, available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

§ 1810.3 Rates payable by borrowers on insured loans.

(a) For (1) Farm Ownership loans, (2) Labor Housing and Soil and Water loans to applicants other than public bodies, and (3) Rural Housing loans to borrowers with low or moderate family income, the interest rate payable by borrowers will be 5 percent per year on the unpaid principal balance.

(b) For Rural Housing loans to borrowers with above-moderate family income, rates payable by borrowers will be interest at 5¾ percent, and an insurance charge at one-half percent, per year on the unpaid principal balance.

(c) For Senior Citizens Rental Housing loans, the interest rate payable by borrowers will be 5¾ percent per year on the unpaid principal balance.

(d) For Labor Housing and Soil and Water loans to public bodies, the interest rate to the lender will be determined by competitive bidding or negotiation at the time the loan is made. The interest rate payable by the borrower will be the sum of the interest rate to the lender plus any annual charge specified by the Farmers Home Administration for each case or class of cases.

SUBCHAPTER B—LOANS AND GRANTS PRIMARILY FOR REAL ESTATE PURPOSES

PART 1821—FARM OWNERSHIP LOANS

Sec.

1821.1 General.
1821.2 Objectives.
1821.3 Supervisory assistance.
1821.4 Definitions.
1821.5 Eligibility requirements.
1821.6 Preference.
1821.7 Loan purposes.
1821.8 Loan limitations.
1821.9 Terms of loans.
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1821.11 Special requirements.
1821.12 Suitability of farm for the Farm Ownership Program.
1821.13 Technical and legal services.
1821.14 Mineral rights.
1821.15 Optioning of land.
1821.16 Deferred payments.
1821.17 Junior mortgage loan.
1821.18 Certification by County Committee.
1821.19 Loan approval.
1821.20 Requesting title service and accepting option.
1821.21 Actions subsequent to loan approval.
1821.22 Loan closing actions.
1821.23 Subsequent Farm Ownership loans.
1821.24 Reamortization of existing Farmers Home Administration debts.

AUTHORITY: The provisions of this Part 1821 issued under secs. 2, 4, 64 Stat. 98, 100, secs. 302, 303, 305, 307, 308, 309, 333, 339, 75 Stat. 307, as amended, 308 as amended, 309, as amended, 314, 318, sec. 343, 76 Stat. 632; 7 U.S.C. 1922, 1923, 1925, 1927, 1928, 1929, 1983, 1989, 1991, 40 U.S.C. 440, 442; Orders of Sec. of Agr., 19 F.R. 74, 26 F.R. 8403, 27 F.R. 9957, 28 F.R. 9676.

§ 1821.1 General.

This part prescribes the policies, procedures, and authorizations for making initial and subsequent insured and direct Farm Ownership loans on not larger than family farms. Whenever possible, the credit needs of an applicant will be met with an insured loan. If a local lender is not available, the loan may be made from the insurance fund provided funds are available and the loan is not less than $3,000. The policies, procedures and authorizations prescribed in this part are generally applicable to loans with funds which may be available under an agreement pursuant to section 2(f) of the

Rural Rehabilitation Corporation Trust Liquidation Act.

Additional provisions for making special types of Farm Ownership loans are contained in Subchapter D of this chapter.

§ 1821.2 Objectives.

The basic objectives of the Farmers Home Administration in making Farm Ownership loans are to assist eligible farmers and ranchers to become owner-operators of not larger than family farms, to make efficient use of their land, labor, and other resources, and to carry on sound and successful farming operations. The objectives of the Farm Ownership loan program will be accomplished through the extension of credit and supervisory assistance.

§ 1821.3 Supervisory assistance.

Supervision will be provided borrowers to the extent necessary to achieve the objectives of the loan and to protect the interest of the Government in accordance with Part 1802 of this chapter. Such assistance consists of farm and home planning, record keeping, analyzing the farm business, and giving management advice.

§ 1821.4 Definitions.

The term "farm," except as modified by § 1821.10(d), includes a tract or tracts of land used in the production of crops or livestock, including the production of fish under controlled conditions, and any land and improvements used in a recreational enterprise.

(a) *Adequate family farm.* An adequate family farm or ranch is defined as a farm (1) that is of sufficient size and productivity to furnish income that will enable a farm family to have a reasonable standard of living, pay operating expenses, including maintenance of necessary livestock, fish, farm and home equipment, land, buildings, and other farm structures, pay their debts, and have a reasonable reserve to meet unforeseen emergencies, (2) for which the management of the farm and recreational enterprise is furnished by the operator and his immediate family, and (3) for which the labor, including any labor necessary for the recreational enterprise, is furnished primarily by such operator and his immediate family except during seasonal peak-load periods. It is not intended to include in this definition farms which require large amounts of seasonal hired labor.

(b) *Other family farms.* An "other" family farm is a farm on which the applicant's income from the land he owns will be insufficient to meet the requirements of an adequate family farm as defined in paragraph (a) of this section. However, to be suitable for a Farm Ownership loan, such a farm must be one (1) that will produce agricultural commodities in sufficient quantities that the proceeds from their sale will be a substantial portion of the operator's total cash income, (2) that will provide farm income which together with any income from other sources including recreational enterprises will enable the family to have a reasonable standard of living, pay operating expenses, including maintenance of necessary livestock, fish, farm and home equipment, land, buildings and other structures, pay their debts, and have a reasonable reserve for unforeseen emergencies, (3) for which the management of the farm and recreational enterprise is furnished by the operator and his immediate family, (4) for which the labor, including any labor necessary for the recreational enterprise, is furnished primarily by the operator and his immediate family except during seasonal peak-load periods, and (5) which will be recognized in the community as a farm rather than a rural residence. It is not intended to include in this definition operations which require large amounts of seasonal hired labor. The scale of operations conducted by the operator of any such farm on the land he owns and any rented land must not be larger than the operations conducted by operators of adequate family farms.

(c) *Mortgage.* The term "mortgage" includes any form of security interest or lien upon any rights or interests in property of any kind.

(d) *Security.* The term "security" includes any rights or interests in property of any kind subject to a mortgage.

(e) *Insured loan.* As used in Farmers Home Administration regulations, the term "insured loan" means (1) a loan made from funds furnished by lenders and insured by the Government at the time of loan closing, or (2) a loan made from the Agricultural Credit Insurance Fund, also referred to as insurance fund, to be sold to a lender and insured at the time of sale. The term "private lender" means any source of insured funds other than the insurance fund and funds made available under an agreement pursuant to section 2(f) of the Rural Rehabilitation Corporation Trust Liquidation Act.

(f) *Direct loan.* "Direct loan" means a loan made with funds from the Farmers Home Administration direct loan account.

§ 1821.5 Eligibility requirements.

To be eligible for a Farm Ownership loan, each applicant must:

(a) Be a citizen of the United States.

(b) Possess legal capacity to incur the obligations of the loan.

(c) Be an individual who has a farm background and either training or farm experience sufficient to assure reasonable prospects of success in the proposed farming operation.

(d) Possess the character, ability, and industry necessary to carry out the proposed farming operation and honestly endeavor to carry out the undertakings and obligations required of him in connection with the loan.

(e) Be unable with his own resources, or be unable to obtain sufficient credit elsewhere, to finance his actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which he resides for loans for similar purposes and periods of time.

(f) After the loan is made, be the owner-operator of a farm which will produce a substantial portion of his total income. However, if the applicant is not engaged in farming, he must obtain a major portion of his cash income from farming after the loan is made.

(g) Be or intend to become the owner-operator of not larger than a family farm.

(h) When a loan for recreational purposes is being considered, possess the ability necessary to carry out the proposed enterprise.

§ 1821.6 Preference.

Preference will be given to:

(a) Veterans, as defined in Part 1801 of this chapter. The applications on hand from veterans will be given preference over applications of nonveterans on file at the same time.

(b) Applicants who are married or have dependent families, are owners of livestock and farm implements necessary to successfully carry on farming operations, and are able to make down payments.

§ 1821.7 Loan purposes.

Loans may be made to:

(a) Purchase or enlarge a farm including any land for recreational purposes which is or will be not larger than a family farm.

(b) Construct or improve buildings and facilities on the applicant's farm including:

(1) The construction of essential but modest farm dwellings and service buildings, including facilities and structures for recreational uses or fish farming, and the improvement, alteration, repair, replacement, relocation, or purchase and transfer of essential dwellings and farm service buildings, including facilities and structures for recreational uses or fish farming such as docks, fish hatcheries, shooting blinds, refreshment stands, lodging facilities, picnic areas, archery courses, tennis courts, shuffleboard, and so forth.

(2) The installation of domestic water and sewage disposal systems, and the purchase and installation of equipment or facilities necessary to the efficient operation of the farm or recreational facility, provided the items upon installation become a part of the real estate or customarily pass with the farm when it is sold. When funds are used to construct facilities for the farm or recreational facility, such as a road, ditch, or power, gas, or water line on other land, an easement or right-of-way must be obtained.

(c) Provide land and water development, use, and conservation essential to the operation of the farm and recreational facility, such as fencing, land clearing, establishment and improvement of permanent hay or pasture, drainage and irrigation facilities, basic application of lime and fertilizer, fish ponds, dams, nature trails, golf driving ranges, lakes, hiking trails, and camp sites, and the development or acquisition of a water supply or right. Also, loan funds may be used to pay that part of the cost of facilities, improvements, and

practices which is to be earned by participation in the Agricultural Conservation or Great Plains programs only when such costs cannot be covered by purchase orders or assignments to material suppliers or contractors. If loan funds are advanced and the portion of the payment for which the funds were advanced likely will exceed $500, the applicant will assign the payment to the Farmers Home Administration.

(d) Refinance secured and unsecured debts as provided in § 1821.11(d).

(e) Pay expenses incident to obtaining plans and making the loan, such as fees for legal, architectural, and other technical services, which are required to be paid by the borrower and which he cannot pay from other funds. Loan funds also may be used to pay the borrower's share of Social Security taxes for labor hired by the borrower in connection with making the planned building improvements.

(f) Pay costs incident to land and water development, use, and conservation essential to the borrower's farming operation on land not owned by him provided the amount loaned for such improvements does not exceed $2,500.

§ 1821.8 Loan limitations.

(a) A Farm Ownership loan will not be approved if:

(1) The borrower's unpaid principal balance plus any past-due interest against his farm or other security or both plus the amount of the loan will exceed $60,000.

(2) The amount of the loan and the unpaid principal balance plus any past-due interest on other liens against the farm will exceed the normal value of the farm and, when applicable, the normal value of any other security, as determined by the loan approval official, or the loan exceeds the amount certified by the County Committee.

(3) The noncontiguous character of a farm containing two or more tracts is such that an efficient farming operation and recreational enterprise cannot be conducted due to the distance or inadequate rights-of-way or public roads between the tracts.

(b) Loan funds may not be used for the following purposes:

(1) Purchase items not considered to be a part of the farm such as farm machinery and equipment, appliances, construction and maintenance tools, automobiles, trucks, boats, and other recreational equipment that would not be considered real estate.

(2) Acquire land or develop a farm which is in an area designated for retirement from agriculture by Federal, State, or local agencies.

(3) Refinance any Farmers Home Administration debts without prior consent of the National Office. Ordinarily, Farmers Home Administration debts will not be refinanced even though the borrower is delinquent. Consent will be granted in an exceptional case only when it is not possible to service the loan or otherwise accomplish the objectives of the loan on a sound basis without refinancing the existing debts.

(4) To pay debts incurred after the loan is approved and prior to the closing of a Farm Ownership loan except fees for legal, architectural, and other technical services and except as authorized in § 1821.22(d)(2). The County Supervisor, not later than the time of planning farm improvements, will advise each applicant that construction work must not be started and that debts for such work or materials must not be incurred before the loan is closed. If, nevertheless, the applicant incurs debts for materials or construction before the loan is closed, the County Supervisor may authorize the use of Farm Ownership funds to pay such debts only upon documentation of the facts in the case and when he finds that all of the following conditions exist:

(i) The debts were incurred after approval of the loan, except that in the case of a subsequent loan to complete improvements previously planned, the debts were incurred after the initial loan was closed.

(ii) The applicant is unable to pay such debts from his own resources or to obtain credit from other sources and failure to authorize the use of Farm Ownership funds to pay such debts would impair the applicant's financial position.

(iii) The debts were incurred for authorized Farm Ownership loan purposes.

(iv) The construction or repair work conforms to that shown on Form FHA 424–1, "Development Plan."

(5) To acquire land when a major part of the cropland on the farm will be in the conservation reserve program for two or more full crop years after the date of loan approval, unless the State Director determines that the applicant will be able to conduct at least an "other" family farming operation on the land not included in the conservation reserve program.

§ 1821.9 Terms of loans.

(a) *Amortization period.* Each loan will be scheduled for payment within the shortest period consistent with the ability of the borrower to pay. In no case will the payment period exceed 40 years from the date of the note. For a loan of $2,500 or less that is not secured by a real estate mortgage, the payment period will not exceed 10 years.

(b) *Interest, annual charge, and repurchase agreement.* The interest rate to the borrower will be 5 percent per year on the unpaid principal balance of the loan. For insured loans, the rate of interest, the rate of annual charge, and the repurchase agreement will be as provided in Part 1810 of this chapter.

§ 1821.10 Security requirements.

(a) *General.* Each Farm Ownership loan will be adequately secured to protect the interest of the Government.

(1) Any loan of more than $2,500 and any loan to be paid in more than 10 years from the date of the note will be secured by a mortgage on the applicant's entire farm, except as provided in paragraph (b)(1) of this section. Usually loans of more than $2,500 will be secured only by real estate. When necessary to supplement the applicant's equity in the farm or to facilitate servicing the loan, a mortgage also may be taken on nonfarm real estate or on chattel or other property owned by the applicant. However, nonreal estate may not be relied on for more than $2,500 of a loan.

(2) A loan of not more than $2,500 to be paid in not more than 10 years from the date of the note may be secured by either real estate or chattels, or both; or other security that cannot be converted to cash without jeopardizing the borrower's farming operations or means of livelihood. Examples of other security are: Cash value of life insurance policies, cooperative memberships, income-producing leases, or water stocks which are transferable and have security value.

(3) Whenever both real estate and chattel security are taken for a Farm Ownership loan and the payment period of the loan will exceed the maximum period for which the chattel lien may be valid under State law, the loan approval official will determine whether the real estate security will be adequate to secure the scheduled unpaid balance of the loan when the chattel lien expires.

(b) *Real estate.* (1) When the loan is to be secured by real estate, a mortgage on the entire farm owned by the applicant will be obtained, except as provided in this subparagraph. If the applicant's title to any part of the farm is defective (either in the sense that it is not good title marketable in fact or that the State law will not recognize a mortgage upon it or will not permit such a mortgage to be recorded) and cannot be cured at reasonable cost, the loan may nevertheless be made if (i) the part of the applicant's farm to which title is not defective qualifies as an adequate or other family farm, (ii) the value of such part of the farm and the value of necessary and available additional security is adequate to secure the loan, and (iii) any improvements to be made with loan funds will be located on the part of the farm to which title is not defective, except that up to $2,500 in loan funds may be used for land and building improvements on a part of the farm owned by the applicant to which title is defective. Any part of the farm to which title is defective may be omitted from the mortgage if the loan approval official determines that the applicant's interest is of such a nature that it is not mortgageable or that to include it would unduly complicate loan servicing or liquidation.

(2) A junior mortgage may be taken as security for a loan, provided:

(i) The prior mortgage(s) does not contain such future advance provisions, payment schedules, provisions for summary forfeiture or cancellation, or other provisions as may jeopardize the Government's security position or the borrower's ability to pay the Farm Ownership loan; or

(ii) Such provisions of the prior mortgage(s) are satisfactorily limited, modified, waived, or subordinated.

(3) When a life estate is involved, a loan may be made to the life estate holder and the remainderman if all par-

ties involved are eligible for a Farm Ownership loan and join in executing the mortgage and note. However, when one or more of the remaindermen are minors or otherwise legally incompetent, the Administrator may authorize the making of a Farm Ownership loan if the loan approval official determines such a loan to be otherwise sound and proper and the necessary security can be obtained.

(c) *Chattel or other nonreal estate security.* When authorized by paragraph (a) of this section, a mortgage may be taken on selected items of chattel or other nonreal estate security if such a mortgage will not interfere with the applicant's obtaining needed operating credit.

(1) Whenever a chattel mortgage is taken as security for a loan, it ordinarily will be a first lien. In an exceptional case, a mortgage subject to the mortgage held by another creditor or the Farmers Home Administration may be taken on chattel property provided the applicant clearly has sufficient mortgageable equity in chattels to provide the necessary security.

(2) When the loan includes funds for items of equipment upon which a chattel lien is necessary to adequately secure the loan, a severance or subordination agreement will be obtained, when appropriate.

(3) In a State in which a chattel mortgage is not valid for as long as may be needed by applicants for the repayment of the loan, the instructions for making loans secured by chattel mortgages issued by the State Director will be followed.

(d) *Miscellaneous security items.* Ordinarily, the applicant's farm is considered to include the land, buildings, fences, water, water stock, water facilities, and other improvements or appurtenances which by custom pass with farms in the change of ownership. However, in some instances certain improvement items or facilities which usually pass with the farm in a change of ownership are considered personal property and would not be conveyed to the purchaser. In other instances, items not generally considered to be a part of the real estate pass with the farm in a change of ownership. When the loan approval official determines the items involved in either case are a part of the farm and necessary for its efficient operation, funds may be included in the Farm Ownership loan to purchase such items. The County Supervisor, with the advice of the designated attorney, title insurance company, or the Office of the General Counsel, will ascertain that such items are free from any liens or encumbrances and are specifically included in the real estate or chattel mortgage.

§ 1821.11 Special requirements.

(a) *Dwellings and farm service buildings.* Buildings adequate for the planned operation of the farm must be available. The necessary buildings will be located on the applicant's farm unless the applicant owns buildings which are not considered a part of his farm and ordinarily would not pass with the farm in a change of ownership; or, the applicant can depend on rented buildings which will be available to him. In either case, the buildings must be of such type and condition and so located that the applicant could operate his farm successfully. When an applicant depends on rented buildings or owned buildings not considered to be a part of the farm, it must be determined that those buildings or other suitable buildings likely will be available for the period of the loan.

(b) *Land development.* Adequate land development to place the farm in an operable condition for a successful operation of the farm and recreational facility at the outset will be provided in connection with each loan. To the extent practicable, recommendations of the Forest Service, State Agricultural Extension Service, and the Soil Conservation Service should be included in the development plan, as well as in the farm and home plans. In planning land development with the applicant, the County Supervisor will encourage him to use any cost-sharing assistance consistent with his plans that may be available to him through the Agricultural Conservation Program.

(c) *Planning and performing farm development.* The development work will be planned and completed in accordance with Part 1804 of this chapter.

(d) *Refinancing of debts and obtaining additional credit from present creditors or others.* (1) When an applicant's request includes the use of loan funds for refinancing of debts, it must be determined specifically that his present creditors will not give him rates and terms on the existing debts that he reasonably could be expected to meet. A determination also must be made that his present creditors or other source will not extend to the applicant the additional credit he needs at such rates and terms. Before refinancing any debts or portion of any debt or developing a loan that will be secured by a lien junior to an existing lien, the County Supervisor will:

(i) Discuss with the applicant the possibility of securing the needed credit from the applicant's present creditors or other sources. He will request the applicant to contact his present creditors to explain his needs for better terms or additional credit. The County Supervisor may request the applicant to ask his creditors to renew, extend, change, or reduce the present debts, as appropriate. He will also advise the applicant of other credit sources available in the area which might assist him with his credit needs and ask him to contact such sources. If the applicant is unsuccessful in his efforts to obtain credit or to get a revision of the rates and terms of his indebtedness, the County Supervisor will obtain from the applicant the reasons given for not assisting the applicant and document such information in the running record.

(ii) If the County Supervisor is notified by the applicant that his negotiations with the present creditors or other sources were unsuccessful, he will determine, on the basis of the applicant's financial statement, planned income and expenses, estimated amount available for debt payment and the additional factors presented by the applicant, whether it appears necessary to refinance the debts or any portion of the debts or obtain a change in the rates and terms. When it is determined that refinancing may be necessary, the County Supervisor will contact in person, when practicable, each secured creditor and each unsecured creditor to whom substantial debts are owed for the purposes of verifying necessity for refinancing. If the loan is to be processed, a statement of each secured account showing the final due date, interest rate, annual installment, amount of principal and interest delinquent, unpaid principal, and accrued interest, will be obtained. If all, or a portion of the accounts are to be refinanced, the amount necessary to settle the account in full or to bring the account current as appropriate will be obtained. In any case in which a mortgage is to be taken junior to another creditor's lien, such as the Federal Land Bank or an insurance company, the County Supervisor will obtain early in the loan processing the creditor's determination with respect to furnishing the applicant the additional credit that he needs.

(2) Debts which are secured by real estate liens will not be refinanced unless such liens are against the farm to be given as security for the loan.

(3) Ordinarily, loans will not be made to refinance long-term real estate loans of the type generally made by lenders such as the Federal Land Banks or insurance companies. When it is necessary to refinance such debts, the total debt will not be refinanced if a part of the debt can be refinanced on a sound basis with the lender's agreement. The part of the debt to be refinanced will not include more than existing delinquencies plus the next installment to become due that the borrower will be unable to pay.

(4) When nonreal estate debts are being refinanced, preference will be given to paying those that will be most helpful to the applicant in carrying on farm and home operations. Ordinarily, in the case of old unsecured debts or inadequately secured debts, the applicant will be requested to contact his creditors and attempt to obtain a substantial reduction of such debts.

(e) *Income from other than the owned acreage.* In any case in which the soundness of the loan depends on income from the farm and other sources the County Supervisor must determine that income from other sources in addition to the income from the land the applicant owns will likely be available to him on a continuing basis.

(1) When the applicant must depend on income from land in addition to that which he owns, the County Supervisor will determine that such land or other land of similar quantity and quality likely will be available during the period of the loan, or if other land should not be available there is a likelihood that off-farm employment is available to provide the income needed.

(2) When the applicant must depend on income from off-farm employment, it must be determined that the off-farm income will be reasonably certain to materialize and continue in the amount anticipated, taking into consideration the nature of the proposed employment and, where possible, the actual employment for the past 2 or 3 years; and that the time required for the off-farm work, together with that required for the farm, is possible of accomplishment by the applicant and his immediate family, taking into consideration hired labor for seasonal peak-load periods.

(f) *Income from recreational enterprises.* Income from a recreational enterprise is considered as "other income" rather than farm income. The farm and home plan will have sufficient information attached to determine the feasibility and soundness of the applicant's request for Farmers Home Administration assistance in conducting a recreational enterprise in conjunction with his farming operation. Such information will indicate whether the enterprise provides sufficient income to meet its operating expenses, depreciation, proportionate share of the debt, and make a reasonable contribution to the family's income.

(g) *Supplementary payment agreement.* Form FHA 440–9, "Supplementary Payment Agreement," should be used for each applicant who regularly receives substantial off-farm income. It also should be used for other applicants when needed to facilitate servicing the account.

(h) *Refinancing of Farm Ownership loan.* If, at any time, it appears that the borrower may be able to obtain a loan from a cooperative or private credit source at reasonable rates and terms for loans for similar purposes and periods of time prevailing in the area, to refinance his loan, the borrower will, upon request, apply for and accept such refinancing.

(i) *Farm or residence situated in different counties.* If a farm is situated in more than one State, county, parish, or locality, the loan will be processed and serviced in the State, county, parish, or locality in which the borrower's residence on the farm is located. However, if the borrower's residence is not part of his farm, the Farm Ownership loan will be serviced by the County Office serving the county in which the farm or a major portion of the farm is located unless otherwise approved by the State Office because of transportation difficulties.

(j) *Nonessential real estate.* A loan may be made to an applicant who owns real estate which will not be a part of the farm provided he disposes of the property before the loan is closed or, if this is not practicable, agrees to dispose of it promptly after the loan is closed, and use the net proceeds to pay farm and home expenses, make capital purchases, or reduce his indebtedness. However, the State Director may permit an applicant to retain nonfarm real estate provided the sale of such real estate would not materially reduce the applicant's need for a real estate loan or for operating credit; such real estate furnishes the applicant employment; or provides the residence for the applicant.

(k) *Joint ownership and joint farming operations—(1) Joint ownership and farming operation by members of the same family other than husband and wife.* A loan may be made to closely related applicants constituting a family group residing in not more than two households who own or will own a farm jointly and conduct a joint farming operation if such applicants are individually and jointly eligible and the farm and the farming operation is not larger than a family farm or family farming operation. The participation of a member of such family in the operation without an ownership interest in the farm is not prohibited, but in such case, the responsibility of management must be in the applicant or applicants. In any case, it must be determined that because of previous experience in working together, such family group likely will succeed in the proposed joint farming operation. All such joint owners will execute the application, payment authorization, if any, note and mortgage, as well as other loan docket forms.

(2) *Separate ownership of the farm and joint operations.* A loan may be made to an eligible applicant who will own a farm which is not larger than a family farm and will conduct a joint farming operation with another individual provided:

(i) That, because of previous experience in working together as farmers, they will likely succeed in the proposed joint farming operation, and

(ii) The joint farming operation will not be larger than the equivalent of two family farm operations. However, such operation will not exceed a single family farm operation, whenever the individual who has an interest in the applicant's farming operation does not personally perform labor in an amount at least equal to his respective interest in the operation.

(l) *Debt-settlement cases.* A loan will not be made to an applicant whose debts have been settled pursuant to Part 1864 of this chapter or who has been released from personal liability under Part 1872 of this chapter, as reflected by the County Office records, or where settlement under such regulations is contemplated, unless the applicant's failure to pay his loan indebtedness was the result of circumstances beyond his control; the conditions which necessitated the debt settlement or release, other than weather hazards, disasters, or price fluctuations, have been or will be removed by making of the loan; and the borrower's operations will be sound and afford him a reasonable prospect of repaying the loan and meeting his other obligations. Before requesting an appraisal or causing the applicant to incur any expense in connection with the loan, the County Supervisor, if he determines that the applicant should be considered for a loan, should complete Form FHA 431–2, "Farm and Home Plan," and send it, together with the application and other pertinent information, to the State Office for a determination as to whether to proceed with development of the loan docket.

(m) *Compliance with special laws and regulations.* Applicants will be required to comply with Federal, State, and local laws and regulations governing diverting, appropriating, and using water including use for domestic purposes, installing facilities for draining land, and making changes in the use of land affected by zoning regulations. The applicant should also comply with any such laws, special licenses, and regulations pertaining to recreational or fish farming enterprises. In any State where there are no special laws or regulations to comply with, special instructions may be issued to advise how to make sound loans under such conditions. For example, evidence may be needed to determine the effect that diverting water from a stream might have on other users or their legal rights as well as the manner in which other users or their legal rights affect the borrower's use of the water. Furthermore, even though there are no specific requirements to be met, it may be possible to file with the appropriate State authority the facts concerning the borrower's use of water from a stream in order that he might have some priority rights in case laws or regulations are made that will affect the use of water.

(n) *Area determinations.* It will be the responsibility of the State Director to determine if there are any areas in the State where the development of ground water for irrigation purposes or the drainage of farmland is not recommended. The State Director will make this determination with the advice of the State Conservationist for the Soil Conservation Service, and the State Geologist or Engineer, or officials of the U.S. Geological Survey, School of Mines, or any State Water Board, State agency, or person having official functions relating to use of water or drainage of farmland. In areas in which available information indicates that the further development of ground water or drainage is not advisable without a further analysis of pertinent economic and physical data, Farm Ownership loans will be limited within the areas to the repair or rehabilitation of existing irrigation facilities which will not result in the development of additional ground water in excess of the amount previously used, or contain such other restrictions as the State Director determines to be necessary. The State Director may require a test well prior to the time the applicant incurs costs for drilling a well.

(o) *Liens junior to the Farmers Home Administration Lien.* A loan will not be approved if a lien junior to the Farmers Home Administration lien likely will be taken simultaneously with or immediately subsequent to the closing of the loan to secure any debt the borrower may have at the time of loan closing or any indebtedness he may incur in connection with the Farm Ownership loan, such as for a portion of the purchase price of the farm or money borrowed from others for payments on debts against the farm, unless such a lien is within the $60,000

debt limit or the normal value of the security, whichever is less.

(p) *Public liability and property damage insurance.* Applicants receiving loans for recreational enterprise will be advised of the possibilities of incurring liability and encouraged to obtain public liability and property damage insurance.

(q) *Farm Ownership loans to Rural Housing, Labor Housing, or Soil and Water borrowers.* A Farm Ownership loan may be made to a borrower indebted for a Rural Housing, Labor Housing, or Soil and Water loan in accordance with this part. However, the Farm Ownership loan, when added to the unpaid principal balance plus any past-due interest of any Farm Ownership, Soil and Water, Rural Housing, or Labor Housing loan (whether or not secured by the farm) plus other debts against the farm or to be given for the Farm Ownership loan, will not exceed $60,000 or the normal value of the farm and other security for the loan, whichever is less.

§ 1821.12 Suitability of farm for the Farm Ownership program.

(a) *Responsibility for determining suitability of farms.* The County Supervisor is responsible for making a preliminary determination with respect to whether a loan can be made on the farm. This determination will be based on a personal inspection of the farm and the consideration of such factors as: Productivity of the land; condition and adequacy of the buildings; approximate value of the farm; approximate amount of funds required for land purchase; boundaries of the farm; roads, schools, markets, other community facilities; tax rates; and adequacy of the water supply. He also will determine the suitability of the farm for the recreational facility or fish farming.

(b) *Development of loan docket and plans.* Farm and home plans will be prepared in accordance with Part 1802 of this chapter. Plans for recreational enterprises will be developed in accordance with acceptable business practices for the enterprise. The farm development plan will be prepared in accordance with Part 1804 of this chapter. When the farm and home plans and the farm development plan have been prepared, and real estate is to be taken as security for the loan, the County Supervisor will request the services of an appraiser. In any case, if it appears that a loan cannot be made, the County Supervisor will promptly notify the applicant of the specific reasons for the decision. In case the applicant is dissatisfied with the decision and requests further consideration, the County Supervisor may ask the County Committee to consider the farm and give an opinion regarding its suitability for a Farm Ownership loan.

§ 1821.13 Technical and legal services.

(a) *Technical assistance.* Applicants are responsible for obtaining technical assistance necessary to plan, construct, or establish the improvement or facility to be financed with the loan or other technical service required in connection with the loan.

(b) *Appraisal.* (1) When real estate will be taken as security for the loan, the real estate will be appraised by a Farmers Home Administration employee authorized to appraise farms.

(2) When nonreal estate items will be taken as security for a loan, a list of such items will be made on a separate sheet or State form, if such a form has been developed, with an estimate of the normal value of the security. In determining the normal value of chattel security, the County Supervisor will take into consideration the length of time the chattels will serve as security and the useful life of such security. In the case of other security, the County Supervisor will include a supporting statement with his estimated value of such security. Such a statement will include a narrative description of the security, its current cash value, the relative stability of the value of the security, and how the property is to be mortgaged or otherwise given as security for the loan.

(c) *Title clearance and legal services.* (1) When real estate is taken as security, title clearance and legal services for making and closing the loan will be provided in accordance with Part 1807 of this chapter. Except for loans involving land acquisition, the applicant will be requested to furnish title evidence as soon as the County Supervisor determines the loan probably will be made. If the County Supervisor is doubtful whether the loan will be approved, he will not require the applicant to furnish title evidence until after the loan approval. When land is to be acquired title clearance and legal services will not be requested until the loan is approved.

(2) When no real estate is taken as security, the applicant will be required to submit the original or a certified or photostatic copy of his deed, purchase contract, or other instrument evidencing ownership. Whenever the County Supervisor is uncertain as to whether or not the applicant is the owner of an adequate or other family farm, the County Supervisor may require the applicant to furnish additional information as to ownership of the farm and any further information that may be needed.

(3) When chattels are taken as security, a lien search will be obtained in accordance with Subpart B of Part 1831 of this chapter.

§ 1821.14 Mineral rights.

Borrowers should obtain, to the extent practicable, all the mineral rights in any land being acquired. For cases in which a loan is to be made on property with all or part of the mineral rights held by a third party, the State Director will establish guides to assist the County Supervisor in making a tentative decision as to whether to proceed with the loan.

§ 1821.15 Optioning of land.

When land is to be purchased, the applicant will be responsible for selecting the land he intends to purchase and for obtaining an option on such land. Ordinarily, the County Committee should have viewed the applicant with favor before he is requested to obtain an option. The County Supervisor should, if possible, prior to the applicant's selection of the land to be purchased, advise him with respect to the approximate size and quality of farms which are generally considered suitable for the Farm Ownership program. Such advice, together with the consideration of the applicant's eligibility by the County Committee before the land is selected, will save the applicant's time in looking for farms and will reduce the number of options taken on farms which are obviously too small, too large or too unproductive to qualify for the Farm Ownership program. Form FHA 443–1, "Option to Purchase Real Property," will be given to the applicant with an explanation of the provisions of the Form and how it will be completed. Generally, Form FHA 443–1 should be used; however, other option forms may be used if their provisions are acceptable.

(a) The County Supervisor is responsible for examining each completed option to determine if it is acceptable. When the County Supervisor is doubtful as to whether the option is acceptable, he will forward it to the State Office with a memorandum indicating the extent to which the exceptions are or may be objectionable and request the advice of the State Director.

(b) The County Supervisor also will determine that:

(1) At least one dollar is actually paid to the seller by the applicant and the receipt for this amount is acknowledged in the option.

(2) The option is recorded, if necessary. Recordation fees will be paid by the applicant.

(3) The following clause is inserted in options in connection with loans which involve more than one tract:

> The seller agrees that, irrespective of any other provision in this option, the buyer, or his assignees may, if the option is accepted, without any liability therefor, refuse to accept conveyance of the property described herein if the aforesaid loan cannot be made or insured because of defects in the title to other land now owned by, or being purchased by, the buyer.

(c) When a tract of land is to be optioned and subdivided, the applicant in whose name the option is to be taken must be advised by the County Supervisor that the applicant will not receive any remuneration for assigning interest in the option to other applicants. The County Supervisor is responsible for explaining to the seller and the applicant, in whose name the option is taken, the terms and conditions of the option including the provision that the seller will provide an accurate survey, if required by the Government.

(1) The County Supervisor will discuss any proposed subdivision with the County Committee and the Area Supervisor before any definite commitments are made to the prospective seller with respect to utilizing a tract for subdivision purposes. He will also obtain the assistance of the employee authorized to appraise farms in making a thorough study of the tract and in plotting the units to show proposed roads and other necessary facilities in order to determine whether

it is practicable to subdivide the tract into adequate farms.

(2) If the tract is determined to be suitable, an option will be taken on Form FHA 443–3, "Option for Purchase of Farm-Land to be Subdivided." The tract will be subdivided into units, each unit will be surveyed, and the applicant in whose name the tract is optioned will execute Form FHA 443–2, "Assignment of Interest in Option (Land to be Subdivided)," with each applicant who is to receive one of the units. If it becomes necessary for the State Director to designate an applicant as assignee of an interest in the option, Form FHA 443–4, "Designation of Assignee of Interest in Option (Land to be Subdivided)," will be used.

§ 1821.16 Deferred payments.

(a) For a direct Farm Ownership loan, the initial payment may be deferred until the end of the second full crop year from the date of the loan. Such payments may be deferred only when the Farm and Home Plan covering the first full crop year indicates that there will be insufficient income to meet a regular annual installment on the loan after farm operating, family living, and other essential expenses are paid during the first or first and second full crop years. Further, in the judgment of the loan approval official, there must be adequate evidence that income in subsequent years will be sufficient to meet the requirements of the loan. The initial payment must always to be more than a nominal payment. Deferred payments should not be used to permit the accelerated repayments of other debts, to purchase an unusually large amount of capital goods, or to perform major items of land development. Deferment will be justified only when:

(1) There is a substantial reorganization of the farming system, adequate returns from which will be delayed for one or two full crop years; or

(2) There is being established a system of farming requiring substantial improvements in land clearing, draining, leveling, irrigating, basic fertilizing, and seeding, or other land development or soil improvement operations, adequate returns from which will be delayed for one or two full crop years.

(b) For an insured loan made by a private lender, in addition to meeting the requirements for a direct Farm Ownership loan, the initial payment may be deferred only when the lender has agreed to such deferment and the deferment does not violate State or local laws or regulations to which the lender may be subject. When a loan is to be made from the insurance fund or under a section 2(f) agreement, the initial payment will not be deferred.

§ 1821.17 Junior mortgage loan.

When a loan is to be secured by a junior mortgage, the following items will apply:

(a) *Agreements with prior lienholders.* Agreements with prior lienholders regarding enforcement of objectionable provisions of their liens or giving notice of foreclosure or assignment of their liens, or both, will be obtained in accordance with § 1807.2(f)(5) of this chapter.

(b) *Items for docket.* The applicant will be required to furnish the County Supervisor, before the docket is assembled, a copy of each mortgage held by the prior lienholder(s), and, if available, a copy of the note or other obligation so that a proper determination can be made as to whether it should be refinanced. In addition, the County Supervisor will be furnished a current statement from the mortgagee showing: the amount of unpaid principal secured by the mortgage(s); the amount of any accrued interest; whether the account(s) is current or the amount of any delinquency with principal and interest shown separately; and if a copy of the note(s) is not provided, its maturity date, repayment schedule, interest rate, and a summary of any other provisions of the note. This information will be included in the docket for the information of the loan approval official. Any cost incidental to obtaining the information will be paid by the applicant.

§ 1821.18 Certification by County Committee.

(a) Before a loan is approved, the County Committee will make the necessary certifications on Form FHA 440–2, "County Committee Certification." Before executing Form FHA 440–2, the County Committee will consider basic documents such as Form FHA 410–1, "Application for FHA Services"; Form FHA 431–2; Form FHA 431–1, "Long-Time Farm and Home Plan," if applicable; plans for operation of any recreational enterprise; Form FHA 424–1 together with plans and cost estimates for the proposed improvements; and Form FHA 422–1, "Appraisal Report"; or when applicable, an estimate of the value of other property to be given as security.

(b) If the Committee determines that it can make the necessary certification on Form FHA 440–2, the amount of the loan to be shown in the form is that for which the docket has been developed or a lesser amount of the Committee determines that the applicant cannot reasonably be expected to succeed with the loan as proposed.

(c) Ordinarily, the amount of the loan plus any other debts against the security will not be in excess of the recommended normal value of the security. A loan docket will not be developed when a loan plus any other debts against the security will be significantly in excess of the recommended normal value of the security. In an unusual case when the amount of a loan needed for success plus any other debts that will be against the security is slightly above the recommended normal value of the security and the County Committee and the County Supervisor believe that the loan should be made, Form FHA 440–2 may be completed. In such a case, the completed loan docket will be submitted to the State Office for a final determination as to the normal value of the security.

§ 1821.19 Loan approval.

(a) *Authorization.* The State Director is authorized to approve Farm Ownership loans in accordance with this part. However, no initial or subsequent Farm Ownership loan may be approved without the consent of the National Office if the amount of the loan plus the unpaid principal balance and any past-due interest on debts against the security for the loan and against any other real property of the applicant would exceed $50,000; or if the sum of the proposed loan, together with any other Farmers Home Administration loan being made, and the principal balance already owed on any Farmers Home Administration loan would exceed $50,000. The loan docket and the State Director's recommendation should be submitted to the National Office with any request for authority to approve a loan in excess of these limitations. The State Director may redelegate loan approval authority in writing to:

(1) State Office employees other than Area Supervisors.

(2) County Supervisors and GS–7 Assistant County Supervisors, provided:

(i) The proposed loan plus the total unpaid principal balance and any past-due interest on debts against the security for the loan and against any other real property owned by the applicant will not exceed $12,000 irrespective of the manner in which the loan will be secured;

(ii) The debt against any property taken as security for the loan will not exceed the appraiser's recommended normal value of the property;

(iii) No significant changes are made in the development plan considered by the appraiser if real estate will be taken as security.

(3) The State Director will redelegate loan approval authority on a position basis to State and County Office employees to the extent that such action is consistent with sound program administration.

(4) State Directors will restrict or revoke the exercise of delegated loan approval authority to individual State and County Office employees by written notice when such action is necessary to administer a sound loan program.

(b) *Loan approval action.* (1) The loan approval official is responsible for reviewing the docket to determine that the proposed loan complies with established policies and all pertinent regulations and insured or direct loan funds are available for the loan.

(2) When a loan is approved, the loan approval official will:

(i) Indicate on Form FHA 440–3 any conditions that must be met before the loan is closed.

(ii) Sign the approval certification on the original and two copies of Form FHA 440–3 and insert his title in the space provided.

(iii) Sign Form FHA 440–1 for (*a*) a direct loan, or (*b*) an insured loan under a 2(f) agreement, or (*c*) an insured loan from the insurance fund.

(3) If the loan is disapproved after the loan docket is developed, the loan

approval official will explain on Form FHA 440–3 the reasons therefor and initial and date the original. The County Supervisor will notify the applicant, giving the reasons for the disapproval of the loan and also advise the County Committee of the action taken on the loan.

§ 1821.20 Requesting title service and accepting option.

When the loan is approved, the County Supervisor will see that title service is requested in accordance with Part 1807 of this chapter, if this has not already been done, and where land is being acquired, also see that Form FHA 443–9, "Acceptance of Option," is completed, signed, and mailed to the seller; however, in connection with acceptance of option on a subdivision, Form FHA 443–10, "Acceptance of Option by Assignee (Land to be Subdivided)," and Form FHA 443–11, "Acceptance of Option by Buyer (Land to be Subdivided)," will be used, as appropriate.

(a) *Occupancy of farms by borrowers acquiring land.* When the acceptance of option letter has been mailed to the seller, the borrower will arrange with the seller, in consultation with the County Supervisor, to occupy and operate the farm as soon as practicable. Agreements will be in writing and cover such subjects as disposition of growing crops, rentals, payment of maintenance cost, and other pertinent points. The following forms will be used for this purpose, as appropriate:

Form FHA–189 or FHA 443–5, "Short-Term Lease of Optioned Land";
Form FHA 443–6, "Short-Term Lease (Between Purchaser and Seller)";
Form FHA–129 or FHA 443–7, "Temporary Cropping License"; or
Form FHA 443–8, "Agreement (Between Seller, Purchaser, and Tenant)."

§ 1821.21 Actions subsequent to loan approval.

(a) *Requesting check.* When the loan has been approved, approval conditions can be met, necessary curative actions have been taken to provide a satisfactory title to any real estate security, and a date has been set for loan closing, the County Supervisor will order the loan check. However, the check may be requested at the time of loan approval if real estate will not be taken as security or, if real estate is taken as security and satisfactory title evidence is obtained prior to loan approval.

(1) For a direct loan or an insured loan under a 2(f) agreement or from the insurance fund, if the check is to be ordered at the time of loan approval, the County Supervisor will check the block in Form FHA 440–3 for issuance of the check and sign and date the portion of the form to request the check. If the check is not ordered at the time of loan approval, a copy of Form FHA 440–3 will be completed after loan approval to request the check in sufficient time to obtain the check prior to the loan closing date.

(2) For an insured loan by a private lender, the County Supervisor will request the check by submitting Form FHA 440–7, "Request for Check," to the State Director. If the name of the lender is known, the County Supervisor will enter it on Form FHA 440–7. However, if the lender does not require attestation of the County Supervisor's signature, Form FHA 440–7 may be delivered to the lender and a copy sent to the State Office. In a case where the seller is to become the lender, the amount of the check requested will be only for the amount of cash, if any, he will advance. Whenever the bank handling a supervised bank account will require the lender's personal check to clear before disbursing funds, the lender will be requested to furnish a certified or cashier's check. When suitable arrangements can be made with the lender, a bank draft may be used to obtain insured loan funds. The lender or his representative may present the check at the time the loan is closed, or if desired, the check may be mailed to the County Supervisor.

(3) The State Office will take the following action when Form FHA 440–7 is received from the County Office unless the County Supervisor has delivered the original Form FHA 440–7 to the lender:

(i) Check or insert the name and address of the lender;

(ii) Attest the signature of the County Supervisor on the original of Form FHA 440–7;

(iii) Forward the original Form FHA 440–7 to the lender.

(b) *Handling loan checks.* (1) If the loan check is to be deposited in a supervised bank account, this will be done for either a direct or insured loan on the date of loan closing in accordance with Part 1803 of this chapter after it has been determined that the loan can be closed.

(2) When a private lender issues a loan check payable jointly to the borrowers and the Farmers Home Administration as a precaution against loss of funds, the County Supervisor is authorized to endorse the check on behalf of the Farmers Home Administration at the time of loan closing as follows:

Endorsed without recourse:

FARMERS HOME ADMINISTRATION
By _____
Title _____

The State Director also is authorized to endorse such a check in the same manner. Authority to endorse such checks in no way relates to or modifies the regulations contained in Part 1862 of this chapter regarding collection items or the endorsement of such items.

(3) If a loan check other than a check from a private lender is received and the loan cannot be closed within 21 days from the date of the check, the County Supervisor will return the check to the Regional Disbursing Office.

(4) For an insured loan made by a private lender, if the loan cannot be closed on the date planned as indicated to the lender, and the loan is to be closed, the lender will be notified immediately of the reasons for the delay. If it is determined that an insured loan cannot be closed, the check will be returned immediately to the lender with a request for cancellation. In no case may a lender's check be retained more than 21 days from the date of the check. When a loan check is lost, mutilated, or destroyed, the County Supervisor will immediately notify the lender and, if the borrower still desires to close the loan, the lender will be requested to issue a new check. When a check is returned and the loan will be closed at a subsequent date, another check will be requested in the usual manner.

(c) *Cancellation of loan.* Loans may be cancelled before loan closing by the County Supervisor preparing Form FHA–903 or FHA 440–10, "Request for Cancellation of Loan." If a loan check other than a check from a private lender is received in the County Office, the County Supervisor will return it to the Regional Disbursing Office. Any check advanced by a private lender will be returned promptly to the lender with an explanatory letter. Interested parties will be notified of the cancellation.

(d) *Increase or decrease in amount of loan.* If it becomes necessary that the amount of the loan be increased or decreased prior to loan closing, the County Supervisor will request that all distributed docket forms be returned to the County Office. The loan docket will be revised accordingly and reprocessed. If the amount of the loan is decreased and there is no substantial change in the planned improvements or land to be acquired, a new County Committee Certification need not be obtained.

§ 1821.22 Loan closing actions.

When a loan closing date has been agreed upon, the County Supervisor will notify the borrower and seller, if any, of the loan closing date. The following appropriate actions will be taken in connection with and after loan closing:

(a) *Real estate mortgage loans.* When a loan is to be secured by a real estate mortgage, it will be closed in accordance with the applicable provisions of Part 307 of this chapter.

(b) *Chattel mortgage loans.* When a chattel mortgage, including a security agreement, is to be taken as security for a loan, the loan will be closed with respect to the chattel mortgage in accordance with the applicable portions of Subpart B, Part 1831 of this chapter, except that Form FHA–30.— or FHA 440–4 (State), "Crop and Chattel Mortgage," will be adapted by deleting the words "Crop and" from the title and any provision designed to create a crop lien. Any deletion will be initialed by the borrower, and the County Supervisor, Assistant County Supervisor, or County Office Clerk before the mortgage is executed. If an adapted Form FHA–30.— or FHA 440–4 (State) is not adequate under State law, a State form will be developed and submitted to the National Office for prior approval. Form FHA 440–15 (State), "Chattel Mortgage (Insured Loans to Individuals)," will be used for chattels taken as security in connection with an insured loan.

(c) *Applicant's financial condition.* The County Supervisor will review with the applicant the financial statement

which was prepared at the time the docket was developed. If there have been significant changes in his financial conditions, the financial statement will be revised. When an applicant's financial condition has changed to the extent that it appears that the loan would be unsound or improper the loan will not be closed.

(d) *Change in use of funds planned for refinancing.* (1) In cases where funds are included in the loan to refinance debts, the County Supervisor is authorized to transfer funds planned for refinancing between debts, providing all debts for which loan funds were planned are paid and the amount of loan funds to be used for refinancing does not exceed the amount planned for such purposes; except that the County Supervisor is authorized to use funds planned for other purposes to pay small deficiencies in estimates of the amount needed for refinancing, if he determines that sufficient funds will remain available to complete the planned farm development or land purchase.

(2) When the total amount of debts planned to be paid have increased so that they cannot be met within the authorities in subparagraph (1) of this paragraph or the applicant desires to transfer funds to pay debts for which loan funds were not planned, a revised loan docket will be developed. If the total amount of the loan will be increased, the docket will be processed in accordance with § 1821.21(d).

(e) *Assignment of income from property to be mortgaged.* Assignments will be taken when income is to be received by the borrower from royalties, leases, or other existing egreements under which the value of the security will be depreciated unless otherwise authorized by the National Office under conditions specified in Subpart A of Part 1872 of this chapter for release of security or security income. Any such assigned income will be applied as an extra payment on the loan unless it is to be used for authorized Farm Ownership farm development purposes. When the County Supervisor deems it advisable, assignments also may be taken for all or a portion of the income derived from nondepleting items such as bonus payments or annual delay rentals. Such assigned income will be applied as a regular payment. When a junior mortgage loan is made, the written consent of prior lienholders to the assignment will be obtained either by a letter or written approval by the lienholder on the assignment form.

(1) In cases in which income is to be received by the borrower from a mineral lease or other existing agreement pertaining to the property at the time of purchase, a Form FHA 443–16, "Assignment of Income from Real Estate Security," will be prepared and executed by the borrower and his wife at the time of loan closing.

(2) The County Supervisor, upon the advice of the designated attorney, title insurance company, or Office of the General Counsel, as appropriate, may require the acknowledgment and recordation of the assignment. Any cost incident thereto will be borne by the borrower.

(f) *Preparation and endorsement of note.* Form FHA 440–17, "Promissory Note (Direct loan)," for direct loans, or Form FHA 440–16, "Promissory Note (Insured loan)," for insured loans, will be prepared and completed at the time of loan closing.

(1) When determining the amount of the first installment, the County Supervisor will consider the borrower's financial circumstances and the extent to which he will receive income from the farm during the calendar year in which the loan is closed. The amount of the first installment may be less but not more than a regular annual installment. If the borrower will not receive income from the farm during the calendar year preceding the date of the first installment, a nominal first installment will be sufficient, unless the borrower desires to pay more, except that:

(i) For an insured loan by a private lender, the amount of the first installment may not be less than the amount equal to interest on the loan from the date of loan closing to February 1 of the next calendar year, unless the lender has agreed to a lesser amount.

(ii) For an insured loan made from the insurance fund or under a section 2(f) agreement, the amount of the first installment may not be less than the amount equal to interest on the loan from the date of loan closing to February 1 of the next calendar year.

(2) The amount of each regular amortized installment will be the amount of principal and interest which, if paid annually, will retire the full amount of the note plus interest within the amortization period of the loan.

(3) When a loan is closed between December 1 and January 1, the first installment will be collected at the time of loan closing unless deferment is approved.

(4) The promissory note will be signed by the borrower and his or her spouse, if married, unless under the provisions of Part 1807 of this chapter the spouse's signature is unnecessary.

(5) For insured loans, other than those made from the insurance fund, the promissory note will be assigned to the lender simultaneously with loan closing. This will be done by endorsing the note over to the lender, using the form of endorsement on the reverse of the note. Form FHA 440–5, "Insurance Endorsement (Insured Loan)" will also be executed simultaneously with loan closing for delivery to the lender with the note. The rate of the annual charge and the length of the repurchase agreement to be stipulated in the insurance endorsement will be in accordance with Part 1810 of this chapter.

(6) Each County Supervisor and each State Director is authorized to sign the endorsement on the reverse of the note and to execute Form FHA 440–5. The insurance endorsement constitutes the Government's contract of insurance of the loan.

(7) For loans from the insurance fund, the note will not be endorsed and the insurance endorsement will not be prepared until the loan is assigned from the insurance fund to a lender. In such cases, the Director, Finance Office, will sign the endorsement on the reverse of the note and will execute the insurance endorsement in accordance with Part 1873 of this chapter.

(g) *Obtaining insurance.* Buildings on the property which are to be taken as security for the Farm Ownership loan will be insured in accordance with Part 1806 of this chapter. When a loan is secured by chattels, and the loss of such chattels would jeopardize the interests of the Government, the County Supervisor may require the borrower to insure the chattel against hazards customarily covered by insurance in the area.

(h) *Loan closing.* Title clearance and loan closing will be in accordance with Part 1807 of this chapter.

(1) For a direct loan, the original Form FHA 440–17 will be sent to the Finance Office immediately after loan closing.

(2) For an insured loan by a private lender the original Forms FHA 440–5 and FHA 440–16 will be sent to the lender immediately after loan closing. For a loan from the insurance fund, the original of Form FHA 440–16 will be sent to the Finance Office. Under a section 2(f) agreement loan, the original Forms FHA 440–5 and FHA 440–16 will be sent to the State Director. If, for any reason, it is not possible for the same County Supervisor who signed Form FHA 440–7 to endorse the note and sign the insurance endorsement, the original of the completed note and insurance endorsement will be sent to the State Office instead of directly to the lender. In such case, the State Director, or other authorized State Office official, will attest on Form FHA 440–5 the signature of the different County Supervisor before sending the note and insurance endorsement to the lender. This will not be necessary when a local lender has no objection to a different signature on the endorsement of the note and on the insurance endorsement than that which appeared on Form FHA 440–7.

(3) The original deed of conveyance, if any, and conformed copy of the mortgage will be delivered to the borrower.

(4) If the borrower secures an owner's policy of title insurance and it is sent to the County Office it will be delivered to the borrower as soon as it is received from the title insurance company.

(i) *Effective time of loan closing.* A Farm Ownership loan is considered closed when the mortgage is filed for record.

(j) *Water stock certificates or similar collateral.* When water stock certificates or similar collateral is a part of the security it will be sent to the State Office for safekeeping.

(k) *Abstracts of title.* Any abstract of title will be delivered to the borrower for safekeeping except when an abstract is obtained from a third party with the understanding it will be returned, such abstract will be sent directly to the third

party. The County Supervisor will obtain a receipt from the borrower at the time the abstract is delivered to him. The receipt will be signed and dated by the borrower and the abstract will be identified in the receipt by showing the name of the abstracter who prepared the abstract, the number, if any, assigned by the abstracter, and the period covered by the abstract.

§ 1821.23 Subsequent Farm Ownership loans.

A subsequent Farm Ownership loan is a loan made to a borrower who currently owes a Farm Ownership debt.

(a) A subsequent loan may be made for the same purposes and under the same conditions as an initial loan.

(b) The subsequent loan will be processed in the same manner as an initial loan, except that a new appraisal of real estate will be required only when real estate is taken as security and one or more of the following exists:

(1) Subsequent loan funds will be used to purchase land or the mortgage will include additional land that is not presently covered by the Farmers Home Administration real estate mortgage.

(2) The County Supervisor or loan approval official requests a new appraisal report.

(3) The latest appraisal report on the farm is over two years old. However, if the latest appraisal report is less than two years old, and the appraiser recommended the normal market value or normal earning capacity value rather than normal value, a new appraisal will be required.

(4) The physical characteristics of the farm have changed significantly.

(5) The property was not appraised in connection with the initial loan.

(c) A subsequent Farm Ownership loan may be made to a borrower to be secured by either real estate, nonreal estate, or both. However, nonreal estate may not be relied on for more than $2,500. The $2,500 includes the loan being made, as well as any outstanding balance of a Farm Ownership loan secured by nonreal estate.

§ 1821.24 Reamortization of existing Farmers Home Administration debts.

In connection with making a Farm Ownership loan to a borrower currently indebted for a Farm Ownership, Rural Housing, or Soil and Water loan, such a prior loan may be reamortized with the prior approval of the National Office. In any such case the reamortization may be made only within the period of the remaining period of the prior loan. Authority to reamortize an account will be granted in those cases where extensive real estate improvements will be made or when land will be acquired and where it is necessary to assure that the annual maturities on the borrower's debts can be met. Ordinarily, insured loans will not be reamortized.

PART 1822—RURAL HOUSING LOANS AND GRANTS

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Subpart A—Section 502 Rural Housing Loan Policies, Procedures, and Delegations of Authority

AUTHORITY: The provisions of this Subpart A issued under sections 501, 502, 510, 517, 63 Stat. 432 as amended, 433 as amended, 437, 79 Stat. 498; 42 U.S.C. 1471, 1472, 1480, 1487; Orders of Sec. of Agr., 29 F.R. 16210, 16340, 30 F.R. 14049, unless otherwise noted.

§ 1822.1 Scope.

This subpart sets forth the policies and procedures, and delegates authority for making insured and direct section 502 Rural Housing (RH) loans under Title V of the Housing Act of 1949.

§ 1822.2 Objectives.

The basic objectives of the Farmers Home Administration in making section 502 RH loans are to assist farmowners, owners of other land in rural areas, and senior citizens and other rural residents who will be owners of land in rural areas to obtain decent, safe, and sanitary dwellings and related facilities, and to assist farmowners and owners of other land in rural areas who are engaged in farming to obtain essential farm service buildings and related facilities. The purpose of these loans is to give families who do not have sufficient resources to provide such dwellings, buildings, and facilities on their own account and cannot obtain the necessary credit from other sources on terms and conditions they reasonably can be expected to fulfill, an opportunity to have adequate homes and farm service buildings.

§ 1822.3 Definitions.

For purposes of this subpart, the following definitions will apply:

(a) *Farm.* A "farm" includes the total acreage of one or more tracts of land which is owned by the applicant, is operated as a single unit, is in agricultural production, and annually will produce agricultural commodities for sale and home use with a gross value of at least $400 based on 1944 prices.

(b) *Nonfarm tract.* A "nonfarm tract" is a parcel of land that is not a farm or part of a farm and is located in a rural area.

(c) *Rural area.* A "rural area" is either open country, or an incorporated or unincorporated town, village, or other place which has a population not over 5,500 according to the latest figures, is not a part of or associated with an urban area, and is rural in character. A nonfarm tract in a place having a population not over 5,500, is considered located in a rural area if the tract is not situated in any of the following:

(1) A densely settled area near or associated with a place with a population of more than 5,500. In determining whether a densely settled area is near or associated with such a place, the following will be disregarded: minor open spaces due to physical barriers, commercial and industrial developments, parks, and areas reserved for convenience or appearance.

(2) A subdivision of substantial size being developed by commercial interests, unless a large proportion of the residents will obtain most of their income from employment in the surrounding rural area.

(3) A resort area whose seasonal population plus permanent residents numbers over 5,500.

(d) *Owner.* An "owner" includes the following in addition to the owner of full marketable title in fee:

(1) A lessee of a farm where (i) the unexpired term of the lease runs beyond the payment period of the loan and the applicant's equity in the farm leasehold is at least equal to the amount of the loan, (ii) there is a reasonable probability of accomplishing the objectives for which the loan is made, (iii) the applicant can give upon the farm leasehold a recorded mortgage constituting a valid and enforceable lien, (iv) the applicant can comply with loan security requirements specified in this subpart, and (v) the unexpired term of the lease runs for at least 10 years. A lessee of a nonfarm tract is not an "owner."

(2) The owner of an undivided interest in land who is otherwise eligible.

(3) The purchaser under a purchase contract which obligates him to pay the purchase price, gives him the rights of present possession, control, and beneficial use of the property, and entitles him to a deed upon paying all or a specified part of the purchase price.

(4) The holder of a life estate having the usual rights of present possession, control, and beneficial use of the property. A remainderman is not an owner, but will be required to join in executing the mortgage where a mortgage on the farm is required as security and may be required to sign the note if necessary for a sound loan.

(5) Indians owning land in a trust or restricted status as provided in Part 1841 of this chapter.

(e) *Mortgage.* A "mortgage" includes any form of security interest in or lien upon any rights or interest in property of any kind.

(f) *Security.* "Security" includes any rights or interests in property subject to a mortgage.

(g) *Real estate.* "Real estate" includes the rights and interests of an owner in a farm or nonfarm tract.

(h) *Rural resident.* A "rural resident" is a person whose permanent residence is or was until recently in a rural area and who after the loan is closed will be the owner-occupant of a nonfarm tract.

(i) *Previously occupied dwelling or building.* A "previously occupied dwelling or building" is a building which (1) has been previously occupied for at least 5 years, or (2) has been occupied for less than 5 years where in the opinion of the State Director it is clear that the building was not built or occupied for the purpose of qualifying it for purchase with an RH loan.

(j) *Minimum adequate site.* A "minimum adequate site" is the smallest area sufficient for (1) the dwelling or farm service buildings and related facilities to be built or purchased, (2) a yard, and (3) production of food for home use only.

(k) *Senior citizen.* A "senior citizen" is a rural resident who is a citizen of the United States and is 62 years of age or over.

(l) *Senior citizen loan.* A "senior citizen loan" is a section 502 Rural Housing direct loan to a senior citizen.

(m) *Cosigner.* A "cosigner" is a comaker of a promissory note who is jointly and severally liable with the borrower.

(n) *Private lender.* A "private lender" is a lender other than the Farmers Home Administration who furnishes the funds with which an insured RH loan is made.

(o) *County Supervisor.* The "County Supervisor" is the County Supervisor or other authorized official in the county office of the Farmers Home Administration for the county in which the farm or nonfarm tract to be improved or purchased with the RH loan lies.

(p) *State Director.* The "State Director" is the State Director or other authorized official in the State Office of the Farmers Home Administration for the State in which the farm or nonfarm tract to be improved or purchased with the RH loan lies.

§ 1822.4 Eligibility requirements.

(a) *Applicant.* To be eligible for a section 502 RH loan, the applicant must meet all the following requirements:

(1) Be the owner of a farm or nonfarm tract or a rural resident.

(i) If he applies as the owner of a farm, he must be without decent, safe, and sanitary housing for his own use or for the farm manager, tenants, sharecroppers, or farm laborers, or without farm service buildings essential to a successful farming operation.

(ii) If he applies as the owner of a nonfarm tract, or as a rural resident, he must be without decent, safe, and sanitary housing for his own use, or if the loan is to finance farm service buildings, he must be engaged in farming and be without farm service buildings essential to the success of his farming operations.

(iii) If he applies as a senior citizen, he must be a rural resident who is without an adequate dwelling or related facilities for his own use.

(iv) If the loan is to include funds for land purchase, he must be without a minimum adequate site for necessary adequate buildings.

(2) Be without sufficient resources to provide on his own account the necessary housing, buildings, or related facilities, and be unable to secure the necessary credit from other sources upon terms and conditions which he reasonably could be expected to fulfill. If the applicant has only an undivided interest in the land to be improved, the applicant and his coowners, other than those whose execution of the mortgage is not required in accordance with § 1822.7(j) or § 1822.10(b), must, individually and jointly, be unable to provide the improvements with their own resources or obtain the necessary credit elsewhere.

(3) Be a citizen of the United States.

(4) Have assured income sufficient to meet his operating and family living expenses, necessary capital replacements, and payments on debts, including the proposed loan, except that if he is a senior citizen whose income is not sufficient for repayment of the loan, he may qualify for a loan if a person with income which, when added to the applicant's income, will be sufficient to pay the loan will become a cosigner.

(5) Possess the character, ability, and experience to carry out the undertakings and obligations required of him in connection with the loan.

(6) Have training or farming experience necessary to give reasonable assurance of success in any case where the soundness of the loan depends on his farming operations.

(7) Possess legal capacity to incur the obligations of the loan.

§ 1822.5 Veterans' preference.

The applications on hand from veterans, and from spouses and children of deceased servicemen, as defined in § 1801.5 of this chapter, will be given preference.

(Sec. 507, 63 Stat. 436, as amended; 42 U.S.C. 1477)

§ 1822.6 Loan purposes.

(a) A loan may be made to any eligible applicant to—

(1) Construct, improve, or relocate a dwelling to be used as his permanent residence and related facilities on his farm, or on a nonfarm tract he owns or will own after the loan is closed.

(2) Purchase and move to such farm or nonfarm tract a previously occupied dwelling and related facilities, to be used as his permanent residence.

(3) Purchase or install essential equipment which upon installation becomes part of the real estate.

(4) Provide fallout shelters, storm cellars, and similar protective structures.

(5) Provide necessary and adequate sewage disposal facilities for the applicant and his family.

(6) Provide a necessary, adequate, and safe water supply for the applicant and his family.

(7) Provide foundation plantings, seeding or sodding of lawns, and other facilities related to buildings, such as walks, yard fences, and drive ways to building sites located adjacent to a road or street, and, if the applicant is a farmer, paved feed lots.

(8) Pay expenses incident to obtaining plans and making the loan, such as fees for legal, architectural, and other technical services, and reasonable connection fees for water, sewerage, electricity, or gas, which are required to be paid by the borrower and which he cannot pay from other funds. Loan funds also may be used to pay the borrower's share of Social Security taxes for labor hired by the borrower in connection with making the planned building improvements. Loan funds may not be used to pay fees, charges, or commissions, such as "finders' fees" or "placements fees," for the referral of prospective applicants.

(b) A loan may be made to a farmowner for the purposes specified in paragraph (a) of this section and to—

(1) Construct, improve, or relocate a dwelling or farm service building and related facilities on his farm, purchase and move to his farm a previously occupied building, or buy previously occupied buildings and a necessary minimum adequate site, for use by the farmowner or his resident manager, tenant, sharecropper, or farm laborers.

(2) Provide portable-type farm service buildings that do not become a part of the real estate but are necessary to the operation of the farm.

(3) Provide a farmstead water supply and sewage disposal, including such facilities as a well, pump, and farmstead distribution system, which are essential to the health and safety of the occupants of the farm and/or the successful operation of a livestock enterprise conducted on the farm.

(c) A loan may be made to a nonfarm tract owner or a rural resident for the purposes specified in paragraph (a) of this section and to—

(1) Buy for his own use a previously occupied dwelling on a minimum adequate site.

(2) If he is engaged in farming, buy previously occupied farm service buildings and related facilities essential to his farming operations, with or without a minimum adequate site.

(3) Buy a minimum adequate site on which to place a dwelling for his own use and, if he is engaged in farming, a minimum adequate site to accommodate farm service buildings and related facilities which are essential to his farming operations and cannot feasibly be located on land he now owns.

(d) Improvements financed with loan funds must be on land which, after the loan is closed, is part of a farm or nonfarm tract owned by the borrower or on an easement appurtenant to such farm or nonfarm tract.

§ 1822.7 Special requirements.

(a) *Supervisory assistance.* Supervision will be provided borrowers to the extent necessary to achieve the objective of the loan and to protect the interests of the Government in accordance with Part 1802.

(b) *Supplementary payment agreement.* Form FHA 440–9, "Supplementary Payment Agreement," should be used for each applicant who regularly receives substantial off-farm income. It also should be used for other applicants when needed to facilitate servicing the account.

(c) *Building limitations.* (1) A dwelling financed for an applicant with a low or moderate family income must be modest in size, design, and cost. Adequate housing ordinarily can be provided for such families within less than 1,400 square feet of living area. Living area does not include space such as a patio, carport, garage, porch not suitable for year-round use, unfinished basement, and, if the dwelling does not have a basement, space for utilities such as furnace and hot water heater; however, such space must be kept within reasonable limits and not expanded to circumvent the limitations of this paragraph. When such an applicant has an unusually large family, a somewhat larger house may be justified to provide adequate sleeping space. Furthermore, particular design features or items should not be included in homes of families with low or moderate incomes if such features or items are customarily not included in other adequate but modest homes being built in the area by families with moderate incomes.

(2) A dwelling financed for a family with an income above moderate may be somewhat larger and contain features—such as two complete baths, a family room, or double garage—not usually associated with modest homes. Homes for such families, however, must not be significantly larger or more costly than other adequate homes in the area.

(3) Farm service buildings will not be financed which (i) are excessive in size or design, (ii) have not proved to be suitable for the area, or (iii) are in excess of those economically essential to the farming operations.

(4) Any buildings purchased with RH loan funds must be structurally sound and either be in good repair or placed in that condition with loan funds. Good judgment must be exercised in applying the policies stated in this subsection to previously occupied buildings.

(d) *Refinancing of RH loan.* If, at any time, it appears that the borrower may be able to obtain a refinancing loan from a cooperative or private credit source at reasonable rates and terms for loans for similar purposes and periods of time prevailing in the area, the borrower will, upon request, apply for and accept such refinancing.

(e) *Loan limitations.* No loan will be made if the amount of the loan and the unpaid principal balance plus past-due interest of any other liens against the security as determined by the loan approval official will exceed the normal value of the security or in a note-only case, assets described in § 1822.10(d)(3), or if the amount of the loan would exceed the amount certified by the County Committee. See paragraph (j) of this section and § 1822.10(b) for requirements applicable to special cases.

(f) *Liens junior to the FHA lien.* A loan will not be made if a lien junior to the RH mortgage likely will be taken simultaneously with or immediately subsequent to closing of the RH loan to secure any debts the borrower may have at the time of loan closing, or any debts he may incur in connection with the RH loan purposes, such as debt for a portion of the purchase price of the land or for money borrowed from others for payments on debts against the property or for part of the construction cost, unless such a lien plus the RH loan and any prior lien will be within the normal value of the security and will not interfere with the purposes of the loan or repayment thereof.

(g) *Restrictions on loans.* Loans will not be made to—

(1) A corporation or cooperative association.

(2) A homestead entryman or desert entryman to improve the entry prior to receipt of a patent.

(3) Pay debts incurred prior to the closing of a loan except fees for legal, architectural, and other technical services. The County Supervisor, not later than the time of planning improvements, will advise each applicant that construction work must not be started, materials must not be ordered nor delivered, and debts for such work or materials must not be incurred before the loan is closed. If, nevertheless, the applicant incurs debts for materials or construction before the loan is closed, the County Supervisor may authorize the use of RH funds to pay such debts only when, after documenting the facts, he finds that all of the following conditions exist:

(i) The debts were incurred after the applicant filed a written application for a loan, except that in the case of a subsequent loan to complete improvements previously planned, the debts were incurred after the initial loan was closed.

(ii) The applicant is unable to pay such debts from his own resources or to obtain credit from other sources and failure to authorize the use of RH funds to pay such debts would impair the applicant's financial position.

(iii) The debts were incurred for authorized section 502 RH loan purposes.

(iv) The construction or repair work conforms to that shown on Form FHA 424–1, "Development Plan," and the total development costs can be paid from funds available.

(4) Refinance indebtedness of an applicant, including any purchase price of real estate for which he is obligated, or any indebtedness against real estate of which the applicant is the owner.

(5) Buy income-producing land or buildings in case of a loan to a rural resi-

dent not engaged in farming or to a senior citizen.

(6) An applicant whose debts have been settled pursuant to Part 1864 of this chapter, or by release from personal liability under Part 1872 of this chapter, as reflected by the County Office records, or where such settlement is contemplated, unless (i) the applicant's failure to pay his loan indebtedness was the result of circumstances beyond his control, (ii) the conditions which necessitated the debt settlement or release, other than weather hazards, disasters, or price fluctuations, have been or will be removed by making the loan, and (iii) the applicant's operations will be sound and afford him a reasonable prospect for repaying the proposed loan and meeting his other obligations.

(7) Purchase land upon which to construct a building, when the applicant already owns land suitable for the purpose.

(h) *Loans on leasehold interests in farms.* A loan secured by a mortgage upon a farm leasehold, if otherwise proper, may be made where the lessor owns the fee simple title marketable in fact and neither the leasehold nor the fee simple title is subject to a prior lien. If in any case involving a prior lien the State Director concludes that a sound loan can be made upon a leasehold, he will submit complete information to the National Office for review and special authorization prior to approval of the loan. Loans may not be made to lessees of nonfarm tracts. With respect to achieving the purpose of the loan, obtaining adequate security, and being able to service the loan and enforce the security, the Government as holder of a mortgage upon a leasehold interest should be in a position substantially as good as if it held a second mortgage on a fee simple title. This includes, besides lessor's consent to the RH mortgage, such matters as—

(1) Reasonable security of tenure. The borrower's interest will not be subject to summary forfeiture or cancellation.

(2) The right to foreclose the RH mortgage and sell without restrictions that would adversely affect the salability of the security. Any effect on market value should be shown in the appraisal.

(3) Right of the Government to bid at foreclosure sale or to accept voluntary conveyance of the security in lieu of foreclosure.

(4) The right of the Government, after acquiring the leasehold through foreclosure or voluntary conveyance in lieu of foreclosure, or in event of abandonment by the borrower, to occupy the property or sublet it, and to sell for cash or credit. In case of a credit sale, a vendor's mortgage may be taken with rights similar to those under the original RH mortgage.

(5) The right of the borrower, in the event of default or inability to continue with the lease and the RH loan, to transfer the leasehold, subject to the RH mortgage, to an eligible transferee with assumption of the RH debt.

(6) Advance notice to the Government of lessor's intention to cancel, terminate, or foreclose upon the lease. Such advance notice will be long enough to permit ascertaining the amount of delinquencies, the total amount of the lessor's and any other prior interest, and the market value of the leasehold interest and, if litigation is involved, referring the case with a report of the facts to the United States Attorney and permitting him to take appropriate action.

(7) Express provisions covering the question of liability of the Government for unpaid rentals or other charges accrued at the time it acquires possession of the property or title to the leasehold, and those which become due during the Government's occupancy or ownership, pending further servicing or liquidation.

(8) Any necessary provisions to assure fair compensation for any part of the premises taken by condemnation.

(9) Any other provisions necessary to meet the foregoing requirements.

(i) *Group service loans.* A section 502 RH loan may be made to a farmowner to enable him to furnish his part of the cost of constructing, remodeling, or repairing a farm service building, such as a dairy barn or storage facility, that will be jointly owned and used by not more than 10 farmers. The following conditions must be met for such a loan to be made:

(1) The group of farmers must act as individuals and not as a legal entity such as a partnership, corporation, or association.

(2) The building will be located in a rural area and provide an essential farm service facility to be used only in connection with the farming operations which the owners of the building conduct on other land.

(3) The applicant will give the Farmers Home Administration a mortgage on his farm including his undivided interest in the tract to be improved with the loan. The interest of other co-owners of the jointly owned building who are not applicants may be excluded from the mortgage upon prior approval by the National Office, as provided in § 1822.10(b)(4)(ii).

(4) The owners have written agreements as to the construction and use of the service building.

(5) The service building will not (i) cost more than $50,000 if it is to be constructed new or, (ii) have a depreciated replacement value as improved of more than $50,000 if it is an existing building to be enlarged or improved.

(6) All funds to be used to finance construction of the joint facility will be deposited in the supervised bank account.

(j) *Section 502 RH loans to farm ownership (FO) or soil and water (SW) borrowers.* (1) When an FO or SW borrower's total subsequent credit needs cannot be met with a subsequent FO or SW loan, but can be met with a section 502 RH loan, such a loan may be made if—

(i) The borrower meets the eligibility requirements for a section 502 RH loan and an FO loan or SW loan. However, in an exceptional case an RH loan may be made to an FO borrower who, because of age, physical disability, or death of the spouse, is unable to operate the farm or carry on farming operations, provided a decision has been made to continue with the FO loan.

(ii) The loan, when added to the unpaid principal balance plus past-due interest of any FO, SW, RH, or LH loan plus other debts against the farm or any other security given for a Farmers Home Administration real estate loan or to be given for the section 502 loan, will not exceed $60,000, or the normal value of the security for the loan, whichever is less.

(2) A loan may be made to an FO or SW borrower on the basis of real estate security, nonreal estate security, or a note only.

(3) If a mortgage on the farm will be taken as security, a new appraisal will be prepared when the circumstances outlined in § 1822.17(a) exist.

(Sec. 506, 63 Stat. 435, as amended; 42 U.S.C. 1476)

§ 1822.8 Source of funds and rates and terms.

(a) *Source of funds.* Direct loan funds will be used for loans to senior citizens, low-income participants in organized self-help housing projects, and families receiving a disaster type of loan. Insured loan funds will be used for all other section 502 RH loans. An insured loan may be made by a private lender or, if one is not available, with funds from the Rural Housing Insurance Fund.

(b) *Interest rate per annum on unpaid principal.* (1) Insured loans to applicants whose family income is above moderate will bear interest at 5¾ percent.

(2) Insured loans to applicants whose family income is low or moderate will bear interest at 5 percent.

(3) Direct loans to senior citizens and to low-income applicants participating in an organized self-help project will bear interest at 4 percent.

(4) Direct loans under the provisions of paragraph XVI to any qualified applicant to replace or repair a building destroyed or damaged because of a natural disaster will bear interest at 3 percent.

(c) *Amortization period.* Each section 502 RH loan will be scheduled for repayment over a period not to exceed 33 years (10 years if not secured by real estate mortgage) from the date of the note or such shorter period as may be necessary to assure that the loan will be adequately secured, taking into account the probable depreciation of the security.

§ 1822.9 Technical services.

(a) *Planning and performing development.* The development work will be planned and completed in accordance with Part 1804 of this chapter.

(b) *Appraisal.* (1) For a loan exceeding $2,500, the farm or nonfarm tract to be mortgaged as security will be appraised by a Farmers Home Administration employee authorized to make real estate appraisals. If a mortgage will be taken on other real estate as additional security, it will be appraised when it represents a substantial portion of the security for the loan or when requested by the other loan approval official.

(2) For a loan not exceeding $2,500, an appraisal of real estate to be given as security will not be made unless the County Supervisor or loan approval official is uncertain as to the adequacy of the security. If, in such a case, an appraisal is not made by an employee authorized to make real estate appraisals, the County Supervisor will indicate on a separate sheet his estimate of the normal value of the real estate to be given as security.

(3) For security other than real estate, the County Supervisor will list on Form FHA 440-21, "Appraisal of Chattel Property," or State form, if one has been developed, the items to be given as security and his estimate of the normal value of the security. In determining the value of chattel security (except a chattel mortgage on a leasehold), the County Supervisor will take into consideration the length of time the chattels will serve as security and the useful life of such security. In the case of other security, the County Supervisor will include in the appraisal form a supporting statement of his estimated value. Usually this will include a narrative description of the security, its current cash value, the relative stability of the value of the security, and how the security is to be mortgaged or otherwise taken as security for the loan.

(4) In case of a loan to a farm lessee not secured by a mortgage on the leasehold, the County Supervisor will indicate on a separate sheet his estimate of the normal value of the applicant's equity in his leasehold interest.

(c) *Title clearance and legal services.* (1) When real estate will be taken as security (including a mortgage on a farm leasehold), title clearance and legal services for making and closing the loan will be provided in accordance with Part 1807 of this chapter. Except for real property to be purchased, the applicant will be requested to furnish title evidence at any time during the loan processing period after the County Supervisor determines that the loan probably will be made. If the County Supervisor is doubtful as to whether the loan will be approved, he will not require the applicant to furnish title evidence until after loan approval. For real property to be acquired, title clearance and legal services will not be requested until the loan is approved.

(2) When a real estate mortgage is not to be taken, the applicant will be required to submit the original or a certified or photostatic copy of his deed, purchase contract, or other instrument evidencing ownership. If the County Supervisor is uncertain as to whether or not the applicant is a qualified owner, he will require the applicant to furnish additional information or obtain the opinion of the Office of the General Counsel as to the evidence of ownership submitted by the applicant and its advice as to any further information or action that may be needed.

(3) When chattels will be taken as security, a lien search will be obtained in accordance with Subpart B of Part 1831 of this chapter.

(Sec. 506, 63 Stat. 435, as amended; 42 U.S.C. 1476)

§ 1822.10 Security.

(a) *General.* Loans other than those made under paragraph (d) of this section will be adequately secured to protect the interest of the Farmers Home Administration during the scheduled repayment periods.

(1) Any loan of more than $2,500 and any loan scheduled for repayment in more than 10 years from the date of the note will be secured by a real estate mortgage as provided in paragraph (b) of this section.

(2) A loan of not more than $2,500 scheduled for repayment in not more than 10 years from the date of the note may be secured by—

(i) Real estate or chattels; or

(ii) Other security that cannot be converted to cash without jeopardizing the borrower's farming operations or means of livelihood. Examples of such other security are the cash value of life insurance policies, cooperative memberships, income producing leases, and transferable water stocks of security value.

(3) When both real estate and chattel security are taken for a loan with a longer payment period than the maximum period for which the chattel lien will be valid under State law, the loan approval official will determine that the real estate security will be adequate to secure the scheduled unpaid balance of the loan when the chattel lien expires.

(b) *Real estate.* When a real estate mortgage is required, a mortgage will be obtained on all interests in the entire farm or nonfarm tract to be improved, except as provided in this subsection and subject to exceptions and reservations waived under Part 1807 of this chapter. Usually such loans will be secured only by real estate. When necessary to supplement the applicant's equity in the farm or nonfarm tract to be mortgaged, or to facilitate servicing the loan, a mortgage also may be taken on other real estate or on chattels or other property owned by the applicant. However, nonreal estate security may not be relied upon for more than $2,500 of the loan.

(1) If the applicant's title to any part of the farm or nonfarm tract is defective (in the sense that it is not good title marketable in fact or that the State law will not recognize a recordable mortgage upon it) and the defect cannot be cured at reasonable cost, the loan may be made subject to the following conditions:

(i) No security value will be accorded to the parcel of real property to which title is defective.

(ii) No improvements to be constructed or repaired with loan funds will be located on the parcel to which title is defective, except that with the prior approval of the National Office, up to $2,500 in loan funds may be used for improvements on such parcel if it is owned by the applicant and if the location of such improvements on such parcel is essential.

(iii) A real estate parcel to which title is defective will be included in the mortgage unless the loan approval official, with the advice of the Office of the General Counsel determines that the applicant's interest cannot be subjected to a recordable mortgage recognized by the State law, or that to include the parcel would unduly complicate loan servicing or liquidation.

(2) A junior mortgage may be taken as security for a loan provided—

(i) The prior mortgage as affected by the State law does not contain such provisions for future advances, payment schedules, forfeiture or cancellation, foreclosure without adequate notice to junior lienholders, or other matters as may jeopardize Farmers Home Administration's security position or the borrower's ability to pay the loan; or

(ii) Such provisions are satisfactorily limited, modified, waived, or subordinated.

(3) When a mortgage is required by paragraph (a)(1) of this section to secure a loan to an applicant as lessee of a farm, a valid and enforceable mortgage on his leasehold interest in the farm will be required. The unexpired term of the lease must be at least 10 years and must extend beyond the repayment period of the loan for a sufficient period to provide a reasonable likelihood that the objectives of the loan will be achieved. The unexpired term of the lease must be at least 50 percent longer than the repayment period of the loan unless, to compensate for a shorter period of the lease beyond the repayment period of the loan, the borrower gives other security of sufficient value, including, for example, a lien upon the borrower's right to receive from his lessor compensation at the expiration of the lease for the unexhausted value of the improvements made with the loan. The mortgage on a leasehold may be supplemented by additional security. Special provisions necessary to protect the Government, such as the items enumerated in § 1822.7(h), will be included in the lease, a consent to mortgage, a subordination, or other appropriate instrument executed by the lessor and the borrower.

(4) For a loan to improve a farm or nonfarm tract, or a part thereof, in which the applicant owns only an undivided interest, the interests of all the co-owners will be included in the mortgage, with the following exceptions:

(i) When not required under § 1822.7 (i)(3).

(ii) When one or more of the co-owners are not legally competent or cannot be located or the ownership rights are divided among such a large number of co-owners that it is not practical for all their interests to be mortgaged, the mortgaging of interests not exceeding 50 percent may be excluded from the security requirements upon prior approval by the National Office of the State Director's recommendation accompanied by a full statement of ownership and conditions which justify the exclusion. In such a case the loan may not exceed the normal value of the equity represented by the interests of the owners who sign the mortgage. In determining such value, consideration will be given to any ad-

verse effect which might result from sale of the mortgaged interests separately from the nonmortgaged interests and from rights of partition accruing to the owners of the nonmortgaged interests. All legally competent co-owners using or occupying the property will be required to sign the mortgage.

(iii) When the applicant for a section 502 RH loan owns the entire interest in a part of the farm and plans to build or improve a residence and related facilities on that part, and owns not less than 50 percent interest in the rest of the farm, a mortgage on the interest of the co-owners may be excluded from the security requirements upon prior approval by the National Office of the State Director's recommendation accompanied by a full statement of ownership and conditions which justify the exclusion, provided the loan will be adequately secured by the normal value of the tract in which the applicant owns the entire interest, the normal value of the jointly owned tract is at least equal to the debts against it and such debts are not liens on the part of the farm in which the applicant owns the entire interest, the joint ownership of a part of the farm and operation of this land by the applicant has been a successful arrangement and is likely to continue to be successful, and no RH funds will be used to construct or improve farm service buildings to be used primarily in connection with the operation of the jointly owned land, and the liens on the jointly owned lands do not include land in which the applicant owns no interest nor secure debts for which the applicant is not liable.

(5) When the applicant is the owner of a life estate qualified under § 1822.3, the remainderman will be required to join in executing the mortgage with the following exception: When one or more of the remaindermen are not legally competent or cannot be located or the remainder rights are divided among such a large number of remaindermen that it is not practicable to obtain the signatures of all the remaindermen, the mortgaging of remainder interests not exceeding 50 percent of the total remainder interest may be excluded from the security requirements upon prior approval by the National Office of the State Director's recommendation accompanied by a memorandum stating complete ownership information and circumstances which justify the exclusion. In such a case the loan may not exceed the normal value of the equity represented by the interests of those who sign the mortgage, determined with due regard to all special adverse factors involved. Remaindermen will be required to sign the note when necessary to a sound loan or to obtain the required security.

(c) *Chattel.* When authorized by paragraph (a) of this section, a mortgage may be taken on selected items of chattel or other nonreal estate security if such a mortgage will not interfere with the applicant's obtaining needed operating credit. When only a chattel mortgage is taken as security for the loan, it ordinarily will be a first lien. In an exceptional case, a mortgage subject only to a first mortgage held by another creditor or the Farmers Home Administration may be taken on chattel property provided the applicant clearly has sufficient mortgageable equity in the chattels to secure the loan.

(d) *Promissory note.* A loan of not more than $1,500 may be made on the basis of the borrower's promissory note without taking other security when—

(1) The applicant has a good reputation for paying his debts promptly;

(2) He is in a strong financial position and will have sufficient income to meet all his obligations; and

(3) The loan approval official determines that, on the basis of normal value, the applicant has equity at least equal to the amount of the proposed loan in assets that would be acceptable as security for the loan.

§ 1822.11 Processing applications and County Committee certification.

(a) *Applications.* Applications for section 502 RH loans will be taken on Form FHA 410–1, "Application for FHA Services," and processed in accordance with Part 1801 of this chapter. A person who is not a rural resident is not eligible for a loan unless he is the owner of a farm or nonfarm tract.

(1) In every case in which the applicant's family income is above moderate, and in any other case in which there may be any likelihood that the applicant could obtain the credit he needs to supplement his available resources to acquire an adequate dwelling or farm service buildings, the County Supervisor will require the applicant to make a diligent effort to obtain credit from other sources.

(i) Applicants will be expected to apply for credit from lenders engaged in extending long-time housing credit in the area.

(ii) Applicants should be advised to request lenders to indicate the amount and terms of housing credit they might be willing to extend to the applicant.

(iii) When appropriate, the County Supervisor should check on evidence presented by an applicant that he cannot obtain adequate credit elsewhere.

(iv) Letters from the lenders and any other evidence indicating that the applicant is unable to obtain credit elsewhere will be included in the loan docket.

(v) In no case will a loan be made to an applicant who is able to obtain the credit he needs to supplement his available assets at terms he can reasonably be expected to pay to provide a necessary adequate dwelling or necessary adequate farm service buildings.

(2) In any case in which a County Supervisor determines that there is no possibility of the applicant's obtaining adequate housing credit elsewhere and, therefore, does not require the applicant to provide evidence that he has made an effort to obtain such credit, the County Supervisor will record his conclusion and the basis for it in the loan docket.

(b) *Determination of income level of the applicant family.* (1) The County Committee will recommend in each case as to whether the applicant's family income should be considered as being in the "low or moderate" income group or in the "above-moderate" group. This determination will be made after the County Supervisor has had an opportunity to verify the income and financial information submitted by the applicant.

(2) Families in the "low or moderate" income group are those whose income is not significantly greater than the amount needed, considering the size and composition of the family, to enable them to have a reasonable level of living and meet necessary obligations and expenses, including payments on an RH loan to finance a modest home or essential farm service buildings and related facilities.

(3) Families in the "above-moderate" income group are those whose income is above the level needed to meet the requirements specified in subparagraph (2) of this paragraph. As a general rule, these will be families who could, if they were located in an urban area, obtain housing credit from another source.

(4) For an insured RH loan the following will be added as item 7 of Form FHA 440–2, "County Committee Certification."

7. For an RH insured loan, we recommend this applicant be considered as being in the (check one) ☐ "low or moderate" or ☐ "above-moderate" income group.

(c) *Certification by County Committee.* Before a loan is approved, the County Committee will make the necessary certifications on Form FHA 440–2. Before executing Form FHA 440–2, the County Committee will consider basic documents such as Form FHA 410–1, Form FHA 431–3, or Form FHA 431–2, and, if applicable, Form FHA 431–1, "Long-Time Farm and Home Plan," Form FHA 424–1, together with the plans and cost estimates for the proposed improvements, the appraisal report, or, when applicable, an estimate of the value of other property to be given as security. If the applicant is a senior citizen and the note is to be cosigned, information required from the cosigner and a statement by the County Supervisor regarding the cosigner also will be considered by the County Committee in making its certification. Members of the Committee may want to interview the applicant and want to see the farm or nonfarm tract on which the loan is to be made.

(1) If the Committee determines that it can make the necessary certification on Form FHA 440–2, the amount of the loan to be shown in the form is that for which the docket has been developed or a lesser amount if the Committee determines that the applicant cannot reasonably be expected to succeed with the loan as proposed.

(2) Ordinarily, the amount of the loan plus any other liens against the security will not be in excess of the recommended normal value of the security as shown on the appraisal report. A loan docket will not be developed when a loan plus any other liens against the security would be significantly in excess of the recommended normal value of the security. In an unusual case when the amount of a loan needed for success plus any other liens that will be against

the security is slightly above the recommended normal value of the security and the County Committee and the County Supervisor believe that the loan should be made, Form FHA 440–2 may be completed. In such a case, the completed loan docket will be submitted to the State Office for a determination as to whether it is justifiable to establish the normal value of the security above the appraiser's recommended normal value. If the loan approval official determines that the normal value is in excess of the appraiser's recommended normal value, he will record his determination of the normal value of the security on Form FHA 440–3.

(d) *Optioning of real estate.* If the loan includes funds to purchase real estate, the applicable provisions of FHA Instruction 443.1 regarding options will be followed. In any case in which there is a likelihood of termite infestation or damage to a building being purchased, the following will be inserted in the option form:

The seller agrees to furnish, at seller's expense, to the buyer a certificate from a reliable firm certifying that the following described building(s) covered by this option (1) is now free of termite infestation, and (2) either is now free of unrepaired termite damage or has suffered unrepaired termite damage which is specifically described in the certificate:

(Describe building(s)).

(Sec. 508, 63 Stat. 436, as amended; 42 U.S.C. 1478)

§ 1822.12 Preparation of loan docket.

(a) *Farm and home plans or family budget form.* Form FHA 431–2 will be developed for loans to farmers who depend on farm income for a livelihood. Form FHA 431–1 also will be prepared whenever appropriate. When a loan is to be made to a nonoperator farmowner, the columns in tables B, "Corps, Pasture, Etc.—Production and Sales," and C, "Livestock and Products—Production and Sales," of Form FHA 431–2 pertaining to the operator's share will be changed to owner's share. If an application is being considered early in the crop year for a borrower who has a current Form FHA 431–2, such form will be revised to show changes in the financial statement and significant changes in the planned operations; however, if the crop year is well advanced or completed, a farm and home plan will be developed for the ensuing year. If the applicant does not depend on farm income for a livelihood, Form FHA 431–3 will be used.

(b) *Agreements from prior lienholders.* When the loan is to be secured by a junior real estate mortgage, agreements will be obtained from prior lienholders to any extent necessary to comply with § 1822.10(b).

(c) *Information concerning prior mortgage.* The applicant for a loan to be secured by a junior real estate or chattel mortgage will be required to furnish the County Supervisor, before the docket is assembled, a copy of each mortgage held by a prior lienholder and, if available, a copy of each secured note or other obligation. In addition, the County Supervisor will be furnished a current statement signed by the mortgagee showing (1) the amount of unpaid principal secured by the mortgage, (2) the amount of any accrued interest, (3) whether the account is current or the amount of any delinquency, with interest and principal shown separately, and (4) if a copy of the note is not furnished, its maturity date, payment schedule, interest rate, and a summary of any other provisions of the note. All these documents will be included in the docket for the information of the loan approval official. Any cost incident to obtaining them will be paid by the applicant.

(d) *Information about cosigner for a senior citizen loan.* When the note of a senior citizen borrower will be cosigned, information obtained from the cosigner will include a current financial statement, a statement of income and expenses, the nature of his employment, and a brief statement as to his employment history. The information required from the cosigner will be supplemented by a statement by the County Supervisor as to the cosigner's financial condition and reputation for paying his debts and any other information that would be of assistance to the loan approval official in determining the soundness of the loan. This information will be included in the docket.

§ 1822.13 Loan approval.

(a) *Delegation of authority.* The State Director is authorized to approve or disapprove loans in accordance with this Subpart A. However, no initial RH or subsequent RH loan may be approved by the State Director without the consent of the National Office if (1) the amount of the loan plus the unpaid principal balance and any past-due interest on liens against the security for the loan and against any other real property of the applicant would exceed $50,000, or (2) the proposed loan, together with the principal balance owed on other Farmers Home Administration loans, would cause the total indebtedness to Farmers Home Administration to exceed $50,000. The loan docket and the State Director's recommendation should be submitted with any request for authority to approve a loan in excess of these limitations. The State Director may redelegate, restrict, or revoke loan approval authority to: State Office employees other than Area Supervisors and to County Supervisors and GS–7 Assistant County Supervisors in accordance with Part 1821 of this chapter, except that he may not redelegate below the State Office level authority to approve loans pursuant to § 1822.16.

(b) *Approval or disapproval of a loan.* When a loan is approved, the loan approval official will:

(1) Indicate on all copies of Form FHA 440–3 any condition that must be met before the loan is closed and specify the security requirement that the applicant will need to meet, such as a first real estate lien, or a junior lien subject to certain prior liens, and so forth. If title evidence is required in accordance with Part 1807 of this chapter or in accordance with any special requirements for the loan but is not included in the docket, the loan may be approved subject to the applicant's furnishing the required title evidence. When the applicant furnishes satisfactory title evidence, the County Supervisor will proceed with processing the loan, except that in those cases in which the title evidence does not comply with the conditions specified by the approval official, the docket will be reconsidered by the loan approval official.

(2) Sign the approval certification on the original and two copies of Form FHA 440–3 and insert his title in the space provided.

(3) For a direct loan or an insured loan from the insurance fund, sign Form FHA 440–1 and insert his title in the space provided.

(4) If a loan is not approved after the docket has been developed, the reasons for such action will be shown on the original Form FHA 440–3, it will be initialed and dated, and the County Supervisor will notify the applicant of the disapproval and the reasons. If the notice was not in writing, the County Supervisor will record in the running record a brief summary of the discussions with the applicant and should advise the County Committee of the action taken on the loan.

§ 1822.14 Actions subsequent to loan approval.

(a) *Requesting check.* When the loan has been approved, approval conditions can be met, any necessary curative actions have been taken to provide a satisfactory title to any real estate security, and a date has been set for loan closing, the County Supervisor will order the loan check. However, the check may be requested at the time of loan approval if real estate will not be taken as security or, if real estate is taken as security and satisfactory title evidence is obtained prior to loan approval.

(1) For a direct loan or an insured loan from the insurance fund, if the check is to be ordered at the time of loan approval, the County Supervisor will mark the block in Form FHA 440–3 for issuance of the check and sign and date the portion of the form to request the check. If the check is not ordered at the time of loan approval, a copy of Form FHA 440–3 will be completed after loan approval to request the check in sufficient time to obtain the check prior to the loan closing date. In the latter case if the Form FHA 440–3 sent the Finance Office when the loan was approved showed that the loan was being made from the insurance fund but it is determined that a private lender will furnish the funds for the loan, the copy of Form FHA 440–3 to be sent to the Finance Office to request the check will show that a private lender is available and the insurance fund obligation is to be canceled.

(2) For an insured loan by a private lender, the County Supervisor will request the check by preparing Form FHA 440–7, "Request for Check," in an orig-

inal and one copy and submit the original to the State Director. If the name of the lender is known, the County Supervisor will enter it on Form FHA 440–7. If the lender does not require attestation of the County Supervisor's signature, the original Form FHA 440–7 may be delivered to the lender and the copy sent to the State Office. In a case where the seller of property being purchased by the borrower is also the insured lender, the amount of check requested will be only for the amount of cash, if any, he will advance. If the bank handling the supervised bank account will require the lender's personal check to clear before disbursing funds, the lender will be requested to furnish a certified or cashier's check. When suitable arrangements can be made with the lender, a bank draft may be used to obtain the loan funds. The lender or his representative may present the check at the time the loan is closed, or, if desired, the check may be mailed to the County Supervisor in sufficient time for closing.

(3) The State Office will take the following action when Form FHA 440–7 is received from the County Office unless the County Supervisor has delivered the original completed Form FHA 440–7 to the lender:

(i) Check or insert the name and address of the lender and see that these entries are correct.

(ii) Attest the signature of the County Supervisor on the original of Form FHA 440–7.

(iii) Forward the original Form FHA 440–7 to the lender.

(b) *Handling loan checks.* (1) For a direct or insured loan, if the loan check is to be deposited in a supervised bank account, this will be done on the date of loan closing in accordance with Part 1803 of this chapter after it has been determined that the loan can be closed.

(2) When a private lender issues a loan check payable jointly to the borrower and the Farmers Home Administration, the County Supervisor is authorized to endorse the check on behalf of the Farmers Home Administration at the time of loan closing as follows:

Endorsed without recourse:
FARMERS HOME ADMINISTRATION
By _____
Title _____

The State Director also is authorized to endorse such a check in the same manner. Authority to endorse such checks in no way relates to or modifies the regulations contained in Part 1862 of this chapter regarding collection items or the endorsement of such items.

(3) If a loan check other than a check from a private lender is received and the loan cannot be closed within 21 days from the date of the check, the County Supervisor will take appropriate action in accordance with Part 1803 of this chapter.

(4) Where the loan check is received from a private lender, and the loan can be closed but not on the date previously indicated to the lender, the lender will be notified immediately of the reasons for the delay. If it is determined that such a loan cannot be closed, the check will be returned immediately to the lender with a request for cancellation. In no case may a lender's check be retained more than 21 days from the date of the check. When a loan check is lost, mutilated, or destroyed, the County Supervisor will immediately notify the lender and, if the borrower still desires to close the loan, the lender will be requested to issue a new check. When a check is returned to the lender and the loan will be closed at a subsequent date, another check will be requested in the usual manner.

(c) *Cancellation of loan.* Loans may be canceled before loan closing by the use of Form FHA 440–10, "Request for Cancellation of Loan."

(1) For a direct loan or an insured loan from the insurance fund, if a check is received in the County Office, the County Supervisor will return it to the U.S. Treasury, Regional Disbursing Office, Kansas City, Mo., with a copy of Form FHA 440–10.

(2) Any check advanced by a private lender will be returned promptly to the lender with an explanatory letter.

(3) Interested parties will be notified of the cancellation as provided in Part 1807 of this chapter.

(d) *Property insurance.* (1) Buildings on the property which is to be taken as security for the loan will be insured in accordance with Part 1806 of this chapter.

(2) When a loan is secured by a mortgage on chattels, and the loss of such chattels would jeopardize the interests of the Government, the County Supervisor may require the borrower to insure the chattels against hazards customarily covered by insurance in the area.

§ 1822.15 Loan closing actions.

(a) *Review of financial statement.* Just before loan closing, the County Supervisor will review with the applicant the financial statement which was prepared at the time the docket was developed. If there have been significant changes in his financial conditions, the financial statement will be revised and initialed by the borrower and the County Supervisor. When an applicant's financial condition has changed to the extent that it appears that the loan would be unsound or improper, the loan will not be closed. If possible, a revised loan docket will be processed; otherwise, the loan will be canceled.

(b) *Preparation of note and mortgage and loan closing procedure.* Any changes made in the printed or typewritten text of any instrument will be initialed in the margin by all persons signing the instrument.

(1) A loan secured by a real estate mortgage (including a mortgage on a leasehold) will be closed in accordance with Part 1807 of this chapter. Real estate mortgage Form FHA 427–2, "Real Estate Mortgage for _____ (Direct Loan)," will be used for a direct loan, and Form FHA 427–1, "Real Estate Mortgage for _____ (Insured Loan)," will be used for an insured loan.

(i) For an insured loan on a nonfarm tract, a senior citizen loan on a farm, or a senior citizen loan to purchase a dwelling, an additional covenant will be inserted in the mortgage as follows:

Borrower will personally occupy and use any buildings on said property which are constructed, improved, or purchased with the loan secured hereby and not rent or lease said buildings unless the Government consents in writing to other occupancy or use or to a rental or lease.

(ii) Any special forms required in connection with a loan on a leasehold will be prepared or approved by the Office of the General Counsel or the State Director.

(iii) For a loan secured by a mortgage upon a leasehold the following language, or similar language which in the opinion of the Office of the General Counsel is legally adequate, will be inserted in the mortgage just before the legal description of the real estate:

All Borrower's right, title, and interest in and to the leasehold estate for a term of_____years beginning on _____, 19__, created and established by certain Lease dated_____, 19__, executed by_____ as lessor(s), recorded on _____, 19__, in Book _____, page _____ of the Records of said County and State, and any renewals and extensions thereof, and all Borrower's right, title, and interest in and to said Lease, covering the following real estate:

(iv) For a loan secured by a mortgage upon a leasehold an additional covenant will be inserted in the mortgage to read as follows:

Borrower will pay when due all rents and any and all other charges required by said Lease, will comply with all other requirements of said Lease, and will not surrender or relinquish, without the Government's written consent, any of Borrower's right, title, or interest in or to said leasehold estate or under said Lease while this instrument remains in effect.

(2) Form FHA 440–16, "Promissory Note (Insured Loan)," will be used for insured loans and Form FHA 440–17, "Promissory Note (Direct Loan)," will be used for direct loans.

(i) The note will be signed in accordance with Part 1807 of this chapter.

(ii) The amount of the first installment will be determined by the County Supervisor after considering the immediate debt-paying ability of the borrower. The amount of the first installment may be less, but not more, than a regular annual installment.

(iii) For a direct loan to a borrower participating in an authorized mutual self-help housing project, the initial payment may be scheduled for the second January 1 after the loan is closed if the borrower will be unable to occupy the house by the first January 1. If he will not have sufficient income to pay a full installment by the second January 1, the payment due on the second January 1 may be less than a full installment.

(iv) For an insured loan, the amount of the first installment may not be less than the amount equal to interest on the loan from the date of loan closing to February 1 of the calendar year following

the calendar year in which the loan is closed.

(v) In any case in which a real estate mortgage will not be taken, the following provision will be inserted in the note:

No property constructed, improved, or purchased in whole or in part with the loan may be assigned, sold, transferred, or encumbered, voluntarily or otherwise, without the written consent of the Government.

(vi) When a real estate mortgage will not be taken in the case of a direct loan on a nonfarm tract or a senior citizen loan on a farm, the following provision will be inserted in the note:

Property constructed, improved, or purchased with the loan will be personally occupied and used by Borrower and not rented or leased, unless the Government gives written consent otherwise.

If the note form already contains a similar printed provision limited to property constructed or improved with an RH loan, the printed provision will be stricken.

(vii) When a senior citizen note is being cosigned, the following sentence will be inserted in the space above the signature and the name of the cosigner will be written in the blank space at the end of the sentence:

The provisions of this note that the undersigned (a) personally occupy and use the dwelling and (b) refinance from other credit sources shall not apply to _____.

(3) (i) A loan on security other than real estate will be closed in accordance with § 1831.34 of this chapter except paragraph (a) thereof.

(ii) Nonreal estate security instruments, and related instruments, as appropriate, will be prepared in accordance with Operating Loan instructions regarding security instruments and related instruments except that all provisions for creating a crop lien or security interest will be deleted and for insured loans the Form FHA 440–15, "Security Agreement (Insured Loans to Individuals) (State)," series will be used.

(4) For an insured loan made with a private lender's funds, the promissory note will be assigned to the lender simultaneously with loan closing. This will be done by endorsing the note over to the lender, using the form of endorsement on the reverse of the note. Form FHA 440–5, "Insurance Endorsement (Insured Loans)," will also be executed simultaneously with loan closing for delivery to the lender with the note. If the insurance endorsement is not to provide for purchase by the Government at the holder's option, paragraph 7 will be deleted.

(i) Each County Supervisor and each State Director is authorized to sign the endorsement on the reverse of the note and to execute Form FHA 440–5. The insurance endorsement constitutes the Government's contract of insurance of the loan.

(5) For loans from the insurance fund, the note will not be endorsed and the insurance endorsement will not be prepared until the loan is assigned from the insurance fund to a lender. In such case, the endorsement on the reverse of the note and the insurance endorsement will be executed in accordance with Part 1873 of this chapter.

(6) When the first installment on a loan closed during December will be due next January 1, the installment will be collected at the time of loan closing.

(7) Immediately after loan closing, there will be sent to the Finance Office the original note for a direct loan, the original and a copy of the note for an insured loan made from the insurance fund, and a copy of the note and the executed Form FHA 440–5 for an insured loan made by a private lender.

(8) When the real estate mortgage is returned by the filing official, the original will be retained in the borrower's case folder unless it is retained by the filing official for the county records. If the original is retained by the filing official in his official records, a copy conformed to show the recording date including the date and place of recording and the book and page number will be filed in the borrower's case folder. A copy of the mortgage will be delivered to the borrower.

(c) *Other actions.* (1) For assignment of income from real estate security, Form FHA 443–16, "Assignment of Income from Real Estate Security," will be used. If the form is legally inadequate it may be adapted with the approval of the Office of the General Counsel. The County Supervisor, upon the advice of the designated attorney, title insurance company, or Office of the General Counsel, as appropriate, may require the acknowledgment and recordation of the assignment. Any cost incident thereto will be borne by the borrower.

(2) If an owner's policy of title insurance is obtained, it will be delivered to the borrower as soon as it is received from the title insurance company.

(3) A loan secured by a real estate or chattel mortgage is closed when the mortgage is filed for record. In other cases a loan is closed when the loan funds are deposited in the supervised bank account or otherwise made available to the borrower after he executes and delivers the note and any other required instruments.

§ 1822.16 Rural Housing disaster loans.

(a) *Eligibility.* When a natural disaster including earthquake, flood, forest fire, severe windstorm, or lightning damages or destroys farm and rural dwellings, farm service buildings, and related facilities, section 502 RH direct loans will be made under this section to eligible RH applicants for the repair or replacement of such buildings on the same or a different site.

(b) *Interest rate.* Loans made under this section will bear interest at 3 percent per year.

(c) *Repair or replacement of buildings.* Repair or replacement of any damaged or destroyed building must be consistent with basic section 502 RH loan policies. Changes may be made in the building, but in any case the repaired or replaced building should not be significantly larger or more costly than the original building except as necessary to provide a building which is adequate but modest. No new building constructed under this paragraph will exceed the limits established by subparagraphs (1) and (3) of § 1822.7(c).

(d) *Approval authorization.* The authority to approve rural housing disaster loans will not be redelegated by the State Director below the State Office level. The State Director will approve any disaster loan only after he determines that (1) the loss or damage was due to a natural disaster, (2) the application was filed within 12 months from the date the loss or damage occurred, (3) the applicant is using his available assets, including insurance loss payments, to repair or replace any damaged or destroyed building, (4) the loan will supplement other assistance, such as State or local, Small Business Administration, and Red Cross assistance, to the extent available, and (5) if the applicant is a nonowner occupant, the building he occupied was so badly damaged by the disaster that it is no longer habitable and the owner does not intend to repair or replace the building. Adequate information will be included in the docket to enable the State Director to make the determination required by this subsection.

(e) *Nature of loss.* Each case will be identified by "NATURAL DISASTER" on Form FHA 440–3, in the block, "Source of Funds," and on Form FHA 444–2, beneath the heading. In part D, item III, of Form FHA 444–2, beneath "Use of Funds," "Description of Loss" will be entered and the circumstances surrounding the loss will be fully documented. The cause, nature, and extent of the physical damage, the amount of any insurance loss payments, and the cost of repair or replacement should be recorded.

(f) *Deferred payments.* On loans made under this section, payments of interest and principal may be scheduled so as not to begin for a period up to 5 years from the date of the loan, subject to compliance with all the following conditions:

(1) The applicant, as a result of the loss suffered from the disaster, has had a substantial loss of income or his essential debts, including the proposed RH loan, have increased substantially as a result of the disaster. An applicant who has not experienced an income loss as a result of the natural disaster may not qualify for a deferment if the only additional debts he had to incur was for the repair or replacement of his dwelling.

(2) The income loss or increase in essential debts must be sufficiently great so that the applicant will not likely be able to pay a full annual installment during the proposed deferment period and also meet his other essential obligations.

(3) The applicant's other indebtedness has been adjusted by reduction, reamortization, extension, or other means, to the extent possible by negotiations with the other creditors.

(4) There is adequate evidence that the applicant's income in relation to his

total obligations will be sufficient after the deferment period to enable him to meet the payments on the RH loan and all his other obligations.

§ 1822.17 Subsequent section 502 RH loans.

(a) Definition: A subsequent section 502 RH loan is a section 502 RH loan made to a borrower who has an existing section 502 RH loan. Subsequent loans may be made for the same purposes and under the same conditions and limitations as initial loans.

(b) Processing subsequent loans: A subsequent loan will be processed in the same manner as initial loans, except that a new appraisal report will be required only when real estate will be taken as security and at least one of the following exists:

(1) The property was not appraised in connection with the initial loan.

(2) The latest appraisal report of the real estate is over 2 years old.

(3) The latest appraisal report is less than 2 years old but the appraiser recommended the normal market value rather than normal value.

(4) The physical characteristics of the property have changed significantly.

(5) The County Supervisor or loan approval official requests a new appraisal report.

(c) Nonreal estate security: A subsequent RH loan may be secured wholly by nonreal estate, provided the amount of the subsequent loan plus the unpaid principal balance of any prior RH loan or loans secuerd by noneral estate does not exceed $2,500.

(d) Note-only: A subsequent RH loan may be made on a note-only basis, provided the amount of the subsequent loan plus the unpaid principal balance of any prior RH loan or loans secured by a note only does not exceed $1,500.

(e) Designation of note in real estate mortgage: When real estate mortgage is required in connection with a subsequent RH loan, any outstanding RH notes will be described in the mortgage.

(f) The subsequent loan will bear interest at a rate determined in accordance with this subpart, which may not be the same rate as borne by the initial loan.

Subpart B—Section 503 Loan Policies, Procedures, and Authorizations

AUTHORITY: The provisions of this Subpart B issued under secs. 501, 503, 510, 63 Stat. 432, as amended, 434, 437; 42 U.S.C. 1471, 1473, 1480; Orders of the Sec. of Agr., 19 F.R. 74, 28 F.R. 9676, 29 F.R. 366, 2433, except as otherwise noted.

§ 1822.21 General.

This Subpart B prescribes the policies, procedures, and delegations of authority for making initial and subsequent Rural Housing loans under Section 503 of the Housing Act of 1949. Section 503 loans will be made in accordance with the provisions of Subpart A of this Part 1822 as supplemented and modified by this Subpart B. Additional provisions for making special types of section 503 loans are contained in Subchapter D of this chapter.

§ 1822.22 Objective.

The objective of section 503 loans is to give qualified farm owners who lack sufficient income to repay a loan for decent, safe, and sanitary housing or for adequate farm service buildings an opportunity to obtain a loan for such purposes, provided they can increase their farm income sufficiently in not more than five years to meet their loan payments as they become due. To enable such farm owners to increase their incomes, funds may be included in the loan to buy and develop farm land.

§ 1822.23 Qualifications.

To be eligible for a section 503 loan, an applicant must be the owner of a farm and otherwise eligible under § 1822.4, except that:

(a) His housing credit needs cannot be met with a Farm Ownership loan or a section 502 loan.

(b) Because of inadequate income from the farm and other sources, he cannot reasonably be expected to meet in full the annual payments on the loan during one or more of the first five years but can reasonably be expected to pay at least 50 percent of the principal amount due during each of the first five years.

(c) His farm income can be increased within not more than five years as a result of improvement or enlargement of the farm or adjustment of farm practices, production, or methods sufficiently to pay the annual installments that will become due after the first five years.

(d) The farm to be improved will not be larger than an adequate family farm as defined in Part 1821 of this chapter.

§ 1822.24 Loan purposes.

Section 503 loans may be made to qualified farm owners for:

(a) The purposes specified in § 1822.6, and

(b) The purchase of land to enlarge the applicant's farm or provide for land development in order to furnish income sufficient to support decent, safe, and sanitary housing and adequate essential farm service buildings and to encourage adequate family farms. Section 1821.7 (c) of this chapter will be applicable to the land development items to be financed with loan funds. Funds will not be included for land purchase or development unless funds also are provided in the loan for constructing, repairing, or improving a farm dwelling or farm service building.

(Sec. 504(b), 63 Stat. 435, 42 U.S.C. 1474(b))

§ 1822.25 Special requirements.

(a) *Supervision.* Each borrower will receive intensive supervision during the period the contribution agreement is in effect and for such additional period as may be necessary in accordance with the policies in Part 1802 of this chapter.

(b) *Contributions.* During each of the first five years following the date of the borrower's promissory note, the Farmers Home Administration may, in accordance with Form FHA 444–1, "Rural Housing Contribution Agreement," make an annual contribution in the form of a credit to the borrower's indebtedness in an amount not to exceed the annual installment of interest and 50 percent of the annual principal installment. Each such contribution must be justified by evidence that the borrower's income is, in fact, insufficient to enable him to make the scheduled payment and that the borrower has carried out his farm plan with due diligence. At the time of the year-end analysis, the farm and home records and the farm and home plan will be used for the purpose of determining the amount of the contribution, if any, the Farmers Home Administration will make in the form of a credit on the borrower's annual installment.

(c) *Reaching an understanding with the applicant.* The County Supervisor, prior to loan approval, should reach a thorough understanding with the applicant with respect to his responsibilities in connection with the loan. Particular attention should be given to the following:

(1) The applicant will be required to develop and follow annual and long-time farm and home plans and to keep a record book as a basis for determining whether or not he is qualified for a contribution during any of the first five years.

(2) The applicant will be responsible for providing accurate information as to his income and expenses.

(3) Neither the contribution agreement nor credits of principal or interest on the loan will be assignable or accrue to a third party without the written consent of the Farmers Home Administration. In case title to the farm is transferred, the Farmers Home Administration may require the full payment in cash of the entire original loan plus accrued interest, less any actual payments made, when the Farmers Home Administration determines that the benefits would accrue to a person not eligible for a section 503 loan. The Farmers Home Administration may refuse to release the lien until full payment is made.

(d) *Option for land purchase.* When land purchase is involved in connection with a loan, Form FHA 443–1, "Option to Purchase Real Property," will be obtained prior to the time the services of the appraiser are requested. The provisions of Part 1821 of this chapter will be observed in obtaining and accepting the option.

(Sec. 504(b), 63 Stat. 435; 42 U.S.C. 1474(b))

§ 1822.26 Terms of loan.

Each loan will be scheduled for repayment over a period of 33 years from the date of the note.

§ 1822.27 Security.

Each loan will be secured by a mortgage on the borrower's farm and such other property as may be necessary to adequately secure the loan.

§ 1822.28 Appraisal.

An appraisal by an employee authorized to appraise farms will be made irrespective of the size of the loan.

§ 1822.29 Loan approval.

Section 503 loans will be approved in accordance with the authorizations in § 1822.13.

§ 1822.30 Loan closing.

(a) *Promissory note.* The first installment will be the amount of interest that will accrue on the loan from the date of the note to the next January 1.

(b) *Contribution agreement.* Form FHA 444–1 will be prepared in an original and two copies. The original and one copy will be executed by the borrower and his wife in the same manner as the note and by the County Supervisor at the time of loan closing. One signed copy will be given to the borrower.

§ 1822.31 Subsequent loans.

(a) A subsequent section 503 loan may be made only to a borrower who is indebted for a section 503 loan. A subsequent loan may be made for the same purposes as an initial loan and will be made in the same manner as an initial loan except that a new appraisal will not be required unless:

(1) The latest appraisal report is over two years old or the appraiser recommended the normal market value rather than the normal value;

(2) The physical characteristics of the property have changed significantly; or

(3) The County Supervisor or loan approval official requests a new appraisal report.

(b) If a section 503 borrower receives any other type of real estate loan during the first five years after he received the section 503 loan, the contribution agreement will be cancelled and he will not be eligible for any additional contributions.

Subpart C—Farm Labor Housing Loan Policies, Procedures, and Delegations of Authority

AUTHORITY: The provisions of this Subpart C issued under sections 502, 510, 514, 517, 63 Stat. 433 as amended, 437, 75 Stat. 186 as amended, 79 Stat. 498; 42 U.S.C. 1472, 1480, 1484, 1487; Orders of Secretary of Agriculture, 29 F.R. 16210, 16840, 30 F.R. 14049.

§ 1822.61 General.

This subpart sets forth the policies and procedure and delegates authority for making initial and subsequent insured loans under sections 514 and 517 of the Housing Act of 1949, to provide housing and related facilities for domestic farm labor (LH loans).

§ 1822.62 Objective.

The basic objective of the Farmers Home Administration (FHA) in making and insuring LH loans is to provide decent, safe, and sanitary housing and related facilities for domestic farm labor.

§ 1822.63 Definitions.

As used in this subpart—

(a) "Domestic farm labor" means persons who receive a substantial portion of their income as laborers on farms in the United States and either are citizens of the United States, or reside in the United States after being legally admitted for permanent residence, and may include the families of such persons. Laborers on farms may include laborers engaged in handling agricultural commodities while in the unprocessed stage, provided title to the commodity is held by the producer and the place of employment, such as a packing shed, is on or near the farm where the commodity is produced. Laborers on farms do not include workers on "oyster farms" or "fish farms."

(b) "Housing" means existing structures or new structures which are or will be suitable for decent, safe, and sanitary dwelling use by domestic farm labor. "Housing" may include "related facilities" where appropriate.

(c) "Related facilities" include community rooms or buildings, cafeterias, dining halls, infirmaries, child care facilities, assembly halls, and other essential service facilities, such as central heating, sewerage, lighting systems, bathing facilities, and a safe domestic water supply. All related facilities must be reasonably necessary for proper use of the housing as dwellings for the domestic farm labor occupants.

(d) "Individual farmowner" means the "owner" of a "farm" as those terms are defined in Subpart A of this part.

(e) "Organization" means an association of farmers, a State or political subdivision, or a public or private nonprofit organization.

(f) "Association of farmers" means a group of farmers acting as a single legal entity, of whose members each is an individual devoting a substantial part of his time to personal participation in the conduct of farming operations. Though an association of farmers is not required to be a nonprofit organization, its operation of the housing must be on a nonprofit basis.

(g) "Nonprofit organization" means an organization which is organized and operated on a nonprofit basis, and is legally precluded from distributing any profits or dividends to its members before dissolution.

(h) "Construct or repair" means to construct new structures or facilities, or to acquire, relocate, or improve existing structures or facilities, but does not include the acquisition of land.

(i) "Members" and "membership" include stockholders and stock where appropriate.

(j) "Board" and "directors" include the governing body and members of the governing body of an organization.

(k) "Note" may include bond or other form of obligation.

(l) "Mortgage" may include any appropriate form of security instrument.

(m) "County Supervisor" and "State Director" mean the authorized officials of the Farmers Home Administration for the area in which the housing site is located.

§ 1822.64 Eligibility requirements.

(a) *Eligibility of applicant.* To be eligible for an LH loan, the applicant must meet the following requirements:

(1) The applicant must be either:

(i) An individual farmowner who meets the eligibility requirements of Subpart A of this part; or

(ii) An organization which will own the housing and related facilities, including the site, and operate them on a nonprofit basis.

(2) If the housing is for labor to be used elsewhere than in farming operations on land owned or operated by an individual applicant, or by an organization applicant or any of its members, or by a corporation wholly owned by any of the applicant's members, the applicant must comply with subparagraph (1) of this paragraph and—

(i) Be an individual who is an established resident of the community and will personally operate or supervise operation of the housing, or be an organization a majority of whose members and directors are established residents of the community;

(ii) Have had extensive and successful experience in providing farm labor in the area;

(iii) Have had the approval of appropriate State officials of the applicant's operations, and be likely to continue to have such approval; and

(iv) Be financially responsible and likely to succeed in the labor contracting business.

(3) Be unable to provide the necessary housing from the applicant's own resources, including any power to levy taxes, assessments, or charges, and unable to obtain the necessary credit from other sources upon terms and conditions the applicant could reasonably be expected to fulfill.

(4) Have initial operating capital and other assets needed for a sound loan, and have, after the loan is made, income sufficient to meet the applicant's operating expenses, necessary capital replacements, payments on the loan and any other authorized debts, other reasonable and necessary expenses, and the accumulation of reasonable reserves as required. Initial operating capital should be sufficient to pay for such costs as property and liability insurance premiums, fidelity bond premiums in case of an organization, utility hookup charges, maintenance equipment, movable furnishings and equipment, printing lease forms, and other initial expenses.

(5) Possess the legal capacity and the character, ability, and experience to carry out the undertakings and obligations required for the loan, including the obligation to maintain and operate the housing and related facilities for the purpose for which the loan is made.

(b) *Authorized representative of applicant.* The FHA will deal only with the applicant or its bona fide representative and technical advisers. The authorized representative of the applicant must

be a person who has no pecuniary interest in the award of the architectural or construction contracts, the purchase of equipment, or the purchase of land for the housing site.

§ 1822.65 Loan purposes.

LH loans may be made only to—

(a) Construct or repair housing as defined in § 1822.63, which may include single family units, apartments, dormitory-type units, or multiuse housing.

(b) Improve the necessary land on which the housing will be located, such as landscaping, foundation plantings, seeding and sodding lawns, and constructing walks, yard fences, parking areas, and driveways.

(c) Develop and install related facilities as defined in § 1822.63(c), and other related facilities, subject to the limitations of § 1822.63(c)(1), for the use of the occupants of the housing, such as:

(1) Recreation area or center;

(2) Central cooking and dining facilities;

(3) Small infirmary for emergency care only;

(4) Laundry facilities;

(5) Fallout shelters or similar protective structures;

(6) Essential equipment, which upon installation, legally becomes part of the real estate. The applicant must provide movable-type furnishings and equipment from his own funds.

(d) Pay related costs such as fees and charges for legal, architectural, and other appropriate technical services.

(e) Pay interest which will accrue on the loan from the date of loan closing to the estimated completion date of construction which the applicant cannot pay from other resources.

§ 1822.66 Limitations.

(a) *Docket development.* No docket for a loan or loans which would result in the applicant's LH indebtedness exceeding $500,000 will be developed without the prior consent of the National Office. For the purpose of this paragraph, two organizations will be considered one if a majority of the members or directors are the same persons. Any requests for such consent must include detailed, accurate, complete, and current information concerning:

(1) Name and address of applicant;

(2) Applicant's assets;

(3) A listing of any debts owed;

(4) Status of each debt;

(5) Information on any interlocking memberships or boards of directors;

(6) Applicant's experience in operating farm labor housing;

(7) Applicant's financial contribution to the project;

(8) A realistic estimate of future need for the housing;

(9) A general description of the housing planned;

(10) Evidence of need submitted by the applicant, and the County Supervisor's evaluation; and

(11) Any other factors having a bearing on the need for and financial soundness of the proposed housing.

(b) *Loan limits to an individual.* A loan to an individual may not exceed the normal value of the farm improved with the loan, as determined by the loan approval official, less the unpaid principal balance plus past-due interest of any prior or junior liens that will or are likely to exist against the property after the loan is closed, or the actual cost to the applicant of approved items eligible under § 1822.65.

(c) *Loan limits to an organization.* The amount of a loan to an organization may not exceed the estimated depreciated replacement value of the completed housing and related facilities financed with the loan, or the actual cost to the applicant of approved items eligible under § 1822.65, whichever is less. Also, the amount of the loan added to unpaid principal plus past-due interest of any other liens that will or are likely to exist against the security may not exceed its present market value.

(d) *Limitations on use of loan funds.* Loan funds may only be used for the purposes stated in § 1822.65. Among the purposes for which loan funds will not be used are the following:

(1) Housing or related facilities which are elaborate or extravagant in design or material.

(2) Refinancing debts of the applicant.

(3) Land purchase.

(4) Movable-type furnishings or equipment.

(5) Payment of any fees, charges, or commissions to any broker, negotiator, or other person for the referral of a prospective applicant or solicitation of the loan.

(6) Payment of any fee, salary, commission, profit, or compensation to an applicant, or any officer, director, trustee, stockholder, member, or agent of the applicant, except as provided in § 1822.65(d).

(e) *Obligations incurred before loan closing.* When the applicant files an application for a loan, the County Supervisor will advise the applicant that construction must not be started and obligations for work or materials must not be incurred before the loan is closed, and that it is the policy of the FHA not to permit loan funds to be used to pay such obligations. If, nevertheless, the applicant incurs debts for materials or construction before the loan is closed, we State Director may authorize the use of loan funds to pay such debts, but only when he finds that all the following conditions exist:

(1) The debts were incurred after the applicant filed a written application for a loan.

(2) The applicant is unable to pay such debts from his own resources or from credit from other sources, and failure to authorize the use of loan funds to pay such debts would impair the applicant's financial position.

(3) The debts were incurred for authorized loan purposes.

(4) Contracts and construction work meet Farmers Home Administration standards.

§ 1822.67 Rates and terms.

(a) *Amortization period.* Each loan will be scheduled for payment in installments within a period, not to exceed 33 years, as may be necessary to assure that the loan will be adequately secured, taking into account the probable depreciation of the security.

(b) *Interest rate.* The interest rate payable by individuals and by organizations which are not public bodies will be 5 percent per year on unpaid principal. The interest rate payable by organizations which are public bodies will not exceed 5 percent, and will be determined as provided in Part 1810 of this chapter.

(c) *Yield to lender, annual charge, and repurchase period.* The rate of return to the lender, the annual charge retained by the Government, and the period of initial repurchase agreement will be determined as provided in Part 1810 of this chapter.

§ 1822.68 Special conditions.

(a) *Group service loans.* When it is more feasible for a group of individual farmowners not constituting an association to provide housing for domestic farm labor through joint ownership and operation of the housing, an individual LH loan may be made to any member of the group subject to the provisions of this subpart regarding LH loans to individual farmowners. The jointly owned housing site will be considered part of each individual farm.

(b) *Refinancing LH loans.* Each borrower will be required to agree to refinance the unpaid balance of his LH loan at the request of the FHA, whenever it appears to the FHA that he is able to obtain a loan from responsible cooperative or private credit sources at reasonable rates and terms.

(c) *Loan resolution or loan agreement.* An organization applicant will have its Board of Directors adopt a loan resolution and furnish a certified copy for the loan docket before loan approval. The resolution will be in form prescribed or approved by the National Office of the FHA. An individual farmowner applicant, in any case where required by the State Director or the National Office, will execute a loan agreement in form prescribed or approved by the National Office. The provisions of the resolution or agreement should be read and fully understood by the applicant. They will be binding on the applicant as a part of the loan contract.

(d) *Restrictions on conditions of occupancy.* No organization borrower, unless it is composed of individual farmowners, will be permitted to require as a condition of occupancy of the housing that an occupant work on any particular farm or for any particular owner or interest.

(e) *Supervisory assistance.* Supervision will be provided borrowers to the extent necessary to achieve the objective of the loan and protect the interest of the Government.

(f) *Deferred principal payments.* When necessary because of deficiency in the applicant's income or other resources, smaller than regular payments of principal or no payments of principal

may be provided for the first, or first and second, installment dates after loan closing. However, the first installment may not be less than interest accruing to February 1 of the next year after the calendar year in which the loan is closed, and the second installment may not be less than the interest accruing for 1 year.

(g) *Multiple advances.* (1) The entire loan will be disbursed at the time of loan closing in only one advance when the loan is made from the Insurance Fund or with funds provided by a national lender.

(2) The loan may be disbursed in not more than three advances over a period not to exceed 2 years from the date of the first advance, when a local lender provides the funds for the loan and agrees in writing to the multiple advances.

§ 1822.69 Security requirements.

(a) *General.* Each loan will be secured so as to adequately protect the financial interest of the Government in the loan during its payment period.

(b) *Loan to an individual farmowner.* For every loan to an individual farmowner, a real estate mortgage will be taken on the farm, subject to Part 1807 of this chapter and § 1822.10(b), excluding the provisions permitting $2,500 to be not secured by real estate of good title.

(c) *Loan to an organization.* (1) A loan to an organization which can give a real estate mortgage will be secured by a mortgage on good and marketable title to the real estate including the housing, the related facilities, and the site, subject to any exceptions that may be waived as provided in § 1807.2(d) of this chapter.

(2) If a first mortgage cannot be obtained, a junior mortgage may be taken provided:

(i) The prior mortgage as affected by the State law does not contain such provisions for future advances, payment schedules, forfeiture or cancellation, foreclosure without adequate notice to junior lienholders, or other matters as may jeopardize FHA's security position or the borrower's ability to pay the loan; or

(ii) Such provisions are satisfactorily limited, modified, waived, or subordinated.

(3) When necessary or advisable for pursuing the objectives of the loan or protecting the Government's financial interest in the loan, a mortgage or other security interest may be taken in other real property or in personal property owned by the borrower.

(4) When necessary or advisable, additional or other security may be taken in such forms as a pledge, assignment, mortgage, or other security interest in income from the housing, or promissory notes, endorsements, personal liability agreements, membership subscription agreements, or liens on property of individual members of the borrower.

(5) As a general policy, personal liability will be required of the members of an organization applicant which does not have a numerous, broadly based membership.

§ 1822.70 Technical, legal, and other services.

(a) *Appraisals.* When real estate is taken as security, the property will be appraised by an FHA employee authorized to make real estate appraisals, in accordance with the applicable appraisal instructions.

(b) *Title clearance and legal services.* For a loan to a public body, title clearance and legal services will be obtained in accordance with special instructions from the Office of the General Counsel, observing the provisions of Part 1807 of this chapter insofar as feasibly applicable. For loans to other applicants, the provisions of Part 1807 of this chapter regarding title clearance and legal services will apply.

(c) *Contracts for legal services.* In cases requiring extensive legal services for which loan funds will be used, the applicant will be required to have a written contract for such services. All such contracts, including the amount of the fees to be paid, will be subject to review and approval by the FHA, and therefore, insofar as feasible, should be submitted to the FHA before execution by the applicant. Contracts will provide for the types of service to be performed, the amount of the fees to be paid, and payment of the fee in lump sum on the completion of all services, or in installments as services are performed. The amount of the fees payable from loan funds will be based primarily on the nature and extent of the legal service needed to be furnished the applicant in connection with housing planning and development, and the rate of compensation for such services in the community. The State Director may request the advice of the Office of the General Counsel before approving the contract as to its provisions, including the amount of fees to be paid.

(d) *Contracts for architectural services.* The applicant will provide the necessary architectural services. Architectural services will be required on all projects whose estimated construction cost is in excess of $50,000 unless prior consent is given by the National Office to proceed without complete architectural services. Any requests for such consent should state (1) the size of the development, (2) the design and type of construction, and (3) how the architectural services will be provided. Architectural services should be required where the nature and characteristics of the project are such that architectural services are needed. A written contract will be required when loan funds will be used for architectural services. All such contracts, including the amount of fees to be paid, will be subject to review and approval by the FHA, and should therefore be submitted to the FHA before execution by the applicant. Contracts will provide for the type of services to be performed, such as: Preliminary and final planning; furnishing of sketches, drawings, specifications, and cost estimates; assisting in preparing and soliciting construction bids; analyzing bids; preparing and awarding construction contracts; preparing change orders; exercising supervision during construction; certification of all payments for work performed; and the amount of fees to be paid and payment of the fees in lump sum upon completion of all services, or in installments as services are performed. The amount of fees payable will be based on the nature and extent of the services needed by the applicant in connection with the planning and development of the housing.

(e) *Construction and development policies.* (1) Contract construction by qualified builders will be used whenever possible. In no case may the applicant, or an officer or director in the case of an organization applicant, or a member of an applicant which is a closely held corporation, bid on the job.

(2) Borrower construction may be necessary or desirable in some cases. In a case of this type when a borrower or its members, directors, or officers will serve, directly or indirectly, as the builder of the project, or as a supplier of labor or materials, the work will be performed by the borrower method as described in Part 1804, with the following modifications:

(i) In order to conserve the County Supervisor's time, the number of payments for materials and labor should be kept at a minimum.

(ii) All invoices will be signed by the borrower as correct and received; Form FHA 424–11, "Statement of Labor Performed," will be signed by the borrower in the usual manner.

(iii) Loan funds will not be used to pay the borrower or its members, directors, or officers, directly or indirectly, any profits from the construction or from supplying materials or any compensation for their own labor: *Provided, however,* In case of a broadly based organization, members who are not officers or directors may contract for certain trades or materials.

(iv) Discounts and rebates given in advance must be deducted before the invoices are paid. If discounts or rebates are given after the invoices are paid, the funds must be returned to the supervised bank account.

(3) Form FHA 424–13, "Certificate of Actual Cost of Construction," will be furnished by the borrower upon completion of the work on any project whose estimated or actual cost is $20,000 or more.

(f) *Compliance with local codes and regulations.* Planning, construction, zoning, and operating of housing financed with the LH loan will conform with any applicable laws, ordinances, codes, and regulations governing such matters as construction, heating, plumbing, electrical installation, fire prevention, and health and sanitation.

(g) *Use of and accountability for loan funds.* LH loan funds and any funds furnished by the borrower will be handled in accordance with Part 1803 of this chapter. Collateral for deposits of funds will be required in accordance with Administration Letter 802(402). Funds furnished by the borrower for the purchase of special equipment and furnishings to be used in connection with the housing should not be deposited in the

supervised bank account with loan funds. Withdrawal of funds from the supervised bank account may be made only for legally eligible loan purposes.

(h) *Insurance.* The State Director will determine the minimum amount and types of insurance the applicant will carry.

(1) Fire and extended coverage will be required on all buildings included in the security for the loan in accordance with Part 1806 of this chapter.

(2) Suitable Workman's Compensation Insurance will be carried by the applicant for all its employees.

(3) The applicant will be informed of the possibility of incurring liability and encouraged, or required when appropriate, to obtain liability insurance.

(i) *Bonding.* (1) The provisions of Part 1804 of this chapter pertaining to surety bonds are applicable to LH loans, except that approved corporate surety bonds will be required in all cases involving a construction contract in excess of $20,000.

(2) An applicant which is an organization will provide fidelity bond coverage for the official entrusted with the receipt and disbursement of its funds and the custody of any property. The amount of the bond will be at least equal to the maximum amount of money that the applicant will have on hand at any one time exclusive of loan funds deposited in a supervised bank account. If permitted by State law, the United States will be named as co-obligee in the bond. Form FHA 440–24, "Position Fidelity Schedule Bond," may be used if permitted by State law.

§ 1822.71 Processing applications—preliminary dockets.

(a) *Application from an individual farmowner.* An application from an individual farmowner will be taken on Form FHA 410–1, "Application for FHA Services." The plan of operation for the farm will be shown on Form FHA 431–2, "Farm and Home Plan." When the loan will finance housing for labor to be employed on land not owned or operated by the applicant, preliminary information on the probable demand for labor housing in the area should also be obtained.

(b) *Application from an organization.* For a loan to an organization, the application will be in the form of a letter to the local County Supervisor. The letter should include a full statement of the purpose for which the loan is requested, the estimated amount of the loan needed, the proposed manner of securing and repaying the loan, and any previous experience of the applicant in operating labor housing. The applicant will attach to the letter of application as exhibits the following, which will be included in the preliminary docket with the application:

(1) A dated financial statement signed by an authorized official of the organization showing as of a current date the amount and nature of assets and liabilities together with information on the repayment schedule and status of each debt.

(2) Evidence of inability to obtain credit from other sources.

(3) Proposed method of operation and management practices.

(4) A proposed operating budget showing anticipated income and expenses for a typical year of operation.

(5) Plot plan, and preliminary plans and specifications for the proposed housing and related facilities including:

(i) Building layout;

(ii) Type of construction;

(iii) Number and type of rental units;

(iv) Estimate of cost, including the basis for the estimate; and

(v) Evidence of compliance with the State and local health and other regulations as required by § 1822.70(f).

(6) Preliminary survey of the area to determine the need and probable demand for labor housing.

(7) Information on neighborhood and existing facilities, such as distance to shopping area, schools, neighborhood churches, available transportation, and other essential services.

(8) Information on topography, drainage, sanitation, and water supply, and a reference to any known problems related to these items.

(9) A statement on the amount, purpose, and method of providing capital to cover preliminary expenses and initial operating expenses.

(10) An accurate citation to the specific provisions of State law under which the applicant is organized; a copy of the applicant's existing or proposed charter or articles of incorporation, bylaws, and other basic organization documents; the names and addresses of the applicant's principal members and of its directors, and officers; and, if a member is another organization, its name, address, and principal business.

(c) *County Supervisor's review.* (1) The preliminary docket will be reviewed by the County Supervisor. If it appears that the applicant is probably eligible and a sound loan likely can be made, the preliminary docket, including the comments and recommendations of the County Supervisor and any additional material, will be forwarded to the State Director. If the applicant is a closely held corporation, a current financial statement will be required from each director, and from each member who holds a substantial interest in the corporation.

(d) *State Office action.* (1) The State Director will review the preliminary docket and in case of an organization submit the docket to the Office of the General Counsel for its preliminary opinion as to whether the applicant and the proposed loan met or can meet the requirements of State law and this instruction.

(2) The State Director will make a study of the preliminary plans and specifications to determine compliance with Supplement No. 1 of the "Guide for the Construction of Farm Buildings" or with applicable State codes for the construction of buildings for labor housing. The State Director's comments pointing out any deficiencies in the plans and suggestions for improvements will be attached to the plan for the applicant's consideration. After completing his review and determining whether the applicant is eligible, the State Director will return the preliminary docket to the County Supervisor with further instructions.

§ 1822.72 Final preparation and processing of loan docket.

(a) *Information needed.* If the State Director authorized further processing of the application, the County Supervisor will inform the applicant of the additional information needed, including:

(1) Detailed plans, specifications, and cost estimates prepared in accordance with Supplement No. 1 of the "Guide for the Construction of Farm Buildings." Final plans and specifications should include those for such items as the sewer and water systems, land clearing, grading, filling, roads, walks, parking areas, drainage, and plantings.

(2) A detailed cost breakdown of the project for such items as land and rights-of-way, building construction, equipment, utility connections, on-site improvements, architectural and engineering services, and legal services. The cost breakdown also should show separately the items not included in the loan, such as furnishings and equipment.

(3) Satisfactory evidence of review and approval of the proposed housing by officials whose approval is required by State or local laws, ordinances, or regulations.

(4) A detailed survey which shows the need for domestic farm labor housing on the individual farm or in the area. The area survey will show, in addition to information that may be needed by the applicant, the following:

(i) Names of farmers using farm labor.

(ii) Number of laborers used per month by each.

(iii) Estimated number of laborers who will likely use the housing.

(iv) Rental levels in the area for comparable housing, if available, and rents currently being charged farm laborers for housing.

(5) Any additional evidence which may be required of efforts made and inability to obtain credit from other sources, which must include lenders engaged in long-term mortgage lending.

(6) A description and justification of any related facilities.

(7) A statement giving location of other essential facilities that will be available in the community, such as doctors, dentists, hospitals, churches, shopping center, barber shops, beauty shops, and recreational facilities.

(8) A schedule of rental rates proposed for the housing and any separate charges for the use of related facilities.

(9) Proposed, detailed operating budgets for (i) the first year of operation, and (ii) a typical year's operation, showing the operating cost of the labor housing, the debt structure of the applicant, and how the debts will be paid. If the applicant has previously operated a labor housing or similar business, a copy of the applicant's operating budget for the past 5 years will also be included.

(10) A statement in narrative form outlining the plan for management of the proposed housing, such as indicating whether it will be managed by an owner-manager or hired manager, and showing age, experience, duties, and responsibilities of manager.

(11) A statement of policy regarding occupancy, including a copy of any proposed form of lease to be offered tenants and a copy of any rules or regulations governing administration and occupancy.

(12) If the loan is secured by a junior real estate mortgage, agreements with prior lienholders and information concerning prior mortgages will be obtained as provided in Subpart A of this part.

(b) *County Supervisor's responsibility.* As the information for the loan docket is being developed, the County Supervisor will—

(1) Work closely with the applicant and review the information furnished for adequacy and completeness.

(2) Observe the proposed site and consider its desirability.

(3) Evaluate the manner in which the applicant plans to conduct its business and financial affairs, and include his comments on the adequacy of the management.

(4) Prepare a statement explaining and supporting the basis for expecting a continued effective demand for labor housing, commenting specifically on the rate of mechanization of the farming operations, the likelihood of shifts to crops requiring less labor, and other factors tending to displace farm laborers.

(c) *County Committee certification.* Before a loan is approved, the County Committee will make the necessary certification on Form FHA 440–2, "County Committee Certification." Before executing Form FHA 440–2, the County Committee will consider all pertinent information concerning the applicant and the proposed housing, and will be given an opportunity to talk with the applicant or its representative if the Committee desires to do so.

(d) *Submission of docket to State Office.* After submission of the loan docket to the State Office, the State Director will prepare, with the advice of the Office of the General Counsel, a memorandum to the County Supervisor which will either require additional information or set forth the conditions of loan approval. If the consent of the National Office is not required and the State Director determines that the loan should be approved, he will approve the loan and sign the memorandum. If the docket is to be submitted to the National Office, it will include evidence of approval or additional requirements by the Office of the General Counsel.

(e) *Submission of docket to National Office.* (1) When the State Director determines that the loan should be approved and the consent of the National Office is required, he will submit to the National Office the complete docket with his recommendation.

(2) If in any case before the loan docket has been completed the State Director, with the advice of the Office of the General Counsel, is unable to determine whether the proposed loan meets the requirements of this subpart, he may submit the incomplete docket to the National Office for special review. The incomplete docket will contain in every case a memorandum from the Office of the General Counsel setting forth the results of its review. Such submission to the National Office will include the State Director's comments and recommendations and sufficient information concerning the applicant and the proposed loan to enable the National Office to reach an informed conclusion. When appropriate, the National Office may authorize loan approval without further reference to the National Office.

§ 1822.73 Loan approval.

(a) *Delegation of authority.* The State Director is authorized to approve or disapprove loans in accordance with this subpart. The State Director may redelegate loan approval in writing to State Office employees other than the Area Supervisor. Without the prior consent of the National Office, no LH loan may be approved by the State Director if—

(1) The loan is to an organization; or

(2) The amount of the loan plus unpaid principal and past-due interest of any other lien(s) on real estate of the applicant would exceed $50,000; or

(3) The proposed loan together with unpaid principal of any other FHA loans of the applicant would exceed $50,000.

(b) *Loan approval official's responsibility.* The loan approval official is responsible for reviewing the docket to determine that the proposed loan complies with all pertinent regulations, instructions, and directives. In making this review, the loan approval official will determine that—

(1) The Committee certification has been properly completed and signed by at least two Committeemen.

(2) The applicant is eligible.

(3) The funds are requested for authorized purposes.

(4) The proposed loan is sound.

(5) The security is adequate.

(6) All other pertinent requirements are met.

(c) *Approval or disapproval of a loan.* (1) When a loan is approved, the approval official will indicate on Form FHA 440–3, or attachments if more space is needed, any conditions that must be met before the loan is closed, including the amount of surety and fiidelity bond coverage and other insurance, the security title evidence, and any other special requirements.

(2) If a loan is not approved after the docket has been developed, a statement disapproving the application and giving the reason will be written on the original of Form FHA 440–3 and signed and dated by the official. Thereupon the County Supervisor will notify the applicant of the disapproval and the reasons.

§ 1822.74 Actions subsequent to loan approval.

(a) *Requesting check.* When loan approval conditions can be met, including any real estate lien required, and a date for loan closing has been agreed upon, the County Supervisor will order the loan check so that it will be available on or just before the date set for loan closing.

(b) *Handling the loan check.* (1) The loan check will be deposited in the supervised bank account on the day of loan closing after it has been determined that the loan can be closed.

(2) When a private lender issues a loan check payable jointly to the borrower and the FHA, the County Supervisor is authorized to endorse the check on behalf of the FHA at the time of loan closing as follows:

Endorsed without recourse; Farmers Home Administration,
By _____
Title _____

The State Director also is authorized to endorse such a check in the same manner. Authority to endorse such checks in no way relates to or modifies the regulations contained in Part 1862 of this chapter regarding collection items or the endorsement of such items.

(3) If a loan check other than a check from a private lender is received and the loan cannot be closed within 21 days from the date of the check, the County Supervisor will take appropriate action in accordance with Part 1803 of this chapter.

(4) Where the loan check is received from a private lender, and the loan can be closed but not on the date previously indicated to the lender, the lender will be notified immediately of the reasons for the delay. If it is determined that such a loan cannot be closed, the check will be returned immediately to the lender with a request for cancellation. In no case may a lender's check be retained more than 21 days from the date of the check. When a loan check is lost, mutilated, or destroyed, the County Supervisor will immediately notify the lender and, if the borrower still desires to close the loan, the lender will be requested to issue a new check. When a check is returned to the lender and the loan will be closed at a subsequent date, another check will be requested in the usual manner.

(c) *Property insurance.* Buildings on the property which is to be taken as security for the loan will be insured in accordance with Part 1806 of this chapter.

§ 1822.75 Loan closing.

(a) *Applicable instructions.* LH loans will be closed in accordance with Part 1807 of this chapter and any supplementary State instructions. The Office of the General Counsel may be requested to issue closing instructions in any case in which the State Director or the National Office considers it advisable.

(b) *Mortgage.* (1) Unless the Office of the General Counsel determines the form to be inappropriate in any case, real estate mortgage form FHA 427–1 (State), "Real Estate Mortgage for _____," will be used for a loan to an organization or to an individual. For loans to an organization, Form FHA 427–1 will be modified as prescribed

by, or with the advice of the Office of the General Counsel, with respect to name, address, and other identification of the borrower, the style of execution, and the acknowledgment.

(2) When the loan is to finance housing of more than two rental units the mortgage will include the following provision:

Borrower covenants and agrees that it will not discriminate, or permit discrimination by any agent, lessee, or other operator, in the use or occupancy of the housing or related facilities financed in whole or in part with the loan in connection with which this instrument is given, because of race, color, creed, or national origin.

(3) When a loan resolution or loan agreement is used, the mortgage will include the following provision:

This instrument also secures the obligations and agreements of Borrower set forth in Borrower's Loan Resolution (Loan Agreement) of _____, which is
(Date)
hereby incorporated herein by reference.

(4) In case of a loan to an individual where a loan agreement is not used, the mortgage will include the following provisions:

Occupancy of the housing and related facilities on the property will be limited to domestic farm labor occupants as defined in the regulations of the Farmers Home Administration, unless the Government gives prior written approval to other occupancy.

As required by the Government: Borrower will permit the Government to inspect and examine the operation of the housing, and the books, records, and operations of Borrower; submit regular and special reports pertinent to the purpose of the loan or the Government's financial interests; subject rents and charges and other terms of rental agreements with occupants of the housing, and compensation to employees connected with its operation, to prior approval by the Government, or to adjustment at the direction of the Government when necessary in its judgment to carry out the purpose of the loan or protect its financial interests; and comply with any other requirements which, in the discretion of the Government, are reasonably appropriate to the purpose of the loan or protection of the Government's interests.

(c) *Promissory note and insurance endorsement.* (1) For a loan to an individual, Form FHA 440–16, "Promissory Note (Insured Loan)," will be used.

(2) For a loan to an organization, Form FHA 440–22, "Promissory Note (Insured Loan to Association or Organization)," will be used, except that where provisions of State law or special circumstances make Form FHA 440–22 inappropriate, either the State Director with the advice of the Office of the General Counsel or the National Office will determine the form of obligation.

(3) The total amount to be shown in the note will be the amount of the loan appearing on Form FHA 440–3.

(4) Payments on LH loans will be scheduled with annual installments due January 1. If the first installment, or first two installments, are less than regular installments, the regular annual installment will be computed by multiplying the amount of the loan by the factor for the number of years over which the regular annual installment will be scheduled.

(5) When the loan is closed during December, the first installment will be collected at the time of loan closing, if it is a nominal amount or the borrower consents.

(6) If the funds are furnished by a private lender, and if the promissory note is not drawn in favor of the lender as the named payee, the note will be assigned to the lender simultaneously with loan closing, using the form of endorsement on the reverse of the note. Form FHA 440–5, "Insurance Endorsement (Insured Loans)," will also be completed and signed at loan closing. The note and Form FHA 440–5 will be delivered to the lender immediately thereafter.

(7) Each County Supervisor and each State Director is authorized to execute the endorsement on the reverse of the note and the insurance endorsement constitutes the Government's contract of insurance of the loan.

(d) *Date of closing.* An LH loan is considered closed when the security instrument is filed of record, or, if no security instrument is filed of record, when the loan funds are deposited in the supervised bank account or otherwise made available to the borrower after he executes and delivers the note and any other required instruments.

§ 1822.76 Subsequent LH loans.

A subsequent loan is a loan made to a borrower indebted for an LH loan. Subsequent loans may be made for the same purposes and under the same condtions as initial loans.

§ 1822.77 Complaints regarding discrimination in use and occupancy of housing projects of more than two rental units.

(a) With respect to housing of more than two rental units, any occupant or applicant for occupancy or use of the housing or related facilities who believes he has been discriminated against because of race, color, creed, or national origin may file a complaint with the County Supervisor or State Director. Any such complaint will be referred through the State Director to the National Office.

(b) The complaint must be in writing and signed by the complainant and contain the following information:

(1) The name and address (including telephone number) of the complainant.

(2) The name and address of the person committing the alleged discrimination.

(3) Date and place of the alleged discrimination.

(4) Any other pertinent information that will assist in the investigation and resolution of the complaint.

(c) The County Supervisor or State Director will acknowledge receipt of the complaint and promptly forward it to the National Office.

(d) Attached to the written complaint should be a statement from the County Supervisor or State Director as to whether the security instrument executed by the borrower contains the nondiscrimination covenant. The statement also should include any other information which the State Director or County Supervisor has pertaining to the complaint. The County Supervisor or State Director should delay a comprehensive investigation of any complaint until requested to do so by the National Office.

(e) The National Office will determine whether discrimination did in fact occur. If necessary, appropriate steps will be taken to ascertain the essential facts.

(f) If it is found that the complaint is without substance, the parties concerned will be so notified.

(g) If it is found that the nondiscrimination covenant in the security instruments was violated, the FHA will inform the parties of such finding and advise the violator to take the action necessary to correct the violation and to give appropriate assurance of future compliance.

(h) If the borrower should fail to take such action and assure future compliance, the Administrator may take appropriate action to enforce Executive Order No. 11063 and any related Executive orders and Department regulations.

Subpart D—Senior Citizens Rental Housing Loan Policies, Procedures and Authorizations

AUTHORITY: The provisions of this Subpart D issued under secs. 508, 510, 515, 517, 518, 520, 63 Stat. 436, as amended, 437, 76 Stat. 671, 79 Stat. 498, 500, 502; 42 U.S.C. 1478, 1480, 1485, 1487, 1488, 1490; Orders of Secretary of Agriculture, 29 F.R. 16210, 16840, 30 F.R. 14049.

§ 1822.81 General.

This Subpart D sets forth the policies and procedures, and delegates authority for making direct and insured Senior Citizens Rental Housing (SCH) loans under section 515 of the Housing Act of 1949.

§ 1822.82 Objective.

The basic objective of SCH loans is to provide for senior citizens in rural areas economically designed and constructed rental housing and related facilities suited to their special needs and living requirements.

§ 1822.83 Definitions.

As used in this subpart:

(a) "Senior citizen" means a person who, or a family the head of which (or spouse), is 62 years of age or over and is or has been until recently a resident of a rural area.

(b) "Housing" means structures and related facilities in a rural area which are or will be suitable for and available to senior citizens for dwelling use to provide independent living on a rental basis.

(c) "Related facilities" means community rooms or buildings, cafeterias, dining halls, appropriate recreation facilities, small garden plots, infirmaries, assembly halls, and other essential service facilities such as central heating, sewerage and light systems, ranges and

refrigerators, and clothes washing machines and dryers for the common use of the tenants.

(d) "Development cost" means the costs of constructing, purchasing, improving, altering, or repairing housing, and purchasing and improving the necessary land. It includes necessary architectural, engineering, legal, and official fees and charges and other appropriate technical, and professional fees and charges. It does not include other fees, charges, or commissions such as payments to brokers, negotiators, or other persons for the referral of prospective applicants or solicitation of loans.

(e) "Rural areas" means open country or places of 5,500 persons or less not parts of or associated with urban areas, and further defined in § 1822.3(c).

(f) "Individual" means a natural person.

(g) "Private nonprofit corporation" for the purpose of a direct SCH loan means a corporation which (1) is controlled by private persons or interests, (2) is organized and operated for purposes other than making gains or profits for the corporation or its members or stockholders, and (3) is legally precluded from distributing to its members or stockholders any gains or profits during its existence.

(h) "Consumer cooperative" for the purpose of a direct SCH loan means a corporation which (1) is organized as a cooperative, (2) will operate the housing on a nonprofit basis solely for the benefit of the occupants, and (3) is legally precluded from distributing during the life of the loan any gains or profits from operation of the housing. For this purpose any patronage refunds to occupants of the housing would not be considered gains or profits. A consumer cooperative may accept nonmembers as well as members for occupancy of the housing.

(i) "Organization" for the purpose of a direct SCH loan means a private nonprofit corporation or a consumer cooperative.

(j) "Organization" for the purpose of an insured SCH loan means any profit or nonprofit corporation, association, trust, or partnership, including a municipal corporation or other corporate agency of a State or local government.

§ 1822.84 Eligibility requirements.

(a) *Eligibility of applicant.* To be eligible for an SCH loan the applicant must:

(1) For an insured loan, be either an individual who is a citizen of the United States or an organization as defined in § 1822.83(j).

(2) For a direct loan, be an organization as defined in § 1822.83(i) which will provide housing for senior citizens of low or moderate income.

(3) Be unable to provide the housing from the applicant's own resources and unable to obtain the necessary credit from private or cooperative sources upon terms and conditions the applicant could reasonably be expected to fulfill.

(4) Have the ability and intention to maintain and operate the housing for the purpose for which the loan is made.

(5) Own or become the owner, when the loan is closed, of the housing and related land.

(6) Have initial operating capital and expect to have sufficient income to meet operating and other expenses, make necessary capital purchases and replacements, and meet payments on all debts, including the loan.

(i) The applicant will be required to provide any maintenance equipment and furnishings and to provide initial operating capital sufficient to cover preliminary expenses and beginning operating expenses. Usually the applicant should have operating capital amounting to at least 3 percent of the total cost of the project to cover these costs.

(ii) If, in addition, the applicant is to provide other movable equipment and furnishings, the initial capital will need to be increased sufficiently to cover the cost of these items.

(7) Possess the legal capacity to incur, and the legal capacity, character, ability, and experience to carry out, the undertakings and obligations required for the loan.

(8) In case of an insured loan:

(i) Be an individual residing in, or an organization of which members or stockholders who own a majority of the voting stock or membership rights reside in, the community where the housing will be located, or be an applicant who resides close enough to the project to provide general supervision and will provide a manager or caretaker who either resides on the housing property or is readily accessible to the tenants and near enough to reach the housing within a few minutes.

(ii) In case of an organization or an individual who is required to execute a loan agreement, legally obligate itself not to divert income from housing to any other business, enterprise, or purpose until a cash reserve is accumulated and maintained as required by the Farmers Home Administration (FHA).

(9) In case of a direct loan:

(i) Be an organization each of whose members or stockholders is limited to one vote in the affairs of the organization and a majority of whose members or stockholders reside in the community where the housing will be located. The manager or caretaker must reside on the housing property or be readily accessible to the tenants and near enough to be able to reach the housing within a few minutes.

(ii) Have a board of directors or trustees of whose members not less than five are among the leaders in the community where the housing will be located.

(iii) Have a broadly based ownership. The purpose of this requirement is to afford reasonable assurance of success of the housing project, to assure community support, to protect the Government's financial interest as mortgagee, and to provide reasonable assurance that the purposes of the loan will be carried out. In direct SCH loans there is no profit incentive. Eligible occupants are limited to elderly persons of low or moderate incomes. The terms of the loan may extend for as long as 50 years and eligible transferees could be found only among qualified private nonprofit corporations and consumer cooperatives. Therefore, factors such as the prospect for competent management and supervision and adequate community support of the housing project over the expected life of the loan become vitally important. The "broadly based ownership" requirement may vary depending upon whether the applicant is a well established or a new corporation, the applicant's financial condition, the present and future effective demand for the housing by persons who will be eligible for occupancy, and the ratio of loan to the appraised value of the security.

(iv) Legally obligate itself not to divert income from the housing to any other business, enterprise, or purpose. If the applicant has issued or plans to issue stock and pay dividends thereon, provide for such stock to be (*a*) nonvoting, (*b*) limited as to the amount of dividends that can be paid thereon, and (*c*) limited as to liquidation value in the event of corporate dissolution. If the stock complies with these three requirements, dividends paid on it would not be considered gains or profits within the meaning of § 1822.83 (g) and (h) and therefore such an applicant, if otherwise qualified, would be eligible for an SCH loan.

(b) *Authorized representative of applicant.* The FHA will deal only with the applicant or a bona fide representative of the applicant and his technical advisers. An authorized representative of the applicant must be a person who has no pecuniary interest in the award of the architectural or construction contracts, the purchase of equipment, or the purchase of the land for the housing site.

§ 1822.85 Loan purposes.

SCH loans may be made to qualified applicants for:

(a) Construction, purchase, improvement, alteration, or repair of housing, as defined in § 1822.83(b), which:

(1) Is economical in construction and not of elaborate or extravagant design or materials;

(2) Consists of apartments, duplex houses, or detached dwellings, and any appropriate related facilities;

(3) Is residential in character and design to meet the needs of senior citizens who are capable of caring for themselves;

(4) Has special consideration given to (i) safety and convenience, (ii) access to necessary shopping, medical services, and recreation facilities, (iii) sustaining the independence and dignity of the individual by providing for privacy and freedom of movement, and (iv) facilities contributing to the individual's comfort and ease of household activities;

(5) If it consists of apartments, may be the one-room "efficiency" type or one-bedroom units, with a limited number of two-bedroom units included when justified by a demand shown by a market analysis;

(6) Contains a bathroom and kitchen facilities in each unit;

(7) In case of insured loans, may include the addition of rooms to a dwelling owned by the applicant, in order to provide rental housing suitable for and publicly available to senior citizens on a continuing basis;

(8) In case of direct loans, is provided for senior citizens of low or moderate income.

(b) Purchase or improvement of the necessary land on which the housing will be located.

(1) In case the loan includes funds for land purchase, the cost of land may not exceed its present market value in its present condition. Present market value will be determined by a current appraisal. Loan funds will not be used to buy land from a member of the applicant-organization or from another organization in which one or more members of the organization have an interest without the prior consent of the National Office.

(2) Loan funds may be used to acquire land in excess of that needed for the housing, including related facilities, when the applicant cannot acquire only the needed land at a fair price and the cost of the excess land bears a reasonable proportion to the amount of the loan. When excess land is thus acquired, the applicant must (i) justify the acquisition, (ii) agree to sell the land as soon as practicable and apply the proceeds on the loan, and (iii) have legal authority to acquire and administer such land.

(c) Development and installation of water supply, sewage disposal, heat and light systems necessary in connection with the housing, and other related facilities such as:

(1) Maintenance workshop and equipment storage.

(2) Recreation center, including lounge.

(3) Central cooking and dining facilities when the project is large enough to justify such services to supplement the kitchen facilities in each unit.

(4) Small infirmary for emergency care only, when justified.

(5) Laundry room and storage.

(6) Office and living quarters for the resident manager and other operating personnel. Such facilities may be provided only in those cases where there will be enough rental units to require the presence of operating and management personnel for sufficient time to justify the additional investment and the cost of these service facilities is a minor part of the loan.

(7) Appropriate recreational facilities and other essential needs.

(d) Construction of fallout shelters or similar protective structures.

(e) Purchase and installation of ranges and refrigerators to be installed in the individual rental units or as a part of the central cooking facilities, and clothes washing machines and dryers to be installed in project utility rooms for the common use of the tenants.

(f) Purchase and installation of essential equipment which upon installation becomes a part of the real estate.

(g) Provision of landscaping, foundation planting, seeding or sodding of lawns, or other necessary facilities related to buildings such as walks, yards, fences, parking areas, and driveways.

(h) Payment of related costs such as fees and charges for legal, architectural, engineering, and other appropriate technical and official services.

(i) In insured loan cases, payment of the interest portion of the first installment when the applicant's income and resources will be insufficient to pay such interest.

§ 1822.86 Limitations.

As used in this subpart, the value of the security means its present market value as determined by the loan approval official less the unpaid principal balance plus past-due interest of any other liens against it. Other liens will include any prior liens and any junior liens likely to be taken at or immediately after loan closing.

(a) *Loan limits for direct loans.* No direct loan or loans to any applicant will exceed $200,00 less any other liens against the security, and no such loan will exceed the development cost or the value of the security, whichever is less.

(b) *Loan limits for insured loans.* No insured loan or loans to any applicant will exceed $300,000, and no such loan will exceed the development cost or the value of the security whichever is less. The limitations in this paragraph also apply to cases in which the majority of stockholders or directors or other controlling interests of two or more applicants are the same.

(1) No loan docket which would result in the applicant's insured SCH indebtedness exceeding $100,000 will be developed without the prior consent of the national office. Any request for such consent should include detailed justification for the loan including:

(i) Name and address of the applicant.

(ii) Applicant's assets.

(iii) A listing of any debts owed.

(iv) Status of each debt.

(v) A general description of the housing planned including the number and kind of units.

(vi) A realistic estimate of the need and demand for the size project proposed.

(vii) Applicant's financial contribution to the project.

(viii) Any other factors having a bearing on the need and financial soundness of the proposed housing.

(c) *Limitations on use of loan funds.* Loans will not be made for:

(1) Nursing or medical facilities, other than a small emergency care infirmary when justified by the size of the project and the fact that facilities for the emergency care expected to be needed for the occupants are not readily accessible elsewhere.

(2) Any commercial facilities except essential service-type facilities for use by the tenants when such facilities are not otherwise conveniently available in the area.

(3) Housing to be used for any transient or hotel purposes. No rental term shall be for less than 30 days.

(4) Nursing, special care, or institutional-type of homes.

(5) Any facility not essential to the needs of the tenants.

(6) Refinancing debts of the applicant.

(7) Housing which the applicant intends to sell or lease to another operator.

(8) Payment of any fee, charge, or commission to any broker, negotiator, or other person for the referral of a prospective applicant or solicitation of a loan.

(9) Except as provided in § 1822.85(h), the payment of any fee, salary, commission, profit, or compensation to an applicant, or to any officer, director, trustee, stockholder, member, or agent of an applicant.

(10) Housing in isolated locations in which occupants will not have reasonable access to the facilities and activities essential to their continued welfare and health.

(d) *Obligations incurred before loan closing.* When an applicant files an application for a loan the County Supervisor will advise the applicant that construction must not be started and obligations for such work or materials must not be incurred before the loan is closed. If, nevertheless, the applicant incurs debts for materials or construction before the loan is closed, the State Director may authorize the use of loan funds to pay such debts only when he finds that all of the following conditions exist:

(1) The debts were incurred after the applicant filed a written application for a loan.

(2) The applicant is unable to pay such debts from his own resources or to obtain credit from other sources, and failure to authorize the use of loan funds to pay such debts would impair the applicant's financial position.

(3) The debts were incurred for authorized loan purposes.

(4) Contracts and construction work meet FHA standards.

(5) Payment of the debts will remove any mechanics' and materialmen's liens which have attached, and any basis for any such liens that may attach, to the property.

§ 1822.87 Source of funds and rates and terms.

(a) *Source of funds.* (1) Direct SCH loans may be made to private nonprofit corporations or consumer cooperatives eligible under § 1822.84, to provide rental housing and related facilities for senior citizens of low or moderate income.

(2) Insured SCH loans may be made to individuals or organizations defined in § 1822.83(j) and eligible under § 1822.84, to provide rental housing and related facilities for senior citizens. Insured SCH loans will be made only from the Rural Housing Insurance Fund.

(b) *Interest rates.* On direct loans the interest rate will be 3 percent per annum on the unpaid principal balance. On insured loans the interest rate will be as specified in Part 1810 of this Chapter XVIII. Interest will begin from the date of the note. When a direct loan is made in multiple advances, interest on the first advance will begin on the date of the note

and interest on each subsequent advance will begin on the date of the check.

(c) *Amortization period.* Each loan will be scheduled for payment within such a period as may be necessary to assure that the loan will be adequately secured, taking into account the probable depreciation of the security; however,

(1) For a direct loan, the payment period will not exceed 50 years from the date of the note.

(2) For an insured loan, the payment period will not exceed 40 years from the date of the note.

§ 1822.88 Special conditions.

(a) *Deferred payments on direct loans.* In case of direct loans, when necessary because of deficiency in the applicant's income or resources, smaller than regular payments or no payments may be provided for the first and second January 1 dates after loan closing.

(b) *Deferred principal payments on insured loans.* In case of insured loans, when necessary because of deficiency in the applicant's income or resources, smaller than regular payments of principal or no payments of principal may be provided for the first and second installment dates after loan closing. However, the first installment may not be less than interest accruing to the first February 1 following the date of the first installment, and the second installment may not be less than interest accruing for one year.

(c) *Refinancing SCH loans.* Each borrower must agree to refinance the unpaid balance of his SCH loan at the request of the FHA whenever it appears to the FHA that the borrower is able to obtain a loan from responsible cooperative or private credit sources at reasonable rates and terms.

(d) *Loan resolutions or agreements.* For an organization applicant a loan resolution in a form approved by FHA will be adopted by the applicant's board of directors. For an individual applicant a loan agreement in a form approved by FHA will be executed by the applicant when the loan exceeds $50,000 or when required by the State Director if the loan is for a lesser amount. The loan resolution or agreement will provide for the maintenance of certain accounts and the pledge of housing income as security and contain regulatory provisions governing, and giving the FHA power to impose requirements regarding, the housing and related operations of the applicant.

(e) *Multiple advances.* A direct loan may be disbursed in not more than three advances over a period not to exceed two years from the date of the first advance. Insured loans may be disbursed in only one advance.

(f) *Nondiscrimination in use and occupancy.* When the loan is to finance housing of more than two rental units the borrower shall not discriminate, or permit discrimination by any agent, lessee, or other operator, in the use or occupancy of the housing or related facilities because of race, color, creed, or national origin.

(g) *Eligibility for occupancy.* (1) Eligible occupants of SCH housing will be limited to persons who are senior citizens or senior citizens and their spouses and who in direct cases have low or moderate incomes, except that eligible occupants may also include:

(i) A person younger than 62 who resides with, and is considered a member of, the family of the senior citizen occupant.

(ii) A person younger than 62 if it can be shown that the younger person's occupancy is necessary for the well-being of the senior citizen occupant or spouse.

(2) Loans will be made on the basis of the housing being occupied by eligible persons; however, if in connection with future servicing of the loan it becomes necessary to permit ineligible persons to occupy the housing for temporary periods in order to protect the financial interest of the Government, this may be permitted with the written prior approval of the national office.

(h) *Supervisory assistance.* Supervision will be provided borrowers to the extent necessary to achieve the objective of the loan and to protect the interests of the Government.

§ 1822.89 Security.

Each loan will be secured in a manner that adequately protect the financial interest of the Government. A first lien, if obtainable, will be taken on the property purchased or improved with the loan. If a first lien is not obtainable, a junior lien may be taken in compliance with the requirements of Subpart A of this Part 1822 regarding junior mortgage loans. When the real property as improved will not provide adequate security for the loan, a lien may also be taken on other property owned by the applicant. Also, other additional security may be taken when necessary, such as a pledge or assignment of, or other security interest in, income from the housing, and (in case of an organization) promissory notes, stock or membership subscription agreements, personal liability agreements, and mortgages or pledges of property of individual members or stockholders.

(a) As a general policy, personal liability will be required from the members or stockholders of a corporation whose members or stockholders are few in numbers, in order to provide adequate security and adequate assurance of carrying out the purpose of the loan.

(b) If it is not legally or otherwise possible, or advisable for an applicant which is a public or quasi-public organization to give a note and real estate mortgage, the forms of obligations and security instruments to be taken should be determined with the advice and assistance of the Office of the General Counsel.

§ 1822.90 Technical, legal, and other services.

(a) *Appraisals.* When real estate is taken as security, the property will be appraised by an FHA employee authorized to make real estate appraisals. If the security does not involve more than two rental units, the property will be appraised in accordance with the policies outlined in Part 1809 of this Chapter XVIII. Form FHA 426–1, "Valuation of Buildings," will be completed to show the depreciated replacement value of all the buildings existing or to be constructed on the property to be taken as security.

(b) *Title clearance and legal services.* When the applicant for an SCH loan is an organization, or an individual with special title or loan closing problems, title clearance and legal services will be obtained in accordance with instructions from the Office of the General Counsel. In other cases, the provisions of Subpart A of this Part 1822 regarding title clearance and legal services will apply.

(c) *Architectual and engineering services.* (1) Housing and related facilities will be planned and performed in accordance with Part 1804 of this Chapter and the "Interim Construction Guide for Use in Connection With Farmers Home Administration Loans for Senior Citizens Rental Housing." The applicant will provide the architectual and engineering services necessary to plan the housing including the design of the facilities and proposed site development and preparation of detailed plans, specifications, and cost estimates.

(2) Housing must be designed by persons who understand the needs of senior citizens and who can project their needs into architectural designs appropriate for housing senior citizens. In order to assure good economical design and construction without placing an excessive burden on the FHA staff, architectural and engineering services will be required on all projects when the estimated cost is in excess of $50,000 unless prior consent is given by the national office to proceed without complete architectural services. Any requests for exceptions should state the size of the development, the design and type of construction, and how the architectural services will be provided. Architectural and engineering services should be required where the nature and characteristics of the project are such that architectural services are needed. The applicant should select an architect who can and will furnish a design providing economical and thoroughly liveable housing at a cost within the rental rates the senior citizens can afford.

(3) A written contract will be required when loan funds will be used for architectural and engineering services. All such contracts will be subject to review and approval by the FHA and, therefore, should be submitted to the FHA before execution by the applicant. Such contracts will provide for the type of services to be performed, such as preliminary and final planning, the furnishing of sketches, drawings, specifications, and cost estimates, assisting in preparing the soliciting of construction bids, analyzing bids, preparing and awarding construction contracts, preparing change orders, exercising supervision during construction, certification of all payments for work performed, the amount of fees to be paid and payment of the fees in lump sum upon completion of all services or in in-

stallments as services are performed. The amount of fees payable from loan funds will be based on the nature and extent of the services needed by the applicant in connection with the planning and development of the housing.

(d) *Construction and development policies.* (1) Contract construction will be encouraged on all loans. Contracts on the basis of competitive bids with qualified builders will be encouraged.

(2) Borrower construction may be necessary or desirable in some cases. In a case of this type when a borrower or its stockholders, directors, or officers will serve, directly or indirectly, as the builder of the project, or as a supplier of labor or materials, the work will be performed by the borrower method with the following modifications. In order to conserve the County Supervisor's time, the number of payments of materials and labor should be kept to a minimum. All invoices will be signed by the borrower as correct and received. Form FHA 424–11, "Statement of Labor Performed," will be signed by the borrower. Under no circumstances will loan funds be used to pay the borrower or its stockholders, directors, or officers, directly or indirectly, any profits from the construction or from supplying materials or any compensation for their own labor. Discounts and rebates given in advance must be deducted before the invoices are paid. If discounts or rebates are given after the invoices are paid, the funds must be returned to the supervised bank account.

(3) Form FHA 424–13, "Certificate and Actual Cost of Construction," will be furnished by the borrower upon completion of the work on projects estimated to cost $20,000 or more.

(e) *Compliance with local codes and regulations.* Planning, construction, zoning, and operation of housing financed with the SCH loan will conform with any applicable laws, ordinances, codes, and regulations governing such matters as construction, heating, plumbing, electrical installation, fire prevention, and health and sanitation.

(f) *Contracts for legal services.* On housing requiring extensive legal services, the applicant will be required to have a written contract when loan funds will be used for these services. All such contracts, including the amount of the fees to be paid, will be subject to review and approval by the FHA and, therefore, should be submitted to the FHA before execution by the applicant. Contracts will provide for the types of services to be performed, the amount of the fees to be paid, and payment of the fee in lump sum on the completion of all services or in installments as services are performed. The amount of the fees payable from loan funds will be based on the nature and extent of the legal service needed by the applicant in connection with the housing planning and development.

(g) *Optioning of land.* If a loan includes funds to purchase real estate, the applicable provisions of § 1821.15 of this Chapter XVIII regarding options will be followed. After the loan is approved, the County Supervisor will have Form FHA 443–9, "Acceptance of Option," or other appropriate form of acceptance, completed, signed, and mailed to the seller.

(h) *Use of and accountability for loan funds.* Loan funds and any funds furnished by the borrower will be deposited and handled in accordance with Part 1803 of this Chapter XVIII. Pledging collateral for deposit of funds will be in accordance with Administration Letter 802 (402). Funds furnished by the borrower for the purchase of special equipment and furnishings to be used in connection with the project, for which loan funds could not be used, should not be deposited in the supervised bank account with loan funds. Withdrawals of funds from the supervised bank account may be made only for legally eligible loan purposes.

(i) *Insurance.* The State Director will determine the minimum amounts and types of insurance the applicant will carry.

(1) Fire and extended coverage will be required on all buildings included in the security for the loan in accordance with Part 1806 of this Chapter XVIII.

(2) Suitable Workman's Compensation Insurance will be carried by the applicant for all its employees.

(3) The applicant will be advised of the possibility of incurring liability and encourage, or may be required when appropriate, to obtain liability insurance.

(j) *Bonding.* (1) The provisions of Part 1804 of this Chapter XVIII pertaining to surety bonds are applicable to SCH loans, except that approved corporate surety bonds will be required in all cases involving a construction contract in excess of $20,000 unless an exception is made by the national office.

(2) If the applicant is an organization, the applicant will provide fidelity bond coverage for the official entrusted with the receipt, custody, and disbursement of its funds and the custody of any other negotiable or readily salable personal property. The amount of the bond will be at least equal to the maximum amount of money that the applicant will have on hand at any one time exclusive of loan funds deposited in a supervised bank account. If permitted by State law, the United States will be named co-obligee in the bond. Form FHA 440–24, "Position Fidelity Schedule Bond," may be used if permitted by State law.

§ 1822.91 Maximum income limit for occupancy of housing financed with direct loan.

For direct SCH loans only the maximum income level for occupancy will be established for each direct loan housing project as follows:

(a) The County Supervisor, after making a preliminary determination that a loan might be made, will assemble appropriate information concerning income levels and living costs of senior citizens in the area, including the cost of renting suitable housing that permits independent living.

(b) The County Supervisor, with the advice of the County Committee, will recommend the income which, in his judgment, is needed by a senior citizen family of two in the locality to meet reasonable living expenses, rent modest but satisfactory housing in the area, and otherwise live comfortably but not extravagantly. Family income means gross income received by the family, as defined by the Internal Revenue Service for income tax purposes, plus any retirement, Social Security, pensions or similar payments, and interest on State and municipal bonds.

(c) The County Supervisor will submit his recommendation and supporting information to the State Director with the preliminary loan docket. The State Director will review this information together with other information available on income for the area, such as census data, living standards, and other income studies, establish the maximum income level for occupancy of the housing, and notify the County Supervisor. The State Director's determination and the basis for establishing the maximum income level for occupancy will be documented as part of the completed loan docket. This determination will be subject to review by the National Office when the loan docket is submitted.

(d) Maximum income levels for occupancy will not be adjusted from year to year. However, the maximum income level may be adjusted when justified by a substantial change in living costs in the area and other pertinent factors. To justify such an adjustment, the same procedure will be followed as when establishing the maximum income level initially.

(e) The maximum income level for occupancy of any housing project will not exceed $6,000 a year unless properly justified and approved by the Administrator.

§ 1822.92 Processing applications.

(a) *Application.* An application will be in the form of a letter to the local County Supervisor. The letter should include a statement about the purpose for which the loan is requested; an estimate of the amount of the loan needed; any previous experience in operating rental housing; and the proposed manner of securing and repaying the loan. Included in or attached to the letter should be:

(1) A currently dated financial statement showing assets and liabilities, together with information on the repayment schedule and status of each debt.

(2) Evidence of inability to obtain credit from other sources.

(3) Preliminary survey of the area showing the need and estimate of the probable demand for future senior citizens rental housing. The preliminary report at this stage may vary, as determined by the State Director, from the number of senior citizens living in the area to a complete market analysis in accordance with § 1822.93(a)(3).

(4) A proposed operating budget showing anticipated income and expenses for a typical year of operation.

(5) Plot plan and preliminary plans and specifications for the proposed hous-

ing, including the building layout, type of construction, number and type of living units, special design features for use of senior citizens, and the estimate of cost.

(6) Information on neighborhood and existing facilities, such as distance to shopping area, neighborhood churches, available transportation, drainage, sanitation facilities, water supply, and access to essential services such as doctors, dentists, and hospitals.

(7) For an organization applicant, a copy of, or an accurate citation to, the specific provisions of State law under which the applicant is organized; a copy of the applicant's charter, articles of incorporation, bylaws, and other basic authorizing documents; the names and addresses of the applicant's principal stockholders or members and its directors and officers; and, if a principal stockholder is another organization, its name, address, and principal business.

(b) *County Supervisor review.* The letter of application and supporting documents will be reviewed by the County Supervisor and forwarded to the State Director along with a statement by the County Supervisor of any additional facts he has concerning the applicant, the need for senior citizens rental housing in the area, any comments or recommendations of the County Committee, the County Supervisor's recommendations and findings with respect to all items of eligibility, and any other information about the applicant or housing that would be helpful to the State Director in evaluating the application. If the applicant is an organization, the County Supervisor will express his views of the financial position, income, occupation, and background of the directors, principal stockholders or members, and executive officers. If the applicant for an insured loan is a closely held corporation, current financial statements will be required from its directors and stockholders or members who hold a controlling interest.

(c) *State office action.* The State Director will determine whether the applicant is eligible. The State Director will review the preliminary plans or detailed plans, specifications, and cost estimates, and, unless the applicant is an organization, or is an individual and the project involves more than four rental units, instruct the County Supervisor as to any r e q u i r e d modifications, and whether the modified plans should be returned for review and approval prior to submission of the docket. He also will give the County Supervisor any other instructions needed for any corrective actions to be taken to process the loan. If the applicant is an organization, the State Director's determination of eligibility will be made with the advice of the Office of the General Counsel. If the applicant is eligible and is an individual whose application involves more than four rental units or an organization and the State Director recommends further consideration, the letter of application and all supporting documents together with any memorandum of the Office of the General Counsel will be submitted to the national office for review and instructions as to further processing, which may include, when appropriate, authorization for the State Director to approve the loan without further submission to the national office.

§ 1822.93 Preparation of loan docket.

(a) *Information needed.* If the State Director authorizes further processing of the application, the County Supervisor will advise the applicant of the information he will need to furnish so that the loan can be processed. Such information, if applicable, will include:

(1) Detailed plans, specifications, and cost estimates prepared in accordance with the "Interim Construction Guide for Use in Connection with Farmers Home Administration Loans for Senior Citizens Rental Housing," and the "Guide for the Construction of Farm Buildings." The completed docket will contain a detailed cost breakdown of the project for such items as land and rights-of-way, building construction, equipment, utility connections, on-site improvements, architectural and engineering services, and legal services. The cost breakdown also should show separately the items not included in the loan, such as furnishings and equipment.

(2) Satisfactory evidence of review and approval of the proposed housing by applicable State and local officials whose approval is required by State or local laws, ordinances, or regulations.

(3) Statements, supported by statistical data, describing and explaining the basis for the expectancy of a continued effective demand for senior citizens housing over the period of the loan. Information of this type may be determined from census reports and other published data showing the number of persons 62 years of age and over and the condition of the housing occupied. In a direct loan case the income distinction should be observed.

(i) If relatively few units, generally not more than 10, are being built in a community where an obvious effective demand exists for rental housing for the elderly, the information in this subparagraph (3) generally will be adequate.

(ii) For any proposed loan that includes more than 10 units or in a case with fewer units where there is any doubt concerning the demand, the applicant will be required to furnish a complete market analysis showing the need and demand for senior citizens housing in the area. Such a survey should be based on the best information available and should include:

(*a*) Estimate of number of houses or apartments in the area for rent or sale.

(*b*) Characteristics of present available rental housing, such as location, quality and size of unit, type of building, age of structure, house value, tenure, vacancy rate, nature of vacancies, and price or rental levels.

(*c*) Number of persons 62 years of age and over.

(*d*) Characteristics of the elderly such as single or couple, male or female.

(*e*) Income and financial condition of the senior citizens in the area.

(*f*) Present living arrangements of elderly in the area and the extent to which inadequate housing is associated with health or financial reasons.

(*g*) Estimate of the number of senior citizens who are willing and financially able to occupy the proposed housing.

(iii) If the housing is located in an area where there are relatively few senior citizens, or for any other reason there is a question as to whether the housing will be occupied, the applicant may be required to obtain written expressions of interest in applying for occupancy from a sufficient number of eligible senior citizens to clearly indicate full occupancy reasonably soon after construction is completed.

(4) Evidence supporting a continued effective demand for senior citizens rental housing required in subparagraph (3) of this paragraph should be based on the number of senior citizens in the area willing and financially able to occupy the housing at the proposed rental levels. This does not preclude occupancy by some who are receiving welfare assistance; however, the economic justification for the housing should be based on senior citizens in the area to be served by the proposed housing with incomes which are not subject to fluctuation such as those that may occur in welfare assistance payments.

(5) A description and justification of any related facilities included in the loan.

(6) A statement giving location of other essential facilities that will be available in the community, such as restaurants, doctors, dentists, hospitals, churches, shopping center, barber shops, beauty shops, and recreational facilities.

(7) A schedule of rental rates proposed for the housing and any separate charges for the use of related facilities.

(8) A detailed operating budget proposed for the first year of operation and a typical year's operation, showing the operating cost of the rental housing, the debt structure of the applicant, and how the debts will be paid. If the applicant has previously operated a rental housing or similar business, a copy of the operating budgets for the past 5 years also will be included.

(9) A statement in narrative form outlining the management of the proposed housing such as whether by owner or hired manager, age of manager, duties and responsibilities, experience, and long-range training program planned, and other factors pertaining to the qualifications of the manager.

(10) A statement of policy regarding occupancy including method of selecting tenants, a copy of the proposed form of lease or rental agreement to be offered tenants, and a copy of any rules or regulations governing administration and occupancy.

(11) When the loan is secured by a junior real estate mortgage, agreements with prior lienholders and information concerning prior mortgages as provided in § 1822.10 (b) and (c).

(12) When land is being purchased or the building site will be part of a tract owned by the applicant, or in any other

case when necessary to clearly identify the property, a survey of the land to be given as security prepared by a licensed surveyor will be included in the loan docket.

(b) *County Supervisor's responsibility.* As the information for the loan docket is being developed, the County Supervisor will work closely with the applicant and review the information furnished for adequacy and completeness. The County Supervisor will observe the proposed site and consider its desirability. He will evaluate the manner in which the applicant plans to conduct his business and financial affairs, commenting on the adequacy of the management. The County Supervisor's comments together with the application and the completed docket will be submitted to the County Committee for its consideration.

(c) *County Committee certification.* Before a loan is approved, the County Committee will make the necessary certification on Form FHA 440–2, "County Committee Certification or Recommendation." Before executing Form FHA 440–2, the County Committee will consider all pertinent information concerning the applicant and the proposed facility, and will be given an opportunity to talk with the applicant or its representative if the Committee desires to do so.

(d) *Forms.* (1) Form FHA 440–23, "Promissory Note," will be used for direct loans.

(2) Form FHA 440–22, "Promissory Note," will be used for insured loans to organizations except when legally inappropriate.

(3) Form PHA 440–16, "Promissory Note," will be used for insured loans to individuals.

(4) Forms FHA–28 or FHA 442–6, "Association Proposal and Request for Funds," will be used for a loan to an organization, or a loan to an individual involving more than four rental units.

(e) *Submission of docket to State office.* The loan docket together with any comments from the County Committee and the County Supervisor will be submitted to the State Office for review. The State Director will prepare a memorandum to the County Supervisor requesting additional information needed, or setting forth the conditions of approval. If the prior consent of the National Office is required for loan approval and such consent has not previously been given, a copy of the State Director's unsigned memorandum, together with his recommendation and the complete loan docket, will be submitted to the National Office.

§ 1822.94 Loan approval.

(a) *Authority.* The State Director is authorized to approve or disapprove SCH loans in accordance with this Subpart D. The State Director may redelegate loan approval in writing to State Office employees other than the Area Supervisor and the State Office employee making the appraisal.

(1) Without the prior consent of the National Office no SCH loan may be approved by the State Director if:

(i) The loan is to an organization; or

(ii) The amount of the loan plus unpaid principal and past-due interest of any other lien(s) on real estate of the applicant would exceed $50,000; or

(iii) The proposed loan together with unpaid principal of any other FHA loans of the applicant would exceed $50,000.

(2) When prior consent of the National Office is required for loan approval, the loan docket and the State Director's recommendation will be sent to the National Office.

(b) *Loan approval action.* When a loan is approved, the approval official will:

(1) Indicate on Form FHA 440–3, including all copies, any conditions that must be met before the loan is closed, including the amount of surety and fidelity bond coverage and other insurance, the security (such as real estate lien or junior lien subject to certain prior liens), title evidence, and any other special requirements. If more space is needed, Form FHA 440–3 will be supplemented by a memorandum.

(2) Sign the original and two copies of Form FHA 440–3 and insert his title in the space provided.

(3) Sign the original of Form FHA 440–1 and insert his title in the space provided.

(4) If a loan is disapproved after the docket has been developed, the reason for such action will be shown on the original of Form FHA 440–3. Form FHA 440–3 will be initialed and dated. When a loan is disapproved, the County Supervisor will notify the applicant of the disapproval of the loan and the reasons therefor.

§ 1822.95 Actions subsequent to loan approval.

(a) *Requesting check.* When loan approval conditions can be met, including any real estate title requirement, and a date for loan closing has been agreed upon, the County Supervisor will order the loan check so that it will be available on or immediately prior to the date set for loan closing.

(b) *Handling the loan check.* The loan check will be handled in accordance with Part 1803 of this Chapter XVIII.

(c) *Property insurance.* Buildings will be insured in accordance with Part 1806 of this Chapter XVIII.

§ 1822.96 Loan closing.

(a) *Applicable instructions.* SCH loans will be closed in accordance with applicable provisions of Part 1807 of this Chapter XVIII and any supplementary, or closing instructions, and with the assistance of the designated attorney, representative of the title insurance company, or local attorney, whichever is appropriate.

(b) *Mortgage.* Unless the Office of the General Counsel determines the form to be inappropriate in any case, real estate mortgage Form FHA 427–2 (State), "Real Estate Mortgage for _____," will be used for a direct loan to an organization, and Form FHA 427–1 (State), "Real Estate Mortgage for _____," will be used for an insured loan to an individual or to an organization. For loans to organizations, Form FHA 427–2 and Form FHA 427–1 will be modified as prescribed by or with the advice of the Office of the General Counsel with respect to the name, address, and other identification of the borrower, the style of execution, and the acknowledgment.

(1) When the loan is to finance housing of more than two rental units, the mortgage or other security instrument shall contain the following covenant:

> Borrower covenants and agrees that it will not discriminate, or permit discrimination by any agent, lessee, or other operator, in the use or occupancy of the housing or related facilities financed in whole or in part with the loan in connection with which this instrument is given, because of race, color, creed, or national origin.

(2) When a loan resolution or loan agreement is used, an additional paragraph will be included in the mortgage to read as follows:

> This instrument also secures the obligations and covenants of Borrower set forth in Borrower's Loan Resolution (Loan Agreement) of _____, which is (Date) hereby incorporated herein by reference.

(3) In case of a loan to an individual where a loan agreement is not used, additional paragraphs will be included in the mortgage to read as follows:

> Occupancy of the housing and related facilities on the property will be limited to eligible senior citizen occupants as defined in the regulations of the Farmers Home Administration, unless the Government gives prior written approval to other occupancy.
>
> As required by the Government: Borrower will permit the Government to inspect and examine the operation of the housing, and the books, records, and operations of Borrower; submit regular and special reports pertinent to the purpose of the loan or the Government's financial interests; subject rents and charges and other terms of rental agreements with occupants of the housing, and compensation to employees connected with its operation, to prior approval by the Government, or to adjustment at the direction of the Government when necessary in its judgment to carry out the purpose of the loan or protect its financial interests; and comply with any other requirements which in the discretion of the Government are reasonably appropriate to the purpose of the loan or protection of the Government's interests.

(c) *Promissory note.* (1) The total amount to be shown in the note will be the amount of the loan.

(2) Payments on SCH loans will be scheduled with annual installments due January 1. Form FHA 440–9 will be used to schedule payments on a monthly basis. As provided in § 1822.88 (a) and (b), the first installment or the first and second installments may be less than regular annual installments. If the first installment or first two installments are less than regular annual installments, the regular annual installment will be computed by multiplying the amount of the loan by the factor for the number of years over which regular installments will be scheduled.

(3) The note will be signed in accordance with Part 1807 of this Chapter XVIII.

(4) For an insured loan the note will not be endorsed or the insurance endorsement executed until the loan is assigned from the insurance fund to a lender. In such cases, the Director, Finance Office, or the Insured Loan Officer, will sign the endorsement on the reverse of the note and will execute the insurance endorsement in accordance with Part 1873 of this Chapter XVIII.

(5) When a loan is closed during December and the first installment is due the next January 1, the first installment will be collected at the time of loan closing if it is a nominal amount or the borrower consents.

(6) When a loan is disbursed in more than one advance, Forms FHA 440–1 will be prepared and executed. The actual date of each advance will be entered on the reverse of the note. The date of the first advance will be the date of loan closing, and each subsequent advance the date of the loan check.

(d) *Recorded mortgage.* When the real estate mortgage or other security instrument is returned by the recording official, the County Supervisor will retain the original in the borrower's case folder. If the original is retained by the recording official for the county records, a conformed copy including the recording data showing the date and place of recordation and book and page number will be prepared and filed in the borrower's case folder. A copy of the mortgage will be delivered to the borrower and will be conformed only if required by State law or if it is the custom of other lenders in the area.

(e) *Date of loan closing.* An SCH loan is considered closed when the security instrument is filed of record, or, if there is no security instrument filed of record, when the loan funds are deposited in the supervised bank account or otherwise made available to the borrower after he executes and delivers the note and any other required instruments.

§ 1822.97 Subsequent SCH loans.

A subsequent SCH loan is an SCH loan to an applicant indebted for an initial loan of the same type (direct or insured). A subsequent SCH loan may be made for the same purposes and on the same conditions as an initial loan.

§ 1822.98 Complaints regarding discrimination in use and occupancy of housing in projects of more than two rental units.

(a) Any occupant or applicant for occupancy or use of such SCH housing or related facilities who believes he has been discriminated against because of race, color, creed, or national origin may file a complaint with the County Supervisor or State Director.

(b) The complaint must be in writing and signed by the complainant and contain the following information:

(1) The name and address (including telephone number) of the complainant.

(2) The name and address of the person committing the alleged discrimination.

(3) Date and place of the alleged discrimination.

(4) Any other pertinent information that will assist in the investigation and resolution of the complaint.

Subpart E—Farm Labor Housing Grant Policies, Procedures, and Authorizations

AUTHORITY: The provisions of this Subpart E issued under secs. 506, 508, 510, 516, 63 Stat. 435, as amended, 436, as amended, 437, 78 Stat. 797; 42 U.S.C. 1476, 1478, 1480, 1486; Orders of Secretary of Agriculture, 29 F.R. 16210, 16840, 30 F.R. 14049.

§ 1822.201 General.

This subpart sets forth the policies and procedures and delegates authority for extending financial assistance in the form of grants under section 516 of the Housing Act of 1949 to provide low-rent housing and related facilities for domestic farm labor.

§ 1822.202 Objective.

The basic objective of the Farmers Home Administration (FHA) in making Labor Housing (LH) grants is to provide decent, safe, and sanitary low-rent housing and related facilities for domestic farm labor when there is a pressing need for such facilities in the area and there is reasonable doubt that the housing can be provided without grant assistance.

§ 1822.203 Definitions.

As used in this Subpart E:

(a) "Domestic farm labor" means persons who receive a substantial portion of their income as laborers on farms in the United States and either (1) are citizens of the United States, or (2) reside in the United States after being legally admitted for permanent residence and may include families of such persons. Laborers on farms may include laborers engaged in handling agricultural commodities while they are in the unprocessed stage, provided title to the commodity is held by the producer and the place of employment, such as a packing shed, is on or near the farm where the commodity is produced. Laborers on farms do not include workers on "oyster farms" or "fish farms."

(b) "Housing" means existing structures or new structures which are or will be suitable for decent, safe, and sanitary dwelling use by domestic farm labor at rentals within the payment ability of families of low income. "Housing" may also include "related facilities" where appropriate.

(c) "Related facilities" include community rooms or buildings, cafeterias, dining halls, infirmaries, child care facilities, assembly halls, and other essential service facilities, such as central heating, sewerage, lighting systems, bathing facilities, and a safe domestic water supply. All related facilities must be reasonably necessary for proper use of the housing as dwellings for the domestic farm labor occupants.

(d) "Organization" means a State or political subdivision, or a public or private nonprofit organization.

(e) "Nonprofit organization" means a public or broadly based private organization which is organized and operated on a nonprofit basis, is legally precluded from distributing any profits, dividends, or net assets to its members or any private individual, and will operate the housing as a community service.

(f) "Construct or repair" means to construct new structures or facilities, or to acquire, relocate, or improve existing structures or facilities.

(g) "Development cost" means the cash cost of constructing, purchasing, improving, altering or repairing new or existing housing and related facilities, and purchasing and improving the necessary land, including necessary architectural, legal, and other appropriate technical and professional fees and charges.

(h) "Members" and "membership" include stockholders and stock where appropriate.

(i) "Board" and "directors" include the governing body and members of the governing body of an organization.

(j) "Applicant" means the applicant for or the recipient of an LH grant.

§ 1822.204 Eligibility requirements.

(a) *Eligibility of applicant.* To be eligible for an LH grant the applicant must:

(1) Be an organization with an assured life over a period of years sufficient to carry out the purpose of providing low-rent housing for domestic farm labor. This should not be less than the anticipated useful life of the project as suitable housing for domestic farm labor, assuming proper maintenance and repair of the property. Ordinarily, this should not be less than 50 years.

(2) When the grant is closed, be the owner (as distinguished from a lessee) of the housing and related facilities, including the site.

(3) Be unable to provide the necessary housing from its own resources, including any power to levy taxes, assessments, or charges, and unable to obtain the necessary credit through Labor Housing (LH) loans under Subpart C of this Part 1822 or from other sources upon terms and conditions the applicant could reasonably be expected to fulfill.

(4) Have initial operating capital and other assets needed for a sound operation, and have, after the housing is completed, income sufficient for its operating expenses, necessary capital replacements, payments on authorized debts, including any LH loan, and other reasonable and necessary expenses, and the accumulation of reasonable reserve as required. Initial operating capital should be sufficient to pay such costs as property and liability insurance premiums, fidelity bond premiums, utility hook-up charges, maintenance equipment, movable furnishings and equipment, printing lease forms, and other initial expenses.

(5) Possess the legal and actual capacity, ability, and experience to incur and carry out the undertakings and obligations required, including the obligation to maintain and operate the housing and related facilities for the purpose for which the grant is made.

(6) Legally obligate itself not to divert income from the housing to any other business, enterprise, or purpose.

(7) If it is a private nonprofit organization, meet the following additional requirements:

(i) Its members who own a controlling interest must reside in the area which includes the location of the housing and the farms on which the occupants will work.

(ii) Responsibility for management of the housing must be vested in the applicant's board of directors.

(iii) The applicant must have a large local membership reflecting a variety of interests in the community; be governed by a board of directors of not less than five members drawn from the community leadership; be legally precluded from distributing any dividends or net earnings to its members or any private individual during its corporate lifetime; in the event of its dissolution, be legally bound to transfer its net assets to a nonprofit organization of a similar type or a public body, for use for domestic farm labor housing or other public purpose; be pledged to administer the housing as a community service in the interest of the whole community; be prohibited from requiring employment on any particular farm or farms as a condition of occupancy of the housing; and be certified as exempt from Federal income taxation.

(b) *Authorized representative of applicant.* The FHA will deal only with the applicant or its bona fide representative and technical advisers. The authorized representative of the applicant must be a person who has no pecuniary interest in the award of the architectural or construction contracts, the purchase of equipment, or the purchase of the land for the housing site.

§ 1822.205 Grant purposes.

LH grants may only be made to:

(a) Construct or repair housing as defined in § 1822.203 (b), (c), and (f) of this Subpart E. Housing may include single family units, apartments, or dormitory-type units.

(b) Acquire the necessary land on which the housing is or will be located and make improvements such as landscaping, foundation plantings, seeding and sodding lawns, and construction of walks, yard fences, parking areas, and driveways. The cost of the land so acquired may not exceed its present market value in its present condition. Present market value will be determined by a current appraisal. Land will not be acquired in excess of the minimum adequate amount needed for the housing. Land will not be acquired from a member, officer, or director of the applicant, or from another organization in which any member of the applicant has an interest, without the prior consent of the National Office.

(c) Develop and install related facilities as defined in § 1822.203(c) of this Subpart E and other related facilities reasonably necessary for proper use of the housing as dwellings for the occupants, such as:

(1) Recreation area or center.

(2) Central cooking and dining facilities.

(3) Small infirmary for emergency care only.

(4) Laundry facilities.

(5) Fallout shelters or similar protective structures.

(6) Essential equipment which upon installation legally becomes a part of the real estate. The applicant must provide movable-type furnishings and equipment from its own funds.

(d) Pay related costs such as fees and charges for legal, architectural, and other appropriate technical services which are not available from the FHA or other sources without cost to the applicant.

§ 1822.206 Conditions under which an LH grant may be made.

A grant may be made to an eligible applicant only when all of the following requirements can be met:

(a) The applicant will contribute at least one-third of the cash development cost, obtained from its own resources, including any power to levy taxes, assessments, or charges, or with credit from other sources, or with an LH loan. The applicant's contribution must be available at the time of grant closing. If an LH loan is needed, the applicant will file an application for the loan to be considered with the grant application.

(b) The housing and related facilities will fulfill a pressing need in the area in which the housing is or will be located and there is reasonable doubt that such housing can be provided without the grant.

(1) The applicant will furnish the FHA factual evidence showing:

(i) Number of domestic farm laborers currently being used in the area.

(ii) Kind of labor performed.

(iii) Outlook for future need for domestic farm labor in the area.

(iv) Kind, condition, and adequacy of housing presently used by domestic farm laborers.

(v) Ownership of presently occupied housing.

(vi) Customary rental terms and conditions.

(vii) Reasons why needed housing cannot be financed with funds from other sources including an LH loan.

(2) If, after evaluating the information furnished by the applicant and additional information he may obtain, the County Supervisor determines that the housing will fulfill a pressing need and that a reasonable doubt exists that the housing can be provided without the grant, he will prepare a narrative statement to support his conclusions.

(c) The housing to be provided is the most practicable type, giving due consideration to the purposes to be served and the needs of the occupants.

(d) The housing will be constructed in an economical manner and will not be of elaborate or extravagant design or material.

§ 1822.207 Limitations and conditions.

(a) *Maximum amount of grant.* The amount of any grant may not exceed the lesser of:

(1) Two-thirds of the total cash development cost, or

(2) That portion of the total cash development cost which exceeds the sum of any amount the applicant can provide from its own resources plus the amount of a loan which the applicant will probably be able to repay, with interest, from income from rentals within the financial reach of families of low income.

(b) *Advances of grant funds.* The times for requesting Treasury checks representing LH grant funds and depositing such checks in the applicant's supervised bank account will be determined in accordance with § 1822.220(d) of this Subpart A. Where other funds to help finance the labor housing are being supplied by the applicant from its own resources or from a loan, such other funds will be used before a grant check is requested from the Treasury or deposited in or disbursed from the supervised bank account, as appropriate.

(c) *Development cost over $500,000.* No docket for a grant which would result in the total amount of grant assistance to the applicant, plus any LH indebtedness of the applicant, exceeding $500,000 will be developed without the prior consent of the National Office. For the purpose of this paragraph, two organizations will be considered one, if a majority of the members or directors are the same persons. Any request for such consent must include the following information, which must be detailed, accurate, complete, and current.

(1) Name and address of the applicant.

(2) Applicant's assets.

(3) A listing of any debts owed.

(4) Status of each debt.

(5) Information on any interlocking memberships.

(6) Applicant's experience in operating farm labor housing.

(7) Proposed amount of applicant's financial contribution to the project, including any loan the applicant may be able to obtain.

(8) A realistic estimate of future need for the housing.

(9) A general description of the housing planned.

(10) The evidence of need submitted by the applicant and the County Supervisor's evaluation.

(11) Any other factors having a bearing on the need and financial soundness of the proposed housing.

(d) *Prohibited use of grant funds.* Grant funds may only be used for the purposes stated in § 1822.205 of this Subpart E. Among the purposes for which grant funds will not be used are the following:

(1) Housing or related facilities which are elaborate or extravagant in design or material.

(2) Movable-type furnishings or equipment.

(3) Refinancing debts of the applicant.

(4) Payment of any fees, charges, or commissions to any broker, negotiator, or other person for the referral of a prospective applicant or solicitation of the grant.

(5) The payment of any fees, salary, commission, profit, or compensation to an applicant, or any officer, director, trustee, stockholder, member, or agent of the applicant, except as provided in § 1822.205(d) of this Subpart E.

(e) *Obligations incurred before grant closing.* When the applicant files an application for a grant, the County Supervisor will advise the applicant that construction must not be started and that obligations for work, materials, or land purchase must not be incurred before the grant is closed, and that it is the policy of the FHA not to permit grant funds to be used to pay such obligations. If, nevertheless, the applicant incurs debts for work, materials, or land purchase before the grant is closed, the State Director may authorize the use of grant funds to pay such debts, but only when he finds that all the following conditions exist:

(1) The debts were incurred after the applicant filed a written application for a grant.

(2) The applicant is unable to pay such debts from its own resources or with credit from other sources, and failure to authorize the use of grant funds to pay such debts would impair the applicant's financial position.

(3) The debts were incurred for authorized grant purposes.

(4) Contracts, materials, construction, and any land purchase meet FHA standards and requirements, including the Davis-Bacon Act and related requirements.

(f) *Resolution.* (1) A resolution in form prescribed or approved by FHA will be adopted by the applicant's board of directors and a certified copy included in the grant docket before the grant is approved.

(2) The form of resolution to be adopted by the applicant will contain policy and procedure requirements which should be read and fully understood by the applicant's board of directors and officers. It will include provisions authorizing the FHA to prescribe requirements regarding the housing and related operations of the applicant, and other provisions including the following:

(i) The rentals charged domestic farm labor will not exceed such amounts as are approved by the FHA after considering the income of the occupants and the necessary costs of operating and adequately maintaining the housing.

(ii) The housing will be maintained at all times in a safe and sanitary condition in accordance with standards prescribed by State and local law, or as required by FHA.

(iii) In granting occupancy of the housing an absolute priority will be given at all times to domestic farm labor.

(3) The form of resolution will also authorize the appropriate officers of the applicant to execute a "Labor Housing Grant Agreement," in form prescribed or approved by FHA.

(g) *Conditional obligation to repay grant.* The obligations incurred by the applicant as a condition of the grant will continue for 50 years from the date of the grant, unless sooner terminated in accordance with provisions of the entire grant contract between the applicant and the Government. If default should occur under any grant obligation, the Government will have the right, at its option, to require repayment of the full amount of the grant plus interest at the rate of five percent per annum after the default. The conditional obligation to repay the grant will be secured by a mortgage on the housing or other security, such as would be taken to secure an LH loan.

(h) *Nondiscrimination in use and occupancy.* When the grant is used to finance housing of more than two rental units the borrower will not discriminate, or permit discrimination by any agent, lessee, or other operator, in the use or occupancy of the housing or related facilities because of race, color, creed, or national origin.

(i) *Complaints regarding discrimination in use and occupancy of housing.* Complaints of any occupant or applicant for occupancy or use of housing who believes he has been discriminated against because of race, color, creed, or national origin will be handled in accordance with § 1822.77 of this Part 1822.

(j) *Civil Rights Act of 1964.* Any labor housing project in which LH grant funds are involved will be subject to the provisions of Title VI of the Civil Rights Act of 1964 and all Executive Orders, regulations, and instructions issued thereunder.

(k) *Supervisory assistance.* Supervision will be provided to the extent necessary to achieve the objective of the grant and protect the interest of the Government.

§ 1822.208 Legal and other services.

(a) *Title clearance and legal services.* For a grant to a public body, title clearance and legal services will be obtained in accordance with special instructions, observing the provisions of Part 1807 of this Chapter XVIII insofar as feasibly applicable. For grants to other applicants, the provisions of Part 1807 of this Chapter XVIII regarding title clearance and legal services will apply, subject to § 1822.221(a) of this Subpart E.

(b) *Contract for legal services.* The applicant will be required to have a written contract for legal services which are rendered in the period from the filing of the application to the closing of the grant, or which are rendered after grant closing and paid for with grant funds. All such contracts, including the amount of the fees to be paid, will be subject to review and approval by the FHA and therefore should be submitted to the FHA before execution by the applicant. Contracts will provide for the types of service to be performed, the amount of the fees to be paid, and payment of the fee in a lump sum on the completion of all services, or in installments as services are performed. The amount of the fees will be based on the nature and extent of the legal service needed to be furnished to the applicant in connection with the housing planning, development, and financing, and the rate of compensation for such services in the community.

(c) *Contract for architectural services.* Architectural services will be required on each project, and the applicant will be required to have a written contract for such services. All such contracts, including the amount of the fees to be paid, will be subject to review and approval by the FHA, and therefore, should be submitted to the FHA before execution by the applicant. Contracts will provide for the type of services to be performed, such as (1) preliminary and final planning; (2) furnishing of sketches, drawings, specifications, and cost estimates; (3) assisting in preparing and soliciting construction bids; (4) analyzing bids; (5) preparing and awarding construction contracts; (6) preparing change orders; (7) exercising supervision during construction; (8) certification of all payments for work performed; and (9) the amount of fees to be paid and payment of the fees in a lump sum upon completion of all services or in installments as services are performed. The amount of fees payable will be based on the nature and extent of the services needed by the applicant in connection with the planning and development of the housing.

§ 1822.209 Construction and development policies.

(a) *Planning and construction.* Housing will be planned in accordance with Part 1804 of this Chapter XVIII and "Supplement No. 1, Farm Labor Housing," of the "Guide for the Construction of Farm Buildings." Construction and development will be performed in accordance with Part 1804 of this Chapter XVIII and any special instruction from the National Office.

(b) *Davis-Bacon Act.* Construction financed with the assistance of an LH grant will be subject to Administration Letter 838 (440) regarding the Davis-Bacon Act and related requirements.

(c) *Compliance with local codes and regulations.* Planning, constructing, zoning, and operating housing will conform with the applicable laws, ordinances, codes, and regulations governing such matters as construction, heating, plumbing, electrical installation, fire prevention, and health and sanitation.

§ 1822.210 Supervised bank account.

LH grant funds and any funds furnished by the applicant, including any FHA loan funds will be handled in accordance with Part 1803 of this Chapter XVIII. For a grant, Form FHA 402–1, "Deposit Agreement," will be altered by inserting "advance(s) or" after "in connection with such" in the fourth line of the first numbered paragraph. Collateral for deposits of funds will be pledged in accordance with Administration Letter 802 (402). Funds furnished by the applicant for the purchase of special equipment and furnishings which

will be used in connection with the housing but are not eligible under § 1822.205 of this Subpart E for financing with grant funds will be deposited in a special account separate from the supervised bank account containing grant funds. Withdrawal of funds from the supervised bank account may be made only for the approved eligible purposes.

§ 1822.211 Insurance.

The State Director will determine the minimum amount and types of insurance the applicant will carry.

(a) Fire and extended coverage will be required on all buildings essential to the successful operation of the housing development in accordance with Part 1806 of this Chapter XVIII.

(b) Suitable workman's compensation insurance will be carried by the applicant for all its employees.

(c) The applicant will be advised of the possibility of incurring liability and encouraged, or may be required when appropriate, to obtain liability insurance.

§ 1822.212 Bonding.

The applicant will provide fidelity bond coverage for the official entrusted with the receipt and disbursement of its funds and the custody of any property. While the "Labor Housing Grant Agreement" remains in effect, the amount of the bond will be at least equal to the maximum amount of money that the applicant will have on hand at any one time exclusive of funds in a supervised bank account. If permitted by State law, the United States will be named as co-obligee in the bond. Form FHA 440–24, "Position Fidelity Schedule Bond," may be used if permitted by State law.

§ 1822.213 Optioning of land.

If the project involves the purchase of real estate, the applicable provisions of Part 1821 of this Chapter XVIII regarding options will be followed. After the grant is approved, the County Supervisor will have Form FHA 443–9, "Form Letter—Acceptance of Option," or other appropriate form of acceptance completed, signed, and mailed to the seller.

§ 1822.214 Processing applications.

The application for a grant will be in the form of a letter to the County Supervisor. The letter will include a full statement of the purpose for which the grant is requested; the amount the applicant is able to furnish; the estimated amount of the grant needed; the proposed manner of securing and repaying any debts the applicant has or plans to incur; any previous experience in operating labor housing; and the name and address of the authorized representative of the applicant, if any. The applicant will attach to the letter of application the following, which will be included in the preliminary docket with the application:

(a) A current, dated financial statement signed by an authorized official of the organization showing the amounts and nature of assets and liabilities together with information on the repayment schedule and status of each debt. The County Supervisor's evaluation and verification, when appropriate, of the applicant's financial statement will be attached to the County Office copy of the financial statement.

(b) Evidence of inability to obtain credit from other sources.

(c) Statement explaining why housing cannot be provided without a grant.

(d) Customary tenure arrangements and rental charges to laborers and contribution by growers.

(e) Method of operation and management practices.

(f) A proposed operating budget showing anticipated income and expenses for a typical year of operation.

(g) Plot plan and preliminary plans and specifications for the proposed housing and related facilities including:

(1) Building layout.

(2) Type of construction.

(3) Number and type of rental units.

(4) Estimate of cost, including basis for the estimate.

(5) Evidence of compliance with State and local health regulations.

(h) Preliminary survey of the area to determine evidence of need in accordance with § 1822.206(b) of this Subpart E and probable demand for labor housing.

(i) Information on neighborhood and existing facilities, such as distance to shopping area, schools, neighborhood churches, available transportation, and to other essential services.

(j) Information on topography, drainage, sanitation, and water supply. Any known problems related to these items should be mentioned.

(k) A statement on the amount, purpose, and method of providing capital to cover preliminary expenses and initial operating expenses.

(l) An accurate citation to the specific provisions of the State law under which the applicant is organized; a copy of the applicant's existing or proposed charter or articles of incorporation, bylaws, and other basic organization documents; the names and addresses of the applicant's principal members and its directors and officers; and if a member is another organization, its name, address, and principal business.

§ 1822.215 Preliminary docket.

(a) *County Supervisor's review.* The preliminary docket will be reviewed by the County Supervisor. If it appears that the applicant is probably eligible and a grant likely can be made, the preliminary docket, including the comments and recommendations of the County Supervisor and any additional material, will be forwarded to the State Director.

(b) *State office action.* (1) The State Director will review the preliminary docket to determine whether the applicant and the proposed grant meet or can meet the requirements of State law and this Subpart E.

(2) The State Director will make a study of the preliminary plans and specifications for the proposed housing to determine compliance with Supplement No. 1 of the "Guide for the Construction of Farm Buildings" or compliance with applicable State codes for the construction of buildings for labor housing. The State Director's comments pointing out any deficiencies in the plans and suggestions for improvements will be attached to the plan for the applicant's consideration when obtaining detailed plans and specifications and cost estimates.

(3) If in any case before the grant docket has been completed, the State Director is unable to determine whether the proposed grant meets the requirements of this Subpart E, he may submit the incomplete docket to the National Office for special review. Such submissions will include the State Director's comments and recommendations and sufficient information concerning the applicant and the proposed grant to enable the National Office to reach an informed conclusion.

§ 1822.216 Determining rentals.

(a) *Information.* (1) The applicant will provide the following information by making a survey of the area where the occupants of the housing will be employed:

(i) The probable earnings of the prospective domestic farm labor occupants of the housing.

(ii) The income required to enable such prospective occupants to obtain other adequate housing.

(iii) The expenditure budget required by the prospective occupants for an adequate level of living which provides for the essentials of food, clothing, health, education of children, and participation in community life.

(iv) Customary rental practices and charges for other rental housing in the area that might be available to the prospective occupants.

(2) The information furnished by the applicant will be reviewed and verified by the County Supervisor with the assistance of the County Committee.

(3) The information will then be included in the loan docket.

(4) Additional information may be required by the State Director to determine and approve the maximum rental to be charged domestic farm labor occupants of the housing assisted with the LH grant.

(b) *Approval of rental charges.* The State Director, after an analysis of the information, will establish and approve the maximum rentals to be charged domestic farm labor for occupancy of the housing. When making this determination he will give due consideration to the income and earning capacity of the prospective occupants of the housing and the necessary cost of operating and maintaining such housing. As a general guide, the weekly, monthly, or other rental charges usually should not exceed a rate which on an annual basis would equal 25 percent of the occupant families' estimated annual income.

(1) A memorandum stating the amount of the approved initial rental charges will be sent to the County Supervisor in an original and one copy. Both the original and copy will be retained

by the County Supervisor and included in the grant docket. After the grant is approved, the County Supervisor will send the original and copy to the applicant, which will sign the original as received and noted, and return it to the County Supervisor.

(2) Rental charges may be adjusted subsequently when justified by a substantial change in the occupant's income, living costs, and other pertinent factors. The procedure will be similar to that provided in this § 1822.216 for establishing and approving rental charges initially.

§ 1822.217 Determining amount of grant.

(a) *General.* The State Director will determine the amount the applicant can obtain from other sources, including an LH loan, and the amount of the grant to be made, within the limits set forth in § 1822.207(a) of this Subpart E.

(b) *Method of determining amount of grant.* (1) The State Director will examine the income of the project based on the approved rental charges and operating cost of the housing when in full operation to determine the soundness of the operation. In cases where there is any doubt as to the probable soundness due to unrealistic planning of income or operating expenses, or for other reasons, the housing project and its operation will be discussed with the applicant to determine changes which can be made to correct the deficiencies.

(2) When a sound plan of operation has been agreed upon, the amount of funds which the State Director determines can practicably be obtained from other sources, including an LH loan, will be determined on the basis of the amount of income available for loan repayments after allowing for reasonable and necessary maintenance costs, payments on other debts of the applicant, and the orderly accumulation of an adequate reserve.

(3) If the income available is sufficient to repay a loan which, added to any funds available from the applicant's own resources, equals an amount which is at least one-third of the total cash development cost, the applicant will be required to contribute the maximum such amount and a grant may be made for the difference.

(4) The State Director will establish the amount of grant to be made and instruct the County Supervisor to complete the development of the docket. A summary of the State Director's analysis and his basis for determining the amount of grant will be fully documented and become a part of the grant docket which will be subject to review by the National Office before approval.

§ 1822.218 Completion of docket.

If the State Director authorizes further processing, the grant docket will be completed in accordance with § 1822.72 of this Part 1822. When an LH loan is being made concurrently with an LH grant, the dockets will be considered at the same time. In such a case, information required for both the loan and the grant will not be duplicated.

(a) *County Committee certifications.* Before a grant is approved, the County Committee will make the necessary certification on Form FHA 440–2, "County Committee Certification or Recommendation." Before executing Form FHA 440–2, the County Committee will consider all pertinent information concerning the applicant and the proposed project, and will be given an opportunity to talk with the applicant or its representative if the Committee desires to do so.

(b) *Furnishing title evidence.* If the applicant is already the owner of the land, it may furnish title evidence at any time after it is determined the grant is likely to be made. For property to be purchased, title clearance will not be requested until the grant is approved.

§ 1822.219 Grant approval.

(a) *Delegation of authority.* The State Director is authorized to approve or disapprove grants in accordance with this Subpart E with prior consent of the National Office.

(b) *Grant approval action.* Paragraphs (b), not including subparagraph (5), and (c) of § 1822.73 of this Part 1822 will apply to grants, with the word "grant" substituted for the word "loan."

§ 1822.220 Actions subsequent to grant approval.

(a) *Increase or decrease in amount of grant.* If it becomes necessary for the amount of the grant to be increased or decreased prior to closing, the County Supervisor will request that all distributed docket forms be returned to the County Office. The grant docket will be revised accordingly and reprocessed, except that if the amount of the grant is decreased, no LH loan is involved, and there is no substantial change in the planned improvements, a new County Committee Certification need not be obtained.

(b) *Cancellation of grant.* Grants may be canceled before closing. The County Supervisor will prepare Form FHA 440–10, "Request for Cancellation of Loan," in an original and two copies, or three copies, if the grant check has been received in the County Office. The form will be altered by changing all references to "loan" to "grant." Form FHA 440–10 will be sent to the State Director with the reasons for requesting cancellation. If the State Director approves the request for cancellation, he will forward the original request to the Finance Office. After making appropriate adjustments on the records, a copy of Form FHA 440–10 will be returned to the County Office. All interested parties, including the National Office, will be notified of the cancellation as provided in Part 1807 of this Chapter XVIII.

(c) *When to request and deposit grant check.* The policy of the Government is not to disburse grant funds from the Treasury until they are actually needed by the applicant.

(1) The County Supervisor will send the Finance Office a request or requests for a grant check or checks so that each check will be received in the County Office not more than 10 days before the estimated date the applicant will expend the grant funds represented by the check, except that:

(i) All grant funds which the applicant will expend within a 30-day period will be included in one advance, and

(ii) The total amount of any grant which does not exceed $20,000 will be disbursed in one advance.

(2) If the County Supervisor, upon receiving a grant check after the grant is closed, determines that more than 20 days will elapse before the earliest date any grant funds represented by the check will be needed by the applicant, he will return the check to the United States Treasury, and specify a remailing date.

(d) *Handling the grant check.* Subject to paragraph (c) of this § 1822.220, the grant check will be handled in accordance with Part 1803 of this Chapter XVIII.

§ 1822.221 Grant closing.

(a) *Date of closing.* As necessary to comply with § 1822.220(c) of this Subpart E, a grant may be closed, by executing the required instruments including the grant agreement and mortgage and filing the mortgage for record, before the grant check is ordered or received. A grant involving a mortgage is closed when the mortgage is filed for record.

(b) *Applicable instructions.* Subject to § 1822.220(c) of this Subpart E, LH grants will be closed in accordance with Part 1807 of this Chapter XVIII and any additional instructions necessary. The Office of the General Counsel may be requested to issue closing instructions in any case in which the State Director or National Office considers it advisable. The State Director, may permit the services of other legal counsel for the applicant to be utilized in addition to or in lieu of the services of a title insurance company or designated attorney.

(c) *Labor Housing Grant Agreement.* A Labor Housing Grant Agreement, prepared and authorized as provided in § 1822.207 of this Subpart E, will be dated and executed by the applicant on the date of grant closing on a form identical to that attached to the resolution. The executed agreement will be filed with the mortgage or other security instrument in the County Office.

(d) *Mortgage.* (1) For a grant made at the same time as an LH loan, the mortgage securing the loan will contain a provision making it also secure the applicant's obligations under the Labor Housing Grant Agreement. For a grant not made at the same time as an LH loan, the form of mortgage will be prescribed by the National Office or approved by it upon recommendation of the State Director with the advice of the Office of the General Counsel.

(2) Any security instrument taken by the FHA under subparagraph (1) of this paragraph may be taken upon the condition, if it is expressed in the security instrument or elsewhere in the grant contract between the applicant and the Government, that the Govern-

ment may at any time give any consent, deferment, subordination, release, or satisfaction of the secured grant obligations or the security therefor, with or without valuable consideration, upon such terms and conditions as the Government in its sole discretion may determine to be advisable to further the purposes of the grant or protect the Government's financial interest under the grant agreement and mortgage, and be consistent with both statutory purposes of the grant and the limitations of the statutory authority under which the grant is made.

§ 1822.222 Subsequent LH grants.

A subsequent grant is a grant made to an applicant which has previously received an LH grant. Subsequent grants may be made in compliance with all the provisions of this Subpart E.

PART 1823—SOIL AND WATER LOANS

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Subpart A—Loans to Individuals

AUTHORITY: The provisions of this Subpart A issued under secs. 304, 305, 307, 308, 309, 333, 75 Stat. 308, as amended, 309, as amended, 314, 318, sec. 343, 76 Stat. 632; 7 U.S.C. 1924, 1925, 1927, 1928, 1929, 1988, 1989, 1991; Orders of Sec. of Agr., 19 F.R. 74, 26 F.R. 8403, 27 F.R. 9957, 28 F.R. 9676.

§ 1823.1 General.

This subpart prescribes the policies procedures, and authorizations for making initial and subsequent direct and insured Soil and Water loans under Section 304 of the Consolidated Farmers Home Administration Act of 1961. Additional provisions for making special types of Soil and Water loans are contained in Subchapter D of this chapter.

(a) *Insured loan preference.* Whenever possible, the credit needs of an applicant will be met with an insured loan. If a local lender is not available, the loan may be made from the insurance fund provided funds are available, and the loan is not less than $3,000.

(b) *Veterans' preference.* Preference will be given to veterans as defined in Part 1801 of this chapter. The applications on hand from veterans will be given preference over applications of nonveterans on file at the same time.

(c) *Objectives.* The basic objectives of Soil and Water loans are to encourage and facilitate the improvement, protection, and proper use of farm land by providing adequate financing for soil conservation; water development, conservation, and use; forestation; drainage of farm land; the establishment and improvement of permanent pasture; and other related measures. The achievement of these objectives should assist farmers in making needed land-use adjustments, bringing about desirable use of acres diverted from the production of surplus crops, and in meeting the impact of adverse weather conditions on their farming operations.

§ 1823.2 Qualifications.

In order to be eligible for a Soil and Water loan the applicant must:

(a) Be an individual farmer or farm owner, member of a partnership that owns and operates a farm, or a domestic corporation engaged in farming. Such an applicant must be without sufficient resources to obtain sufficient credit elsewhere to finance the proposed land and water development, use, and conservation practices at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which he resides for loans for similar purposes and periods of time. If the applicant has an undivided interest in the land to be improved, the applicant and his coowners, individually and jointly, must be unable to provide the necessary improvements with their own resources or obtain the necessary credit elsewhere.

(1) The term "farm" includes the total acreage of one or more tracts of land which is owned by the applicant and is operated as a single unit in the production of agricultural commodities including the production of fish under controlled conditions.

(b) If the applicant is a corporation, the corporation and the principal stockholders must be unable to provide the necessary improvements with its and their own resources or obtain the necessary credit elsewhere.

(c) The applicant must, if a corporation, be organized as a private domestic corporation under appropriate State laws.

(d) Be a farm owner or tenant.

(e) Plan to improve a farm with a Soil and Water loan which is of such size and productive capacity that it will produce agricultural commodities in sufficient quantities that the proceeds from their sale will be a substantial portion of the operator's total cash income, and is recognized as a farm in the community rather than a rural residence. The income requirement will be satisfied even though the development financed with loan funds will reduce or temporarily eliminate the borrower's usual income from the farm, if the farm improved with loan funds is not used for nonfarm or recreational purposes and continues to be considered a farm in the community.

(f) Have sufficient income to meet his operating expenses, necessary capital replacements, and payments on debts, including the proposed Soil and Water loan, and, if an individual or partnership, family living expenses.

(g) Possess the character, industry, and ability to carry out the proposed operations and will honestly endeavor to carry out the undertakings and obligations required of him in connection with the Soil and Water loan.

(h) Have training or farm experience necessary to give reasonable assurance of success in farming whenever the soundness of the loan depends on the farming operation.

(i) Possess legal capacity to incur the obligation of the loan.

(j) If he is a tenant, have a satisfactory written lease for a sufficient period of time under terms that will enable him to obtain reasonable returns on the improvements made with the Soil and Water loan. In addition, the lease or a separate agreement should provide for compensating the tenant for any unexhausted value of the improvements upon termination of the lease.

§ 1823.3 Loan purposes.

Soil and Water loans may be made for:

(a) Paying the cash costs for materials, supplies, equipment, and services directly related to land and water development, use, and conservation, such as:

(1) Terraces, dikes, reservoirs, ponds, tanks, cisterns, wells, pipelines, pumping and irrigation equipment, ditches and canals for irrigation and drainage, waterways, and erosion control structures.

(2) Drainage of land which is part of an operating farm unit.

(3) Land clearing.

(4) Sodding, subsoiling, land leveling, liming, and fencing.

(5) Fertilizer and seed used in connection with a soil conservation practice, or the establishment or improvement of permanent pasture.

(6) Forestation for sustained yield and tree planting for erosion control or shelter-belt purposes.

(7) Gasoline, oil, and equipment rental or hire.

(8) Expenses incident to obtaining plans and making the loan, such as fees for legal, engineering, and other technical services which are required to be paid by the borrower and which he cannot pay from other funds. Loan funds also may be used to pay the borrower's share of Social Security taxes for labor hired by the borrower in connection with making any planned improvements.

(9) Purchase or repair of special purpose equipment such as terracing, land leveling, and ditching equipment, provided such equipment is needed for, and will facilitate the completion or maintenance of, the planned improvement, and provided the cost of the equipment plus the other costs related to the improvement will not be more than if performed by contract or other methods.

(b) Acquiring a source of water to be used on land the applicant owns or is acquiring, including:

(1) The purchase of water stock or membership in an incorporated water users association.

(2) The acquisition of a water right through appropriation, agreement, permit, or decree.

(3) The acquisiton of a water supply or right, and the land on which it is presently being used, when the water supply or right cannot be purchased without the land, provided the value of the land without the water supply or right is only an incidental part of the total price, and provided the water supply and right will be transferred to, and used more effectively on, other land owned by the applicant.

(c) The purchase of land or an interest therein for sites or rights-of-way upon which a water or drainage facility will be located.

(d) The purchase of stock or membership in, or payment of assessments to, an incorporated association or organized group service which will help such association or group service to finance facilities and improvements for which loan funds may be used.

(e) To pay that part of the cost of facilities, improvements, and practices which is to be earned by participation in Agricultural Conservation or Great Plains programs only when such costs cannot be covered by purchase orders or assignments to material suppliers or contractors. If loan funds are advanced and the portion of the payment for which the funds were advanced likely will exceed $500, the applicant will assign the payment to the Farmers Home Administration.

§ 1823.4 Terms of loans.

(a) *Interest, annual charge, and repurchase agreement.* The interest rate to the borrower will be 5 percent per year on the unpaid principal balance of the loan. For insured loans, the rate of interest, the rate of annual charge, and the repurchase agreement will be as provided in Part 1810 of this chapter.

(b) *Amortization period.* Each loan will be scheduled for payment within the shortest period consistent with the ability of the borrower to pay. In no case will the payment period exceed 40 years from the date of the note or extend beyond the useful life of the security, and for a loan that is not secured by real estate mortgage, the repayment period will not exceed 20 years from the date of the note.

(c) *Refinancing of Soil and Water loan.* If, at any time, it appears that the borrower may be able to obtain a loan from a cooperative or private credit source at reasonable rates and terms for loans for similar purposes and periods of time prevailing in the area, to refinance his loan, the borrower will, upon request, apply for and accept such refinancing.

§ 1823.5 Special requirements.

(a) *Supervisory assistance.* Supervision will be provided borrowers to the extent necessary to achieve the objectives of the loan and to protect the interest of the Government in accordance with Part 1802 of this chapter.

(b) *Supplementary payment agreement.* Form FHA 440-9, "Supplementary Payment Agreement," will be used for each applicant who regularly receives substantial off-farm income. It also will be used for other applicants when needed to facilitate servicing the account.

(c) *Loan limitations.* A soil and Water loan will not be approved if:

(1) The borrower's unpaid principal indebtedness plus any past-due interest against his farm or other security, or both, plus the amount of the loan will exceed $60,000.

(2) The amount of the loan and the unpaid principal balance plus any past-due interest of other liens against the farm will exceed the normal value of the farm and when applicable, the normal value of any other security, as determined by the loan approval official, or the loan exceeds the amount certified by the County Committee.

(3) Only nonreal estate items will serve as security, and the borrower's unpaid principal indebtedness plus any past-due interest against the security plus the amount of the loan will exceed $25,000.

(4) A lien junior to the Farmers Home Administration lien likely will be taken simultaneously with or immediately subsequent to the closing of the loan to secure any debt the borrower may have at the time of the loan closing or any indebtedness he may incur in connection with the Soil and Water loan, such as money borrowed from others for payments on debts against the farm, unless such a lien is within the $60,000 debt limit or the normal value of the security, whichever is less.

(d) *Land development.* To the extent practicable, recommendations of the Forest Service, State Agricultural Extension Service, and the Soil Conservation Service should be included in the development plan, as well as in the farm and home plans. In planning land development with the applicant, the County Supervisor will encourage him to use any cost-sharing assistance consistent with his plans that may be available to him through the Agricultural Conservation Program.

(e) *Planning and performing farm development.* The development work will be planned and completed in accordance with Part 1804 of this chapter.

(f) *Soil and Water loans to Farm Ownership, Rural Housing, or Labor Housing borrowers.* A Soil and Water loan may be made to a borrower indebted for a Farm Ownership, Rural Housing, or Labor Housing loan in accordance with this Subpart A. However, the Soil and Water loan, when added to the unpaid principal balance plus any past-due interest of any Soil and Water, Farm Ownership, Rural Housing, or Labor Housing loan (whether or not secured by the farm) plus other debts against the farm or any other security given for such loans or to be given for the Soil and Water loan, will not exceed $60,000, or normal value of the farm and other security for the loan, whichever is less.

(g) *Restrictions on loans.* A Soil and Water loan will not be made:

(1) For items that are not directly related to land and water development, use, and conservation, such as plumbing, annual operating expenses, power plants or power transmission lines other than service drops or lines, or buildings other than those to protect pumping installations.

(2) To pay debts incurred prior to the closing of the Soil and Water loan except fees for legal, engineering, and other technical services. The County Supervisor, not later than the time of planning farm improvements, will advise each applicant that construction work must not be started and debts for such work or materials must not be incurred before the loan is closed. If, nevertheless, the applicant incurs debts for materials or construction before the loan is closed, the County Supervisor may authorize in writing the use of Soil and Water funds to pay such debts only when he finds that all of the following conditions exist:

(i) The debts were incurred after the applicant filed a written application for a loan, except that in the case of a subsequent loan to complete improvements previously planned, the debts were incurred after the initial loan was closed.

(ii) The applicant is unable to pay such debts from his own resources or to obtain credit from other sources and failure to authorize the use of Soil and Water funds to pay such debts would impair the applicant's financial position.

(iii) The debts were incurred for authorized Soil and Water loan purposes.

(iv) The construction or repair work conforms to that shown on Form FHA 424-1, "Development Plan."

(3) To an applicant whose debts have been settled pursuant to Part 1864 of this chapter or who has been released from personal liability under Part 1872 of this chapter, as reflected by the County Office records, or where settlement under such regulations is contemplated unless the applicant's failure to pay his loan indebtedness was the result of circumstances beyond his control; the conditions which necessitated the debt settlement or release, other than weather hazards, disasters, or price fluctuations, have been or will be removed by making of the loan; and the borrower's operations will be sound and afford him a reasonable prospect of repaying the loan and meeting his other obligations. Before requesting an appraisal or causing the applicant to incur any expense in connection with the loan, the County Supervisor, if he determines that the applicant should be considered for a loan, should complete Form FHA 431-2,

"Farm and Home Plan," and send it, together with the application, any available case folders, and his recommendation, to the State Office for a determination as to whether to proceed with development of the loan docket.

§ 1823.6 Security requirements.

(a) *General.* Each Soil and Water loan will be adequately secured to protect the Government during the payment period of the loan, and as a general rule loans will be secured by a real estate mortgage on the farm to be improved if it is owned by the applicant.

(1) Any loan of more than $25,000 and any loan to be paid in more than 20 years from the date of the note will be secured by a mortgage on the applicant's farm unless an exception is made in accordance with paragraph (b) (1) of this section. Usually loans of more than $25,000 will be secured only by real estate. When necessary to supplement the applicant's equity in the farm or to facilitate servicing the loan, a mortgage also may be taken on other nonfarm real estate or on chattel or other property owned by the applicant.

(2) A loan of not more than $25,000 to be paid in not more than 20 years from the date of the note may be secured by:

(i) Real estate, real estate and chattels, or chattels only, or

(ii) Other security that cannot be converted to cash without jeopardizing the borrower's farming operations or means of livelihood. Examples of other security are: Cash value of life insurance policies, cooperative memberships, income-producing leases, or water stocks which are transferable and have security value.

(3) Whenever both real estate and chattel security are taken for a Soil and Water loan and the payment period of the loan will exceed the maximum period for which the chattel lien may be valid under State law, the loan approval official will determine whether the real estate security will be adequate to secure the scheduled unpaid balance of the loan when the chattel lien expires.

(b) *Real estate.* (1) When the loan is to be secured by real estate, a mortgage on the entire farm owned by the applicant will be obtained, except as provided in this subparagraph. If the applicant's title to any part of the farm is defective (either in the sense that it is not good title marketable in fact or that the State law will not recognize a mortgage upon it or will not permit such a mortgage to be recorded) and cannot be cured at reasonable cost, the loan may nevertheless be made if (i) the value of the part of the applicant's farm to which title is not defective and the value of necessary and available additional security is adequate to secure the loan and (ii) any improvements to be made with loan funds will be located on the part of the farm to which title is not defective, except that up to $2,500 in loan funds may be used for improvements on a part of the farm owned by the applicant to which title is defective. Any part of the farm to which title is defective may be omitted from the mortgage if the loan approval official with the advice of the Office of the General Counsel determines that the applicant's interest is of such a nature that it is not mortgageable or that to include it would unduly complicate loan servicing or liquidation.

(2) A junior mortgage may be taken as security for a loan, provided:

(i) Any prior mortgage does not contain such future advance provisions, payment schedules, provisions for summary forfeiture or cancellation, or other provisions as may jeopardize the Government's security position or the borrower's ability to pay the Soil and Water loan; or

(ii) Such provisions of the prior mortgage(s) are satisfactorily limited, modified, waived, or subordinated.

(3) When a life estate is involved, a loan may be made to the life estate holder and the remainderman if all parties involved are eligible for a Soil and Water loan and join in executing the mortgage and note. However, when one or more of the remaindermen are minors or otherwise legally incompetent, the Administrator may authorize the making of a Soil and Water loan if the loan approval official determines such a loan to be otherwise sound and proper and the necessary security can be obtained. In any such case a narrative justification will be sent to the National Office prior to development of the loan docket.

(4) A chattel lien need not be taken when real estate is taken as security and such security is adequate.

(c) *Chattel or other nonreal estate security.* When authorized by paragraph (a) of this section, a mortgage may be taken on selected items of chattel or other nonreal estate security if such a mortgage will not interfere with the applicant's obtaining needed operating credit.

(1) Whenever a chattel mortgage is taken as security for a loan, it ordinarily will be a first lien. In an exceptional case, a mortgage subject to the mortgage held by another creditor or the Farmers Home Administration may be taken on chattel property provided the applicant clearly has sufficient equity in the chattels to provide the necessary security.

(2) When the loan includes funds for items of equipment upon which a chattel lien is necessary to adequately secure the loan, a severance or subordination agreement will be obtained when appropriate.

(3) When only a chattel lien is taken as security for a Soil and Water loan, a first lien will be taken on major items of machinery or equipment purchased with loan funds.

(4) In a State in which a chattel mortgage is not valid for as long as may be needed by applicants for the repayment of the loan, instructions for making loans secured by chattel mortgages will be issued by the State Director.

(d) *Miscellaneous security items.* Ordinarily, the applicant's farm is considered to include the land, buildings, fences, water, water stock, water facilities, and other improvements or appurtenances which by custom pass with farms in the change of ownership. However, in some instances certain improvement items or facilities which usually pass with the farm in a change of ownership are considered personal property and would not be conveyed to the purchaser. In other instances, items not generally considered to be a part of the real estate pass with the farm in a change of ownership. When a lien is to be taken on the farm, the County Supervisor, with the advice of the designated attorney, title insurance company, or the Office of the General Counsel, will ascertain that such items are free from any liens or encumbrances and are specifically included in the real estate or chattel mortgage.

(1) When a loan is made only for the purchase of shares of water stock, such stock will be pledged or assigned as security for the loan. No other security need be required if the stock represents the right to receive water for irrigation purposes if the water right is transferable separately from the land and the stock, can be resold readily by the pledgee or assignee, or if the purchase price is no greater than the price at which the stock in the particular company is normally sold.

(2) A lien will be taken also on the rights-of-way and easements owned or acquired by the borrower for use in connection with the proposed improvement or facility if it is necessary to do so in order to protect adequately the Government's financial or security interests. For example, if a mortgage is taken on a farm, the mortgage should include any rights-of-way appurtenant thereto or to be used in connection therewith. Likewise, if a mortgage is taken on a pipeline located on the right-of-way, a mortgage also should be taken on the right-of-way. Applicants will obtain partial releases or consents to easements and rights-of-way across privately-owned tracts of land from any holder of outstanding liens disclosed by title evidence.

(3) When a Soil and Water loan is to be secured by jointly-owned property, all of the co-owners will be required to join in executing the real estate mortgage with the following exceptions: When one or more of the co-owners is not legally competent or cannot be located or the ownership rights are divided among such a large number of co-owners that it is not practicable to obtain the signature of all co-owners, execution of the mortgage by one or more of the owners may be waived if the nonmortgaged interest is not more than 50 percent, upon the prior approval of the National Office. Co-owners will be required to sign the note when necessary to a sound loan or to obtain the required security.

(4) When a loan is made to a corporation, the Soil and Water note and mortgage will be executed by the appropriate officials in behalf of the corporation, and, in order to evidence their personal obligation for the debt, a note will be executed by each person holding as much as 10 percent of the stock in the corporation.

§ 1823.7 Group service participation loans.

When the construction, repair, or use of a facility best can be accomplished through joint ownership by several individuals, a loan may be made to individual applicants to participate in the joint ownership of the facility. Such a jointly-owned facility will be referred to as "group service," and will be limited to not more than ten individuals, when it is not practical for them to incorporate, unless the prior approval of the Administrator is obtained to process applications to participate in a large group service. An operating agreement will be prepared which will outline the decisions of the group regarding the conditions of ownership and use of the facility, the rights and responsibilities of the users, and any other details needed to guide the management and operation of the group service. A simple written agreement usually will be sufficient; however, if the group service involves a complex operation an operating agreement approved by the Farmers Home Administration may be used. Group service loans will be subject to the same general policies as other loans to individuals, except that:

(a) If a lien is taken on any group service borrower's real estate, to which the jointly-owned facility is an essential part of his farm, whether or not located on the farm, the lien taken will cover such borrower's undivided interest in the facility.

(b) Borrowers who obtain loans to participate in a group service which involves acquisition of chattel property will secure their respective loans in accordance with the policies applicable to securing Soil and Water loans to individuals. If an individual loan cannot be adequately secured without taking a mortgage on the property to be purchased, a first mortgage executed by all participants in the group service may be taken on the purchased property as additional security.

§ 1823.8 Compliance with special laws and regulations.

Applicants for Soil and Water loans will be required to comply with State and local laws and regulations governing diverting, appropriating, and using water, installing facilities for draining land, and making changes in the use of land affected by zoning regulations in a manner similar to that outlined in § 1821.11(m) of this chapter.

§ 1823.9 Loans processing and related functions.

(a) *Area determinations.* Area determinations will be made as outlined in § 1821.11(m) of this chapter.

(b) *Technical and legal services.* Technical and legal services will be obtained in accordance with the applicable portions of § 1821.13 of this chapter.

(c) *Deferred payments.* Payments on direct Soil and Water loans may be deferred in accordance with § 1821.16 of this chapter.

(d) *Junior mortgage loan.* When the loan will be secured by a junior mortgage, the items required by § 1821.17 of this chapter will be obtained.

(e) *Certification by County Committee.* The County Committee will make the necessary certifications on Form FHA 440–2, "County Committee Certification," in accordance with § 1821.18 of this chapter.

(f) *Loan approval authority.* State and County Office employees are authorized to approve Soil and Water loans on the same basis as authorized for Farm Ownership loans in § 1821.19 of this chapter.

(g) *Preparation of loan docket and closing of loan.* Soil and Water loan dockets will be handled and loans will be closed in accordance with applicable provisions of §§ 1821.19 to 1821.22 of this chapter.

(h) *Reamortization of existing Farmers Home Administration debts.* In connection with making a Soil and Water loan to a borrower who is currently indebted for a Farm Ownership, Rural Housing, or Soil and Water loan, reamortization will be in accordance with the provisions of § 1821.24 of this chapter.

§ 1823.10 Subsequent Soil and Water loans.

A subsequent Soil and Water loan may be made to a borrower who currently owes a Soil and Water (including Water Facilities) debt for the same purposes and under the same conditions as an initial loan subject to the applicable provisions of § 1821.23 of this chapter; except that the borrower's total unpaid indebtedness of Soil and Water (including water facilities) loans computed in accordance with § 1823.5(c) will not exceed $25,000 unless the loan is secured by real estate.

AUTHORITY: The provisions of this Subpart B issued under secs. 306, 307, 308, 309, 333, 339, 75 Stat. 308, as amended, 309, as amended, 314, 318, sec. 343, 76 Stat. 632; 7 U.S.C. 1926, 1927, 1928, 1929, 1983, 1989, 1991. Orders of Sec. of Agr., 19 F.R. 74, 26 F.R. 8403, 27 F.R. 9957, 28 F.R. 9676, except as otherwise noted.

§ 1823.21 General.

This subpart outlines the policies, procedures, and authorizations for making insured and direct Soil and Water loans to associations. Additional provisions for special types of loans to associations including loans involving shifts in land use are contained in Subchapter D of this chapter.

(a) *Objectives.* The basic objectives of Soil and Water loans to associations as defined herein are:

(1) To encourage and promote the development, conservation, and best use of water and land resources in rural areas.

(2) To provide needed facilities and services through associations for the largest number of people in a given area within prevailing physical and economic limitations and provisions of this subpart. To achieve this objective, an association applicant should propose to extend its facilities to obtain the greatest possible coverage of people needing service.

(b) *Insured loan preference.* Whenever possible, the credit needs of an applicant will be met with an insured loan. An insured loan may be made from funds supplied by more than one lender. If a local lender is not available, the loan may be made from the insurance fund provided funds are available, the loan is not less than $3,000, and consent of the National Office is obtained prior to tentative loan approval.

(c) *Compliance with special laws and regulations.* (1) Association applicants for Soil and Water loans will be required to comply with State and local laws pertaining to:

(i) Organization of the association and its authority to install, operate, and maintain the facilities proposed to be constructed with loan funds.

(ii) The borrowing of money, giving security therefor, and raising revenues for the payment thereof.

(iii) Appropriation, diversion, storage and use of water, and disposal of excess water. All of the rights of any landowner, appropriator, or user of water from any source shall be fully honored in all respects as they may be affected by facilities to be installed with Soil and Water loans. If, under the provisions of State law, notice of the proposed diversion or storage of water may be filed in the office of an appropriate State official, such notice must be filed by the applicant unless otherwise directed by the Administrator. An applicant must furnish evidence to provide reasonable assurance that its water rights will be or have been properly established, will not interfere with prior vested rights, will likely not be contested or enjoined by other water users or riparian owners, and will be within the provisions of any applicable interstate compact.

(iv) Land use zoning.

(v) Permission to construct facilities and the approval of construction plans and specifications by appropriate State officials.

(vi) Health and sanitation standards.

(vii) Public service commission rules and regulations, where applicable.

(2) Instructions will be issued by the State Director to County Supervisors as to the specific actions to be taken to comply with State laws on the above subjects.

§ 1823.22 Definitions.

(a) *Association.* The term "association" includes mutual and other irrigation and water supply companies or associations, ditch companies, and forestry associations and similar organizations generally designated as private corporations operating on a non-profit basis, municipalities, and political subdivisions, public authorities, districts for irrigation, drainage, flood and water control, and fire and soil conservation districts and similar organizations generally designated as public or quasi-public agencies having power and authority to make available services and facilities of the types authorized in this subpart.

(1) A private corporation even though organized under the general profit corporation laws may come within this

definition if it actually will be operated on a non-profit basis under such charter, bylaw, mortgage, or supplementary agreement provisions as may be required as a condition of loan approval.

(2) An association may receive a loan for more than one of the major purposes listed in this subpart when it is organized with the necessary powers conferred by State law to engage in multiple purpose activities.

(3) Associations which do not come within the above definition include cooperative or other service-type organizations engaged primarily in selling supplies, processing, or marketing agricultural and forest products.

(b) *Direct loan.* A "direct loan" means a loan made from funds in the Farmers Home Administration direct loan account.

(c) *Insured loan.* The term "insured loan" means either:

(1) A loan made from funds furnished by a lender and insured by the Government at the time of closing, or

(2) A loan made from the Agricultural Credit Insurance Fund, also referred to as insurance fund, to be sold to a lender and insured at the time of sale.

§ 1823.23 Eligibility.

To be eligible for a Soil and Water loan, an association must:

(a) Propose the application or establishment of soil conservation practices, or the installation or improvement of facilities for drainage, or the conservation, development, use, or control of water, primarily for serving farmers (including persons engaged in the production of fish under controlled conditions), ranchers, farm tenants, farm laborers, or rural residents.

(1) For the purpose of determining whether a proposal is to serve primarily farmers, ranchers, farm tenants, farm laborers, or rural residents, the term "rural residents" shall include any persons whose permanent place of abode is in open country or in any place of 2,500 persons or less which is not a part of an urban area. It shall not include anyone who:

(i) Lives in a closely-settled area (where the principal land use and occupancy is residential or commercial) surrounding, adjacent to, or growing out of a town, village, or place of more than 2,500 people.

(ii) Lives in an established community or subdivision development near to, or likely to become closely associated with, an urban area.

(iii) Lives in a subdivision of substantial size which is being developed in a rural area, unless a large proportion of the residents will obtain most of their income from employment in the surrounding rural area.

(iv) Lives in a place on a seasonal basis. This is particularly applicable to resort areas. In such areas, where the total seasonal population plus the permanent residents exceed 2,500, the place will not be considered to be a rural area.

(2) When determining whether a residential area is to be considered near to, or a part of, a place of less than 2,500 people, minor open spaces due to physical barriers, commercial or industrial developments, parks, areas reserved for convenience or appearance, or narrow strips of cultivated land will be disregarded.

(3) For the purposes of this Subpart B, farmers, ranchers, farm tenants, farm laborers, and rural residents shall be considered to be the "primary users" of a proposed facility or service; all other users will be considered to be the "secondary users." In cases involving the provision of substantial amounts of service to industrial plants, commercial establishments, or other secondary users, two cost estimates will be prepared. One of these estimates will be made for the cost of complete facilities to serve only the primary users in the project area, the other estimate will be for the complete cost of facilities necessary to serve not only the primary users, but also any proposed secondary users. The project will be considered as serving primarily farmers, ranchers, farm tenants, farm laborers, and rural residents if the difference between these two estimates is less than the estimated cost of a system to serve primary users only, provided:

(i) That the secondary users can reasonably be expected to pay the rates proposed for such use.

(ii) That the income from the secondary users will be at least adequate to repay all costs of construction, maintenance, and operation which result from the provision of service to such users.

(iii) That there is reasonable assurance that the secondary users will be operating and using water for at least the term of the loan.

(b) Be without sufficient funds to carry out the purposes for which the loan is requested and be unable to obtain such funds by levying taxes, assessments, or charges, or by obtaining credit from private, cooperative, and public agencies including Community Facilities Administration on reasonable rates and terms, taking into consideration prevailing rates and terms in the community in or near which the applicant is located for loans for similar purposes and periods of time. Non-profit corporations will not be formed to serve an area which could be served by an existing municipality which has adequate authority to provide the needed service, unless prior approval of the Administrator is first obtained.

(c) Have the legal capacity necessary for constructing, operating, and maintaining the proposed facility or service and for obtaining, giving security for, and repaying the Soil and Water loan.

(d) Be financially sound and so organized and managed that it will be able to provide efficient service.

(e) Serve not less than ten members or customers unless the State Director determines that the group cannot be feasibly organized, financed, operated, and serviced as a group service as provided in Subpart A of this part.

§ 1823.24 Loan purposes.

Soil and Water loans may be made to associations to:

(a) Install or improve open or closed drainage facilities in farm areas otherwise too wet for sustained agricultural production. Facilities will not be installed primarily to bring into production land which has not been previously in agricultural production. Land in agricultural production shall be construed to mean all land which is or has been used for any farm crop including pasture. It does not include woodland, brush, swampland, or marshland unless such land was formerly in agricultural production and has since reverted to a condition of non-use or lesser use.

(b) Install, repair, or enlarge irrigation facilities including storage reservoirs, diversion dams, wells, pumping plants, canals, canal lining, pipelines, and sprinklers.

(c) Install or improve rural water supply facilities including storage reservoirs, wells, pumping plants, pipelines, and water treatment plants to provide water for household, livestock, garden irrigation, and orchard and crop spraying purposes.

(d) Install or improve soil conservation and water control facilities such as dikes, terraces, detention reservoirs, stream channels, ditches, and other special land treatment and stabilization measures or structures needed to protect farms and rural residences from water damage, provided such facilities cannot be had under, or will not conflict with, other public programs like those administered by the Soil Conservation Service and the Corps of Engineers.

(e) Purchase of existing facilities for drainage, irrigation, rural water supply, or soil conservation and water control when the owner is either unwilling or unable to make improvements, enlargements, or extensions needed to provide significant additional or improved service for present users or for a new group of users at reasonable rates. If the system to be purchased is being operated under some type of permit or franchise issued by a public corporation or agency, the permit or franchise will be terminated or acquired at the time of purchase.

(f) Purchase or rent of special purpose equipment to install or maintain any community facility in the above categories or to establish on farms soil and water conservation measures such as terraces, ponds, land leveling for irrigation or drainage, subsoiling, seeding, tree planting, and removal of brush, scattered trees, and stumps, provided:

(1) Such equipment is not otherwise available when and as needed.

(2) There is sufficient need and local demand to justify ownership or rental.

(3) Rates to be charged include, among other things, an allowance for depreciation, obsolescence, and replacement based upon the recommendation of the equipment manufacturer or the experience of contractors engaged in providing services for similar types of work.

(g) Store water for rural fire fighting, install fire hydrants, and provide additional capacity and water storage for fire protection in connection with rural water

supply facilities when water users have the repayment ability to meet the costs of such improvements and are willing to do so.

(h) *Forestry purposes.* Purchase or rent of basic special-purpose equipment, facilities, certain land or land rights, and supplies needed for furnishing services for the establishment, improvement, protection, and harvesting of timber (not processing) suitable for lumber, pulp, poles or posts; provided that the forest program and forest practices benefiting from such service are in accordance with accepted forestry management and are directly related to and will promote approved conservation practices for the development, use, and control of water resources on farms and in forests. Special-purpose equipment will include such items as tractors, dozers, plows, planters, trucks, loaders, fire-fighting equipment, and sprayers. Facilities will include such items as ponds and reservoirs, buildings for storage of equipment and supplies, nurseries, access roads, fire lanes, and lookout towers. Supplies will include such things as seed, seedlings, fertilizers, fencing, and pesticides. Land or land-rights acquisition will be limited to that necessary for sites for facilities listed above which are directly related to the forestry program. Loans for these purposes may be made only when the equipment, supplies, and facilities to be provided:

(1) Are not readily available when and as needed.

(2) Will be justified by the local need and demand.

(3) Will be made available to users at rates which will cover loan amortization, obsolescence, replacement, operation, and in the case of supplies, at least their cost.

(4) Will be made available more effectively and at less cost through group effort.

(i) Pay costs incidental to facilities or services accomplishing any of the above purposes including, but not limited to:

(1) Fees or other legal expenses of establishing a water right through appropriation, agreement, permit, or court decree.

(2) The acquisition of a water supply by the purchase of water stock or membership in an incorporated water users association.

(3) The purchase of a water supply or water right. The land on which the water supply or right is presently being used may be purchased when:

(i) The water supply or right cannot be purchased without the land.

(ii) The value of the land is only an incidental part of the total purchase price.

(iii) Permission can be obtained from State officials or the courts for the transfer of the water right from the land.

(4) The acquisition of land and interest in land as sites or rights-of-way upon which facilities and structures will be located. Land in excess of that needed for sites may be acquired when a tract of land may be so bisected or reduced in size by the needed acquisition that the owner would be unwilling to sell less than the whole tract. When such excess land will be acquired the association must:

(i) Present a legal opinion on its authority to acquire and administer such land with its other properties,

(ii) Justify the acquisition, and

(iii) Arrange to sell the land as soon as practicable and apply the sale proceeds on the loan.

(5) The relocation of roads, bridges, utilities, fences, and other improvements when necessary to acquire rights-of-way.

(6) Hired labor, technical or professional services, and fees to be incurred in obtaining the loan, and in planning and completing the facilities or services to be financed with loan funds.

(7) The refinancing of debts incurred by or on behalf of an association prior to an application for a loan when all of the following conditions exist:

(i) The debts were incurred for the facility or service to be installed or improved with the Soil and Water loan.

(ii) Arrangements cannot be made with the creditors to extend or modify the terms of the debt so that a sound basis will exist for making a Soil and Water loan.

(iii) The prior approval of the Administrator will be obtained when it is proposed that the amount to be advanced for refinancing will exceed 50 percent of the total loan.

(8) The interest that will accrue on the loan from the estimated date of loan closing to the statutory date for interest payments or to the first anniversary of the loan, when revenues or tax receipts will not be sufficient or collectible in time to pay such accrued interest.

(9) Buildings and fences essential for protection of such structures as reservoirs, pumping plants, storage of equipment, tools, and supplies for administration of facilities to be installed with loan funds.

(10) Secondary facilities such as gas or electric service lines to convey fuel or energy for, or utilities for the control of, primary facilities.

§ 1823.25 Limitations.

(a) *Loan limits.* No Soil and Water loan may be made or insured which will cause any association's total unpaid principal indebtedness for Soil and Water loans (including prior Water Facilities loans) to exceed $500,000 in the case of direct loans and $1,000,000 in the case of insured loans.

(b) *Use of loan funds.* Loan funds may not be used to:

(1) Pay any annually recurring costs that are generally considered to be operation and maintenance expenses.

(2) Install sanitary sewerage systems and storm sewers.

(3) Construct or repair electric generating plants, electric transmission lines, or gas distribution lines to provide services for sale.

(4) Purchase fire trucks, hoses, and other fire-fighting equipment or construct housing for such equipment, except as provided in § 1823.24 (g) and (h).

(5) Pay rental for the use of equipment or machinery owned by the association.

(6) Pay that part of the cost of facilities, improvements, and practices which will be earned by association members by participating in the Agricultural Conservation Program and which can be covered by purchase orders or assignments to material suppliers, contractors, and so forth. Soil and Water loan funds may be advanced to cover all or part of the cost of work for which the Agricultural Conservation Program payments will be made only when it is not possible to use purchase orders or such assignments. In such instances, members of the borrower association will be required to assign to the association all or those portions of the Agricultural Conservation Program payments they will earn for practices for which Soil and Water loan funds are advanced. As a condition of loan approval, the borrower association will be required to pledge the proceeds of such assignments for payment on the loan when they are received. The amount to be received from such assignments and the date they will be received will be determined before loan closing. The loan repayment schedule will then be made to provide for the lump sum payment of the entire amount received from Agricultural Conservation Program payments on or before the next due date after their receipt and the scheduling of subsequent annual payments for orderly retirement of the remaining principal amount of the loan plus interest.

(c) *Obligations incurred before loan closing.* When an applicant files an application for a loan, the County Supervisor will advise the applicant that construction work must not be started and obligations for such work or materials must not be incurred before the loan shall have been closed. If the applicant nevertheless wishes to proceed before loan closing because of emergency conditions, it may request permission from the State Director to pay such obligations if a loan is made.

(1) Upon receipt of such a request the State Director will determine whether:

(i) A necessity exists for incurring obligations before loan closing.

(iii) Contracts and construction plans meet Farmers Home Administration standards.

(iv) The association has the legal authority to incur the obligations at the time proposed.

(2) If the State Director finds all the above conditions are met, he may give the applicant written permission for the payment of such obligations from loan funds if a loan is closed, on condition that the Government is not committed to make a loan and assumes no responsibility for any obligation incurred by the applicant because of the permission granted, and that the applicant must subsequently meet all Farmers Home Administration requirements for a loan.

§ 1823.26 Terms of loans.

(a) *Repayment period.* Loans will be paid within the shortest period con-

sistent with the ability of the borrower to pay. No repayment period may exceed 40 years from the date of the note or bond. In addition, no repayment period will exceed any statutory limitation on an association's borrowing authority nor the useful life of the facility to be financed. The repayment period on loans to Soil Conservation Districts for the purchase of tractors, trucks, and other equipment may not exceed 7 years except that the Administrator may authorize a loan to be scheduled for repayment up to 10 years where special justification exists. Installments will be scheduled annually on January 1, starting with the first January 1 following the date of loan closing or the end of any approved deferment period unless an annual due date other than January 1 will be better suited to the borrower's needs, statutory requirements, or coordination of payments with receipt of revenue or taxes. There must be evidence that income will be sufficient and available to meet scheduled payments.

(b) *Deferred or partial payments.* Deferred or partial payments of principal or interest may be scheduled for a period not to exceed the second January 1 after the estimated date when the facilities will be completed and in operation. If for any reason it appears necessary to permit a longer period of deferment, the State Director may authorize such deferment with the prior approval of the Administrator.

(1) Deferments or partial payments of principal or interest will not be used to:

(i) Postpone the levying of taxes or assessments.

(ii) Delay the collection of the full rates which the association has agreed to charge users for its services as soon as major benefits or the improvements are available to those users.

(iii) Create reserves for normal operation and maintenance.

(iv) Make any capital improvements except those considered by the State Director to be essential to the repayment of the loan or to the obtaining of adequate security therefor.

(v) Accelerate the payment of other debts.

(vi) Permit making a loan when repayment will depend upon anticipated income from service to users who are not located in the service area at the time the loan is closed or who have not at that time agreed to accept and pay for such service.

(2) Deferments or partial payments proposed will be consistent with provisions of State or local laws affecting the creation and repayment of debts by borrowers.

(3) The lender (for an insured loan) will agree to any proposed deferred period.

(c) *Repayment schedules.* Amortized installments will be required unless such installments would be inconsistent with provisions of State law or would not provide the flexibility needed in the applicant's proposed financial plans which are acceptable to the Farmers Home Administration. Deferred interest must be scheduled for payment before the payment of any principal may be scheduled. Under this policy, the annual installments after the end of any deferment period may be for interest only until all accrued interest shall have been scheduled. Thereafter, the annual installments may be amortized in equal annual installments of principal plus interest or may be in annual installments of principal (not necessarily equal) plus interest.

(d) *Interest, annual charge, and repurchase agreement.* If a loan will be disbursed to the borrower in more than one advance, interest on the first advance will begin on the date indicated in the note or bond, and interest on each subsequent advance will begin on the date of the check.

(1) For insured loans to associations, interest rates, annual charge rates, and repurchase agreements will be as provided in Part 1810 of this Chapter XVIII.

(2) The interest rate on direct loans will be 4½ percent per year on the unpaid principal except that direct loans made for purposes authorized in § 1823.24(h) will be 3 percent.

(e) *Application of repayments and loan refunds.* Repayments and refunds will be processed in accordance with Part 361 of this chapter.

(f) *Refinancing Soil and Water loans.* Each borrower will be required to agree to refinance the unpaid balance of its Soil and Water loan when it is able to obtain a loan from responsible cooperative or private credit sources at reasonable rates and terms for loans for similar purposes and periods of time. The borrower will, upon request of the Farmers Home Administration, apply for and accept such loan to refinance its Farmers Home Administration loan.

(g) *Premiums and discounts on bonds.* Loans will not be made or insured by the Farmers Home Administration if the bonds or similar obligations evidencing those loans are offered for sale or sold at discounts of any kind or if they provide any premiums or penalties for redemption before their scheduled retirement dates.

(h) *Reserves.* Each borrower will be required to establish and maintain reserves for delinquent accounts sufficient to assure that loans installments will be paid on time for emergency maintenance and for extensions to facilities. In those cases where statutes provide for extinguishing assessment liens of public bodies where properties subject to such liens are sold for delinquent State and county taxes, special reserves will be established and maintained for the protection of the borrower's lien of assessment. Provision for the accumulation of necessary reserves over a reasonable period of time will be included in loan resolutions or bond ordinances and in assessments, tax levies, or rates charged for services.

Reserves may be invested in time deposits, savings accounts, or obligations of the United States which may be converted readily into cash. Investments and income therefrom will always be a part of the particular reserve fund from which they were made.

(1) The amount of reserves for delinquencies will be determined by the State Director after careful consideration of the repayment ability of the association's members or patrons. The reserve for this purpose should ultimately be accumulated in an amount at least equal to any anticipated delinquency in any one year.

(2) Reserves for emergencies and extensions will be determined by the State Director after consultation between the borrower's officials and the County Supervisor.

(3) Reserves for the protection of borrower's lien of assessments will be determined by the State Director at a level equivalent to the estimated annual amount for State and county taxes for which property subject to such liens might be sold.

§ 1823.27 Security.

(a) *General.* All Soil and Water loans to associations will be secured in a manner which will adequately protect the interest of the Government during the payment period of the loan.

(b) *Liens on association property.* If associations are permitted by State laws to mortgage their real and personal property:

(1) A first lien, if obtainable, will be taken on real and personal property, exclusive of easements, rights-of-way, and water rights, owned by the applicant at the time the loan is approved. If a first lien is not obtainable, junior liens on such property may be taken.

(2) A first lien will be taken on real and personal property acquired with loan funds exclusive of easements, rights-of-way, and water rights.

(3) A lien will be taken on the interest of the applicant in all easements, rights-of-way, and water rights used in connection with the facility. In some instances, such easements or rights-of-way, will involve private lands, and will not be derived pursuant to State statutes authorizing the installation of facilities across lands of other owners. In such cases, it will be the responsibility of the borrower to obtain and record such releases, consents, or subordinations to easements and rights-of-way from holders of outstanding liens as it determines, with the advice of its attorney, are necessary for the construction, operation, and maintenance of the facility on the right-of-way. However, when easements only are obtainable on sites for structures such as reservoirs and pumping stations, releases, consents, or subordinations may be required by the Farmers Home Administration. The mortgage will provide for the applicant to pay from its own funds for any excess installation costs resulting from a failure to obtain adequate land, rights-of-way, or subordinations.

(4) Assignments of association income will be taken as additional security, if legally permissible.

(c) *Bonds or notes.* Bonds or notes creating liens upon or pledging taxes and assessments which are liens upon lands served by an association having Governmental or quasi-Governmental functions

or pledging the revenues derived from the operations of such an association for loan repayment, may be accepted in addition to, or in lieu of, liens on the kinds of property listed in paragraph (b) of this section, provided:

(1) Statutes do not confer upon such associations the authority to mortgage the facilities operated by them, or

(2) Such alternative security will adequately secure the loan, and

(3) All statutory requirements pertaining to the authorization, sale, and acceptance of the bonds or notes are met.

(d) *Additional security.* Promissory notes, stock or membership subscription agreements, individual member's liability agreements, or other evidences of debt, as well as security instruments mortgaging the private property of members of the association may be pledged or assigned to the Government as additional security in any case in which the interest of the Government will not be adequately protected by taking the security specified in paragraphs (a), (b), and (c) of this section.

§ 1823.28 Technical assistance.

(a) *General.* The Farmers Home Administration may provide advice and consultation in connection with preliminary determinations regarding engineering feasibility, economic soundness, cost estimates, organization, financing, and management. However, applicants will be expected to provide the technical services necessary to plan projects, including design of facilities, preparation of cost estimates, and development of proposals for organization and financing. If an applicant group does not have the resources to pay for planning work and cannot arrange to do it on credit, and if the applicant has no qualified personnel to do such work and the technical assistance required is not available from Federal or other public agencies, the Farmers Home Administration may:

(1) Provide the necessary planning assistance by utilizing the services of available Farmers Home Administration personnel, or

(2) Make reimbursable or nonreimbursable advances of funds necessary to contract the services of other technicians to develop plans for the project.

(b) *Advances for planning.* (1) Advances made for planning may be for preliminary planning, for final planning, or for both types of planning.

(i) Preliminary planning has reference to the surveys, investigations, and studies needed for the group to reach decisions on, and develop plans for, improvements including cost estimates, organization, and financing, and to determine the approximate charges or assessments needed to finance the project. It also includes gathering other information needed to prepare the Report on Association Application referred to in § 1823.33, showing to the extent practicable, such information as the proposed over-all plan, eligibility, repayment ability, security, property rights, cost estimate, annual operating costs, etc.

(ii) Final planning is based on preliminary planning and includes organization of the association and the preparation of all detailed plans, specifications, and contract documents for construction purposes.

(2) Advances for preliminary planning may be made to eligible associations and to sponsoring groups who propose facilities that would be eligible loan purposes and who in the opinion of the State Director represent a majority of the prospective members of the proposed association to be organized. A decision as to whether or not the advance will be reimbursable will be withheld until the Report on Association Application has been reviewed by the National Office.

(3) If, after the Report on Association Application has been reviewed by the National Office, it does not appear that a feasible project can be developed or if the Association decides not to pursue its application further, any obligation created by the planning advance will be canceled.

(4) If the Administrator concurs in the loan proposed in the Report on Association Application, and planning advances are involved, he will determine whether or not the proposed project will be feasible if planning costs or a portion thereof are required to be repaid by the association. After making this determination, the Administrator:

(i) Will authorize the cancellation of any obligation for repayment of a preliminary planning advance made to the association, or

(ii) Will require that all or part of a preliminary planning advance made to the association be repaid, and

(iii) May authorize a planning advance for all or part of the cost of final planning by the association either reimbursable in whole or in part or on a nonreimbursable basis.

(5) Requests for preliminary planning advances will be made in writing to the State Director who will forward the requests with his recommendations to the National Office for prior approval and issuance of further instructions. The need for final planning will be set forth in the Report on Association Application.

§ 1823.29 Special requirements.

(a) *Contracts for engineering service.* Applicants obtaining engineering services from private sources will be required to have written contracts for these services. Such contracts, including the amount of the fee to be paid, will be reviewed and approved by the Farmers Home Administration before execution by the applicant. Contracts will provide for the types of services to be performed which will include as a minimum: Furnishing final drawings, specifications, and estimates of cost of construction; assistance in preparing and soliciting construction bids, analyzing bids, and preparing and awarding of construction contracts; supervision during construction; and advice for one year after construction has been completed. Provision may be made for payment of the fee in installments as work progresses in each of these stages. The amount of the fee payable from loan funds will be based on the nature and extent of services needed to be furnished to the applicant in connection with the project planning and development.

(b) *Contracts for legal services.* Applicants will have written agreements when legal services are employed. All such agreements, including the amount of the fee to be paid, will be reviewed and approved by the Farmers Home Administration prior to execution by the applicant when loan funds will be used for legal services. Contracts will provide for the types of service to be performed, the amount of the fee to be paid therefor, and payment of the fee in lump sum on the completion of all services or in periodic installments as services are performed. The amount of the fee payable from loan funds will be based on the nature and extent of legal service needed to be furnished to the applicant in connection with project planning and development.

(c) *Water purchase contracts.* Applicants proposing to purchase water from private or public sources will be required to have written contracts for such supply. Any contract to be entered into by an association applicant for the purchase of a water supply will be reviewed and approved by the Farmers Home Administration prior to execution by the association. A water purchase contract will:

(1) Include a definite commitment by the supplier to furnish at a specified point a specified minimum quantity of water and provide that in case of shortages all of the supplier's users will share the shortages proportionately. However, if it is impossible to obtain a firm commitment for a minimum supply of water at all times, a contract should not be executed unless the State Director can make a positive determination that the supplier has adequate supply and treatment facilities to furnish its other users and the applicant association for the foreseeable future, and that a suitable alternative supply could be arranged within the repayment ability of the association if it should ever become necessary.

(2) Set out the ownership and maintenance responsibilities of the respective parties for the master meter at the point of delivery. It is generally simpler if the supplier installs, owns, and maintains the meter.

(3) Specify the rates at which water will be sold to the association. Since it is difficult to predict future costs of water production, it is generally most satisfactory to provide some kind of escalator clause which will permit rates for the association to be raised or lowered proportionately as certain specified rates for the supplier's regular customers are raised or lowered. Provision may be made for altering rates in accordance with the decisions of the appropriate State agency which may have regulatory authority.

(4) Run for at least the term of the loan. If the supplier cannot legally contract for such period, the contract should be made for the longest term permissible and contain a provision for renewal.

(5) Set out in detail the amount of connection charges or demand charges,

if any, to be made by supplier as a condition to making service available to the association. However, the payment of such charges from loan funds should not be approved unless the State Director determines that it is more feasible and economical for the association to pay such a connection charge than it is for the association to provide the necessary water supply by other means.

(6) Provide for a pledge of the contract to the Government as part of the security for the loan.

(7) Not contain provisions for:

(i) Construction of facilities with loan funds which will be owned or operated by the supplier. This does not preclude the use of money paid as a connection charge for construction to be done by the supplier.

(ii) Options for or agreements to the future sale or transfer of association assets to the supplier, whether or not such sale or transfer would be for a monetary consideration.

(d) *Construction plans and contracts.* Associations will submit proposed plans, specifications, cost estimates, and all contracts for construction and purchase of materials to the Farmers Home Administration for review and approval prior to authorizing the purchase of material or beginning construction. Any contract change orders which may later be proposed also will be subject to prior Farmers Home Administration approval.

(1) Farmers Home Administration Approval of contracts for construction or contracts for purchase of materials will include approval not only of the form of these documents but also their actual award, including all negotiations preceding that award and executed contracts.

(2) The method of accomplishing work and the details of safeguards to be provided for the borrower in contracts should receive close attention and prior approval of the Farmers Home Administration. Arrangements which split responsibility of contractors (separate contracts for labor and material, extensive subcontracting, and multiplicity of small contracts on the same job) should be avoided whenever it is practical to do so.

(3) The State Director will review and approve all invitations for bid before they are released by borrower associations, and a designated Farmers Home Administration representative must attend all bid openings and contract negotiations. When the bids are opened, the Farmers Home Administration representative will review them carefully. After the bids have been examined and thoroughly analyzed by the Farmers Home Administration representative, the engineer for the association, and the governing body of the association, they will mutually agree upon any contract awards to be made before the board takes any official action in that regard. All contracts should contain a provision that they are not in full force and effect until they have been approved by the State Director in writing.

(4) Executed contracts, together with all attachments, and the performance and payment bonds furnished by the contractors, shall be submitted to the Office of the General Counsel for review and final opinion as to their adequacy and validity. This opinion should be obtained before any loan funds are released for payments to the contractor.

(e) *Use of and accountability for loan funds.* (1) Soil and Water loan funds and any funds furnished by the borrower to supplement the loan will be deposited and handled in accordance with Part 1803 of this chapter in a bank in which deposits are covered by Federal Deposit Insurance. The funds so deposited in a supervised bank account are public monies under title 12, section 265, United States Code, because they are subject to control by an employee of the United States, and therefore if the amount deposited exceeds $10,000 the bank will be required to pledge collateral security for such excess pursuant to Treasury Department Circular No. 176 before the funds are deposited. As soon as a bank is selected or tentatively selected for the supervised bank account, inquiry should be made of the bank to determine whether the bank is presently a Designated Depositary of the Treasury Department under Treasury Circular No. 176; if not, whether the bank is willing to accept designation as a depositary and pledge collateral with the Federal Reserve Bank of the district in an amount equal to the amount the deposit of funds will exceed $10,000; and if it is a designated depositary, whether it will agree to pledge collateral with the Federal Reserve Bank of the district in an amount equal to the amount the deposit of funds will exceed $10,000. The information obtained from such inquiry will be sent to the National Office.

(i) If the bank is not already a designated depositary and is willing to accept designation and pledge collateral, the National Office will request the Treasury Department to designate the bank and to arrange for pledging collateral. If the bank is already a designated depositary, the National Office will request the Treasury Department to arrange for pledging the collateral.

(ii) If, approximately two days before the date set for loan closing, the State Office has not been notified by the National Office that collateral has been pledged, the State Office will inform the National Office of the date of loan closing and that collateral has not been pledged.

(iii) Funds should not be deposited until notification is received from the National Office that collateral has been pledged.

(2) If the financial operations of the association are so limited by State laws as to make the use of a supervised bank account impossible, loan funds may be deposited in a special bank account without provision for countersignature of checks by the County Supervisor. If the applicable State law contains specific and mandatory provisions regulating the depositaries to be used, the security given by the depositary for funds of the association, the countersignature of checks or warrants, or the bond required of the association's treasurer, such requirements should be complied with. If, however, there are no such mandatory provisions in the State laws, the State Director should include in his conditions for loan approval requirements for the protection of the loan funds by the depositary placing in escrow or pledging sufficient obligations of the United States or furnishing a good and sufficient bond by a reputable surety company authorized to do business in the State. If other types of protection of the loan funds are proposed, they should be submitted to the Administrator for prior approval. The State Director will determine the frequency and manner in which such special bank accounts are to be audited by the County Supervisor. Countersignature by the County Supervisor of warrants for withdrawals of funds from special bank accounts is permissible and will often simplify the auditing of such accounts.

(f) *Insurance.* After considering the recommendations in the report on the application, and the prevailing customs in the area, the State Director will determine the amounts and types of insurance each association will carry.

(1) Fire and extended coverage will be required on all buildings given as security for the loan, and association-owned machinery housed therein.

(2) If the association owns trucks, tractors, or other vehicles that frequently are driven over public highways, public liability and property damage insurance will be required.

(3) The association will be required to carry suitable Workman's Compensation Insurance for all its employees.

(g) *Bonding.* (1) Prior to the execution of construction contracts by the association, contractors shall furnish surety bonds to guarantee both performance and payment in the full amount of the contract.

(2) The association will provide fidelity bond coverage for the officials entrusted with the receipt and disbursement of its funds and the custody of any property. The amount of the bond will be at least equal to the maximum amount of money that the association will have on hand at any one time exclusive of loan funds deposited in a supervised bank account. If permitted by State law, the United States will be named as a co-obligee in the bond.

(3) The amount of coverage required in surety and fidelity bonds will be specified by the State Director in his loan approval memorandum.

(h) *Sale of insured bonds or notes—tax exempt interest.* (1) When preliminary inquiry indicates that income represented by the interest on insured bonds or notes securing loan funds will be exempt from Federal income tax and the bonds or notes are to be offered for sale either pursuant to advertisement and public sale if required by State law, or by private or negotiated sale if permitted by State law, the State Director will take the following action:

(i) If the sale is made pursuant to public notice by advertisement, 12 copies of such advertisement will be furnished the Farmers Home Administration before publication.

(ii) If State law permits private or negotiated sale, 12 copies of the notice of such sale, or a brief description of the bonds or notes if no notice is prepared, should be furnished the Farmers Home Administration as soon as such notice or description can be prepared.

(2) In all cases the borrower should obtain an opinion from a recognized bond counsel concerning the exemption of the interest accruing on such bonds or notes from Federal income tax, or in lieu of such an opinion a determination to the same effect by the appropriate Director of the Internal Revenue Service. The advertisement, notice, or brief description should state that such an opinion or determination will be furnished the purchaser at the time of delivery.

(Sec. 10, 56 Stat. 356, as amended; 12 U.S.C. 265)

§ 1823.30 Loan approval authority.

State Directors are authorized to approve Soil and Water loans to associations in accordance with this Subpart A. However, no Soil and Water loan to an association may be approved by a State Director without consent of the National Office if the borrower's principal indebtedness for Soil and Water loans (including prior Water Facilities loans) will exceed $250,000. In such instances the State Director will forward the Report on Association Application, his recommendations, and a request for authority to approve the loan to the National Office.

§ 1823.31 Subsequent loans.

Subsequent Soil and Water loans to associations may be made under the same policies, authorities, and procedures as initial loans.

§ 1823.32 Application for loan.

Each group applying for an association loan will make a request for assistance in a letter to the County Supervisor. The letter should state the kind and amount of assistance needed; state what attempts have been made to obtain financing elsewhere; give a brief description of the proposed facility or service; indicate the number of members; when applicable, contain pertinent information about the water supply and water rights; state whether or not the applicant is a company, district, incorporated association, or is unorganized; and state what technical work has been or is being done on the applicant's proposed project. If the group is incorporated, the application letter will be signed by the president. If the group is not yet incorporated, the members of the organizing committee will sign the letter.

(a) The County Supervisor will forward the letter of application to the State Director with a letter of transmittal giving additional facts and information he may have regarding the application. If the association has had any cost estimates and engineering plans prepared for the proposed project or service, the original or a copy should be attached. Such estimates and plans will be returned to the association after review by the State Director.

(b) If the State Director determines that further consideration should be given to the application, he will advise the County Supervisor accordingly and instruct him to prepare a report on the application. When preparation of such a report will involve investigations, assembly of information, and determinations which the County Supervisor would be unable or unqualified to make, the State Director will arrange for necessary technical assistance for the County Supervisor, either through Farmers Home Administration employees or from other Federal and State agencies. If the State Director determines that no further consideration should be given to the application, he will advise the County Supervisor accordingly, giving him reasons for the decision.

§ 1823.33 Report on association application.

The County Supervisor will, with such help as the State Director may provide, prepare the Report on Association Application. It will be signed by the County Supervisor, other Farmers Home Administration personnel who participated in the preparation, and the Area Supervisor. Information developed by the association will be used to the extent practicable. Investigations made by Farmers Home Administration personnel should be thorough enough to verify or test the information supplied and to develop any additional information needed to complete the report and to make the required determinations. Employees who participate in the preparation of the report will explain Soil and Water loan policies to applicants, but they should not attempt to negotiate or indicate any special terms and conditions until the loan approval official has reviewed the report and has issued a memorandum indicating conditions that will need to be met before a loan docket is submitted.

§ 1823.34 County Committee recommendations.

The recommendation and comments of the County Committee will be obtained on each Soil and Water Association loan application.

(a) When adequate information has been assembled on the association's application to enable the County Committee to make its recommendations, it will be presented to the Committee by the County Supervisor. Unless it appears during the investigation that the association would be ineligible, the Report on Association Application will be completed before the Committee acts on the application.

(b) If the Committee recommends favorable consideration of the application, a recommendation will be made on Form FHA 440–2, "County Committee Certification." In making its recommendation the Committee will take into account the association's proposal to accomplish the objectives of this Subpart B, community need for and interest in the proposed facilities or service, local issues, and items of similar nature which might affect the loan.

§ 1823.35 Actions subsequent to Committee recommendation.

(a) When the Report on Association Application has been completed and the County Committee has executed the County Committee recommendation, the County Supervisor will send the report and the County Committee recommendation to the State Director.

(b) The State Director will review the Report on Association Application. During the review, he will consult the Attorney in Charge on any legal questions. When the review is completed, the State Director will take one of the following actions:

(1) If the State Director concurs in the proposed loan and he is authorized to approve such a loan, he will prepare a memorandum to the County Supervisor indicating any conditions that must be met. The points covered in the memorandum will include any recommendations with respect to the amount of the loan, repayment schedule, amount and form of contributions by members, security requirements, evidence of title to the association's assets, organization or change in organization, improvement of business and operation methods, insurance and fidelity bonds, and plans and specifications.

(i) If funds are available from a local lender or an allotment of direct funds, the State Director's memorandum, the County Committee recommendation, instructions as to documents required for the loan, and necessary copies of required forms will be forwarded immediately to the County Office.

(ii) If the source of funds is not known and must be specified by the Administrator, the State Director will forward a copy of his memorandum and the Report on Association Application to the National Office with a memorandum requesting the name of a national lender or the allotment of direct funds, stating any deferments or multiple advances that will be necessary, and giving the estimated loan-closing date. The National Office will immediately furnish the name of a lender or an allotment of direct funds and will specify the interest rate to be charged. The State Director will then forward the above mentioned material to the County Office.

(2) If the proposed loan would result in a principal indebtedness in excess of $250,000, the State Director will send the National Office a copy of the Report on Association Application with his recommendations. The National Office will then advise the State Director of the conditions under which he will be authorized to approve the loan and the source of funds to be used.

(c) Whenever the County Supervisor is notified that favorable action will not be taken on an application, he will notify the association immediately.

(d) Upon receipt of the State Director's memorandum indicating favorable action provided certain conditions can be met by the association, the County Supervisor will:

(1) Deliver to the association a copy of the State Director's memorandum setting forth the conditions under which

the application will receive further consideration, instructions as to the required documents, and necessary copies of required forms to be prepared and returned by the association.

(2) Inform the association of the technical services it must provide in accordance with the policy set forth in this Subpart B.

(e) The association, with the help and advice of the County Supervisor, will:

(1) Prepare and execute Form FHA–28 or FHA 442–6, "Association Proposal and Request for Funds."

(2) Prepare and execute, in accordance with the above mentioned instructions, the documents necessary to:

(i) Support a determination that the association has legal authority and appropriate operating regulations necessary for it to contract for and secure the repayment of the loan, and to operate successfully and to maintain adequately the proposed facilities or services,

(ii) Set forth the cost estimates and construction or installation plans of the proposed facility or development,

(iii) Set forth the operating budget and repayment ability of the association, and

(iv) Verify the title to assets which will serve as security for the loan.

(f) Ordinarily, loan funds should be disbursed in one advance; however, provision may be made for more than one advance of loan funds when there is a justification for multiple advances. The State Director may authorize disbursement of the loan in not to exceed four advances, provided none of the advances will be scheduled for disbursement later than two years from the date of loan closing. When more than one advance is contemplated, the amount and probable date of each advance will be indicated on Form FHA–28 or FHA 442–6.

(g) If the loan is made from direct funds or from the insurance fund, Form FHA 440–1, "Payment Authorization," will be prepared for each advance in the amounts indicated in Form FHA–28 or FHA 442–6. Each Form FHA 440–1 will be signed by the authorized association official on the same date.

§ 1823.36 Loan processing in State Office.

(a) *Loan approval and issuance of closing instructions.* When the State Director determines that the loan can be approved, he will, for a loan from the insurance fund, obtain the consent of the National Office for the use of such funds, and will then draft a memorandum of approval to the County Supervisor specifying any conditions under which the loan will be made, including any necessary modifications of previous conditions prescribed by the State Director. The proposed memorandum and loan docket will be forwarded to the Attorney in Charge for legal examination and issuance of loan closing instructions. The closing instructions will cover, but need not be limited to, the continuation of lien searches and abstracts, the execution and recording or filing of security instruments, curative requirements, and, if advisable, requirements that certain legal documents or matters be legally reviewed before the loan is closed. The Attorney in Charge will prepare and transmit to the State Director, with the closing instructions, the security instruments and other special documents needed to close the loan. Upon receiving the closing instructions from the Attorney in Charge, the State Director will:

(1) Revise, if necessary, his approval memorandum to the County Supervisor.

(2) For a direct loan or a loan from the insurance fund, sign Form FHA 440–1 for each advance and insert his title in the space provided.

(3) Transmit to the County Supervisor his memorandum of approval, the instructions, and the loan docket.

(b) *Rejection of the loan.* If the State Director determines at any time during the processing of a loan that the loan should not be made, he will return the loan docket to the County Supervisor with the reasons for the rejection. The County Supervisor will notify the applicant of the disapproval of the loan and the reasons therefor.

(c) *Cancellation of loan.* Soil and Water loans to associations may be cancelled before loan closing as follows:

(1) The County Supervisor will prepare Form FHA–903, "Request for Cancellation of Loan," and will send it to the State Director. If the State Director approves the request for cancellation, he will forward Form FHA–903 to the Finance Office, and a copy will be returned to the County Office.

(i) For an insured loan by a private lender, any checks advanced will be returned promptly to the lender with an explanatory letter.

(2) Any application for title insurance will be cancelled in accordance with Part 1807 of this chapter. Likewise, the borrower's attorney, if any, should be notified of the cancellation.

§ 1823.37 Actions subsequent to approval and prior to loan closing.

(a) *Loan approval conditions.* When the County Supervisor receives the loan approval memorandum and loan closing instructions, he will deliver a copy of these two documents to the association. An understanding will be reached with the association regarding compliance with the conditions set forth in the memorandum and the loan closing instructions.

(b) *Notification of loan closing date.* In order to permit sufficient time for any necessary negotiations with lenders, the County Supervisor will advise the State Director of the approximate date of loan closing as soon as it appears reasonably certain that the association can meet loan approval conditions, including title requirements, and the association is able to select an approximate date on which construction or development can be started. The State Director will notify the Attorney in Charge of the name of the lender so he may issue any necessary additional or modified closing instruments or documents.

(c) *Ordering loan checks.* The County Supervisor will order the loan check so that it will be available at the time of, or immediately prior to, the date set for loan closing.

(1) The loan check will not be ordered until:

(i) The association has complied with loan approval conditions and closing instructions, except for those actions which are to be completed on the day of loan closing or subsequent thereto.

(ii) The association is ready to start construction or proceed with development.

(iii) No increase or decrease in the amount of the loan is contemplated. If it becomes evident on or before loan closing that the amount of the loan should be decreased or increased, the County Supervisor will request that all distributed docket forms be returned to him for revision. The docket, as revised, will be resubmitted to the State Director.

(2) For an insured loan by a private lender, the County Supervisor will request the check by preparing Form FHA 440–7, "Request for Check," in an original and one copy and submit the original to the State Director. If the name of the lender is known, the County Supervisor will enter it on Form FHA 440–7. The State Director will attest the signature of the County Supervisor on the original of Form FHA 440–7 and forward it to the lender. If the lender does not require attestation of the County Supervisor's signature, the original of Form FHA 440–7 may be delivered to the lender without sending it to the State Office. Whenever the bank handling a supervised bank account will require the lender's personal check to clear before disbursing funds, the lender should be requested to furnish a certified or cashier's check. When suitable arrangements can be made with the lender, a bank draft may be used to obtain insured loan funds.

(3) For a loan with more than one advance, the County Supervisor will request the check for each subsequent advance by submitting Form FHA 440–7 in sufficient time so that the check will be issued on or about the date listed on the reverse side of the copy of the note as the proposed date of the advance. The County Supervisor will remind the lender, by appropriate notation on Form FHA 440–7 submitted for each subsequent advance, to insert the date of the loan check in the column for that purpose in the Table entitled "Schedule of Advances" on the reverse side of the note.

(d) *Handling loan checks.* (1) Loan checks will be deposited in a supervised bank account in accordance with § 1823.29(e).

(2) Whenever a loan check for a direct loan or a loan from the insurance fund cannot be delivered within 2 days from the date of the check the County Supervisor will return it to the Regional Disbursing Office.

(3) If, for any reason, a loan check for an insured loan by a private lender cannot be delivered to the borrower, it will be returned to the lender with a request for cancellation. When a loan

check is lost or destroyed, the County Supervisor will notify the lender immediately. If the borrower desires that a new check be issued, the lender will be requested to issue a new check.

(4) When a loan check is issued payable jointly to the borrower and the Farmers Home Administration, the County Supervisor is authorized to endorse the check on behalf of the Farmers Home Administration at the time of loan closing as follows:

Endorsed without recourse:

FARMERS HOME ADMINISTRATION
By _____
Title _____

The State Director is also authorized to endorse such a check in the same manner.

§ 1823.38 Loan closing.

A loan to an association will be closed in accordance with the closing instructions issued by the Attorney in Charge as soon as possible after receiving the loan check. When the purchase of bonds of a statutory association is involved, the form of bonds will be developed in accordance with State statutes, the form will be submitted to the Administrator for approval and the loan will be closed in accordance with special instructions from the Administrator.

(a) *Authority to execute, file, and record legal instruments.* Properly bonded County Office employees are authorized to execute and file or record any legal instruments necessary to obtain or preserve security for association loans. This includes mortgages and similar lien instruments, as well as affidavits, acknowledgments, and other certifications (when the mortgagee must execute such certification under State law).

(b) *Preparation of promissory note.* The note will be prepared and completed at the time of loan closing. Form FHA 442–10, "Promissory Note (Insured SW Loan for Association)," will be used for insured loans. Form FHA 442–11, "Promissory Note—Direct Soil and Water Conservation Loan for Associations," will be used for direct loans.

(1) The note will be executed by the association officials authorized by its Board of Directors to sign documents and instruments required for obtaining the loan. Any special instructions needed for the execution of the note will be furnished by the Attorney in Charge.

(2) The date of the note will be the date of the closing of the loan.

(3) The face amount of the note will be for the total amount of the loan, including all advances, as indicated on Form FHA–28.

(4) Payments on Soil and Water loans to associations will be scheduled in annual installments.

(i) For a direct loan or an insured loan by a private lender or from the insurance fund, if the borrower will not have sufficient funds to pay a full amortized installment prior to the first January 1 following the date of loan closing, the first installment may be for the amount equal to the interest to become due from the date of the note or if more than one advance is involved from the date of each advance to the next succeeding January 1 for a direct loan or February 1 of the next calendar year for an insured loan. When one or more advances on the loan will be made after January 1 of the year following loan closing, the installment on each succeeding January 1 up to and including the January 1 following the last advance may be for an amount equal to interest that will accrue on the advances to the next succeeding January 1 for a direct loan or February 1 of the next calendar year for an insured loan, provided the association will be unable during such period to pay a full amortized installment on the entire loan. Thereafter, the annual amortized installments will be computed by multiplying the full amount of the loan by the factor for the number of years during which amortized installments are scheduled.

(ii) For a direct loan or an insured loan by a private lender, if the lender is agreeable, the first two installments or the first three installments may be for an amount equal to the interest only on the note in accordance with § 823.26 irrespective of whether the loan is made in one or more advances. When principal payments are deferred on a loan involving more than one advance, the period for which interest-only payments may be scheduled will not extend beyond the third January 1 following the date of loan closing. In case of deferment, annual amortized installments will be computed by multiplying the full amount of the loan by the factor for the number of years during which amortized installments will be scheduled.

(5) When a loan is closed between December 1 and January 1, the first installment will be collected at the time of loan closing.

(6) When the loan will be disbursed in more than one advance, the amount of each advance, including the first one, will be entered on the reverse side of the note, in the space entitled "Schedule of Advances." The date of the first advance will be the date of the loan closing. The date entered for each subsequent advance will be the estimated date on which it will be needed by the association. The date on which each subsequent advance was made will be the date of the loan check. The lender or Finance Office (for direct loan or a loan from the insurance fund) will enter on the original note the date of the loan check for each subsequent advance.

(7) For insured loans, other than those made from the insurance fund, the promissory note or bond will be assigned to the lender simultaneously with loan closing. This will be done by endorsing the note over to the lender, or if the loan is evidenced by a bond issue the bonds will be made payable in such manner as may be approved by the Farmers Home Administration. Form FHA 440–5, "Insurance Endorsement (Insured Loan)," or such other form of insurance endorsement as may be approved by the Farmers Home Administration, will be executed simultaneously with loan closing for delivery to the lender with the note or bonds. The rate of annual charge and the length of the repurchase agreement to be stipulated in the insurance endorsement will be in accordance with Part 1810 of this chapter.

(8) Each County Supervisor and each State Director is authorized to sign the endorsement on the reverse of the note and to execute Form FHA 440–5. The insurance endorsement constitutes the Government's contract of insurance of the loan.

(9) For loans from the insurance fund, the note will not be endorsed and the insurance endorsement will not be prepared until the loan is assigned from the insurance fund to a lender. In such cases, the Director, Finance Office, or Insured Loan Officer, will sign the endorsement on the reverse of the note and will execute the insurance endorsement in accordance with Part 1873 of this chapter.

(c) *Obtaining insurance.* The association will provide insurance coverage at the time of loan closing in the amounts and types specified by the State Director in his approval memorandum. The State Director will be guided by the provisions of Part 1806 of this chapter in securing and servicing property insurance for Soil and Water loans to associations.

(d) *Payment of fees and costs.* Statutory fees and other charges for filing or recording mortgages or other legal instruments and notary and lien search fees incident to loan transactions will be paid by the association from its own funds or from the proceeds of the loan. Whenever cash is accepted by Farmers Home Administration personnel to be used to pay the filing or recording fees for security instruments, or the cost of making lien searches, Form FHA 440–12, "Acknowledgment of Payment for Recording, Lien Search, and Releasing Fees," will be executed.

(e) *Distribution of certain recorded documents.* The originals of the recorded deeds, easements, permits, certificates of water rights, leases, or other contracts and similar documents which are not required by the loan approval official to be held by the Farmers Home Administration will be returned to the officers of the association.

§ 1823.39 Actions subsequent to loan closing.

(a) The real estate or chattel mortgages will be delivered to the recording office for recordation or filing, as appropriate. When the mortgage is recorded or filed, as appropriate, the County Supervisor will conform one copy with the original, including the recording or filing data showing the date and place of recordation and the book and page number. The conformed copy of the mortgage will be delivered to the borrower and the original for both insured and direct Soil and Water loans will be retained in the borrower's County Office case folder.

(b) For an insured loan by a private lender, the original note properly endorsed and the original insurance endorsement will be given or sent to the

lender immediately after loan closing. If for any reason it is not possible for the same County Supervisor who signed Form FHA 440–7 to endorse the note and sign the insurance endorsement, it will be sent to the State Office instead of directly to the lender. In such a case, the State Director or other authorized state official will attest on Form FHA 440–5 the signature of the different County Supervisor before sending the note and the insurance endorsement to the lender. This will not be necessary when a local lender has no objection to a different signature on an insurance endorsement than that on Form FHA 440–7.

(c) For a direct loan, or for a loan from the insurance fund, the original notes will be sent to the Finance Office immediately after loan closing.

(d) Any water stock certificates will be sent to the State Office for safekeeping.

(e) Loan funds may be disbursed as soon as the loan has been closed and the notes mailed.

(f) When the loan has been closed, the County Supervisor will submit to the State Director the loan docket, security instruments and other closing documents for review. The State Director, with the assistance of the Attorney in Charge, will determine whether the loan was properly closed. The State Director will advise the County Supervisor of any deficiencies to be corrected and return the material that was submitted.

§ 1823.40 Loans to governmental or quasi-governmental organizations.

When the association is an irrigation or drainage district, Soil Conservation District, or other statutory association, the State Director, with the advise of the Attorney in Charge, may change or substitute documents, or modify procedures set out in this Subpart B to the extent necessary to enable the association to comply with applicable provisions of State laws.

SUBCHAPTER C—LOANS PRIMARILY FOR PRODUCTION PURPOSES

PART 1831—OPERATING LOANS

Subpart A—Policies and Authorities

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Subpart A—Policies and Authorizations

AUTHORITY: The provisions of this Subpart A issued under secs. 311, 312, 313, 315, 316, 333, 339, 75 Stat. 310, as amended, 311, 314, 318, 343, 76 Stat. 632, secs. 2, 4, 64 Stat., 99, 100; 7 U.S.C. 1941–1943, 1945, 1946, 1983, 1989, 1991, 40 U.S.C. 440, 442; Order of Sec. of Agr., 19 F.R. 74, 26 F.R. 8403, 27 F.R. 5005.

§ 1831.1 General.

(a) This subpart prescribes the policies and authorizations for making Operating loans to farmers (including ranchers) who will be conducting not larger than family farming operations.

(b) The basic objective of Operating loans to farmers is to enable them to carry on a successful system of farming, to make efficient use of their land, labor, and other resources, to make needed improvements in their living conditions and economic situation, and to qualify for credit from private or cooperative sources within a reasonable time.

(c) Primary emphasis will be given to assisting family farm operators who will be making significant adjustments and improvements in their farm and home operations.

(d) The basic objective of Operating loans will be accomplished through the extension of credit and supervisory assistance.

(e) Supervisory assistance will be provided borrowers to the extent necessary to achieve the objectives of the loan and to protect the interests of the Government in accordance with Part 1802 of this chapter. Such assistance consists of farm and home planning, record keeping, analyzing the farm business, and giving management advice.

(f) The making of Operating loans to Indians and permittees and lessees on Indian trust lands is subject to the additional policies and procedures contained in Part 1825 of this chapter.

§ 1831.2 Scope of farming operations to be financed with Operating loans.

Loans may be made to farmers who, after the loan is made, will be conducting not larger than a family farming operation. The term farming operation as used in this subpart includes an operation which consists, in whole or in part of the production of fish under controlled conditions in lakes, ponds, and streams.

(a) *Adequate family farming operation.* An adequate family farming operation is defined as a farming operation (1) that is of sufficient size and productivity to furnish income that will enable a farm family to have a reasonable standard of living; pay operating expenses, including maintenance of necessary livestock, fish, farm and home equipment, land and buildings and other farm structures; pay their debts; and have a reasonable reserve to meet unforeseen emergencies, (2) for which the management of the farm and the recreational enterprise is furnished by the operator and his immediate family, and (3) for which the labor, including any labor necessary for the recreational enterprise, is furnished primarily by the operator and his immediate family except during seasonal peakload periods. It is not intended to include in this definition operations which require large amounts of seasonal hired labor.

(b) *Other family farming operations.* An "other" family farming operation is defined as a farming operation of insufficient size and productivity to qualify as an "adequate" family farming operation and (1) that will produce agricultural commodities in sufficient quantities that the proceeds from their sale will be a substantial portion of the operator's total cash income, (2) that will provide farm income which together with any income from other sources, including recreational enterprises, will enable the family to have a reasonable standard of living; pay operating expenses including maintenance of necessary livestock, fish, farm and home equipment, recreational equipment or facilities, land and buildings; pay their debts; and have a reasonable reserve for unforeseen emergencies, (3) for which the management of the farm and the recreational enterprise is furnished by the operator and his immediate family, (4) for which the labor, including any labor necessary for the recreational enterprise, is furnished primarily by the operator and his immediate family except during seasonal peakload periods, and (5) in which the farm to be operated is recognized in the community as a farm rather than a rural residence. It is not intended to include in this definition operations which require large amounts of seasonal hired labor. Loans may also be made to established farmers who can meet all of the requirements of this paragraph, except with respect to income as prescribed in subparagraph (2) of this paragraph, provided their incomes are sufficient to pay necessary farm operating and family living expenses not provided for in the loan, including any such expenses in connection with a recreational enterprise, meet the required payments on the Operating loan, and make the required payments on other indebtedness after any necessary debt adjustments, extensions, reamortizations, deferments, or nondisturbance agreements have been obtained in connection with such indebtedness.

§ 1831.3 Eligibility requirements.

To be eligible for an Operating loan each applicant must:

(a) Be a citizen of the United States.

(b) Possess legal capacity to incur the obligations of the loan.

(c) Be an individual who has a farm background and either training or farm experience sufficient to assure reasonable prospects of success in the proposed farming operation.

(d) Possess the character, ability, and industry necessary to carry out the proposed farming operation and honestly endeavor to carry out the undertakings and obligations required of him in connection with the loan.

(e) Be unable to obtain sufficient operating credit elsewhere to finance his actual needs at reasonable rates and terms taking into consideration prevailing private and cooperative rates and terms in the community in or near which he resides for loans for similar purposes

and periods of time. The applicant's equity in real estate, chattels, and other assets should be considered in determining his ability to obtain credit from private and cooperative sources.

(f) After the loan is made, be conducting not larger than a family farming operation as an owner or tenant.

(g) Be able to meet his major needs for operating credit within the indebtedness limitation for Operating loans during the period that such loans likely will be needed, except in cases where additional financing on a contractual or equally definite basis is available.

(h) When a loan for recreational purposes is being considered, possess the ability necessary to carry out the proposed enterprise.

§ 1831.4 Veterans' preference.

Veterans, as defined in Part 1801 of this chapter, will be given preference. When it appears that available funds will be inadequate to meet the needs of all applicants, the applications on hand from veterans will be processed first.

§ 1831.5 Certification by County Committee.

Before an Operating loan is approved, the County Committee will certify on Form FHA 440–2, "County Committee Certification," that the applicant is eligible for a loan in accordance with the provisions of § 1831.3 of this chapter. In addition, the County Committee will establish the maximum amount of credit which may be extended, under the certification, to meet the actual needs of the applicant during the crop year indicated. This will not necessarily represent the amount which actually will be loaned.

§ 1831.6 Participation under written agreements between Farmers Home Administration and commercial banks, cooperative lending agencies, or other legally organized agricultural lending agencies.

There are some situations in which commercial banks, cooperative lending agencies, or other legally organized agricultural lending agencies may be unable to extend to some of their farm customers the amounts of credit needed under the existing conditions. This may be due to certain banking or lending limitations, a lack of funds resulting from an adverse collection season, or other factors. In spite of these conditions such a lender may wish to continue a line of credit with a customer and likely will be willing to again provide his total credit needs after a temporary period. In such cases if the applicant is otherwise eligible for an Operating loan the Farmers Home Administration may participate with the other lender by providing part or all of the new credit the applicant needs for the crop year under the other provisions of this Subpart A and Subpart B of this Part 1831 as modified and supplemented by the following:

(a) The other lender will close and service the loans to the applicant and in doing so agrees to diligently protect the Government's interests as well as its own.

(b) The applicant is not indebted for a Farmer's Home Administration Operating or Emergency loan except that he may be indebted for an Operating loan previously made under a written participation agreement on Form FHA 441–3, "Participation Agreement."

(c) The applicant's immediate need for a Farmers Home Administration Operating loan is primarily for annual operating expenses and replacement of capital items.

(d) The applicant is carrying on a reasonably sound farm and home operation, will not be making major adjustments and improvements in his operations during the period of the Farmers Home Administration Operating loan, and does not need intensive farm and home or financial management supervisory assistance to help assure satisfactory progress or protection of the Government's interest.

(e) The Farmers Home Administration and other lender executes Form FHA 441–3. This agreemet will show the amount of credit to be provided by Farmers Home Administration and the other lender, the division of payments on the loans and the income that may be received from the sale of security property. The participation agreement will also provide for the loan to be closed and serviced by the other lender.

(f) The loan to be made by the Farmers Home Administration must not result in the applicant's Farmers Home Administration indebtedness for Operating loans exceeding 80 percent of his combined total operating-type indebtedness owed to Farmers Home Administration and the other lender.

§ 1831.7 Loan purposes.

Subject to the loan limitations and special requirements set forth in § 1831.8 of this Subpart A, operating loans may be made for:

(a) Purchase of livestock, poultry, farm equipment, and paying costs incident to reorganizing the farming system for more profitable operation and for other farm needs, including equipment to be utilized in the development of forest lands, and the production and harvesting of forestry products such as pulpwood, mine-timber, railroad ties, or timber for other uses.

(b) Purchase of an undivided interest in livestock, poultry, farm equipment, or facilities to be operated under a joint arrangement or as a group service.

(c) Purchase of feed, seed, fertilizer, insecticides, and farm supplies; the repair of equipment; and other essential farm operating expenses, including cost incident to the production and harvesting of forestry products such as pulpwood, mine-timber, railroad ties, or timber for other uses.

(d) Payment of customary and equitable cash rent or cash charges for the use of farm buildings, pasture, crop, or hay land, and grazing permits if all of the following conditions exist:

(1) Arrangements cannot be made for such rent or charges to fall due at the time when income for such payments is expected to become available.

(2) The applicant is obligated under a written lease to pay such rent or charges in advance of the time when income is expected to become available to him for that purpose and the payment from loan funds is made in advance of such time.

(3) Not more than one year's cash rent or cash charges are paid with loan funds in any one lease year, except that if a loan is approved near the end of the current lease year funds for payment of such rent or charges for the succeeding lease year may be included in the loan.

(4) The terms of the lease provide the applicant with reasonably secure and satisfactory tenure.

(e) Payment of taxes due or about to become due, Social Security taxes in connection with hired labor, water or drainage charges or assessments, premiums for insurance on real and personal property subject to the limitations in § 1831.8(b)(5) of this Subpart A and premiums for public liability and property damage insurance on farm equipment (including farm trucks) and on recreational equipment and enterprises.

(f) Payment of not more than one year's interest calculated at a rate not to exceed that which is reasonable and customary for the area, that is due or about to become due on debts secured by liens of other creditors on livestock, farm equipment, and farm real estate.

(g) Payment of depreciation in any one year not to exceed 15 percent of the market value of the essential farm equipment or recreational equipment under prior lien to another creditor or 15 percent of the amount owed to such creditors, whichever is lesser.

(h) Acquisition of memberships in farm purchasing and marketing and farm service-type cooperative associations or to purchase stock in such associations to help provide capital for improvement of services to farmer members. Purchase membership or stock in a recreational-type cooperative association organized to utilize the applicant's resources and to produce additional income exclusive of membership in associations which will acquire, lease, or improve land not otherwise under the control of the members.

(i) Meeting family subsistence needs, including premiums on reasonable amounts of health and life insurance and expenses for medical care. Applicants must understand, however, that within the limits of their resources they should plan and carry on adequate food production and conservation programs.

(j) Purchase of essential home equipment and furnishings, and the payment for home equipment repairs required by the applicant family to sustain itself on the farm in a reasonably satisfactory manner.

(k) Refinancing debts as follows:

(1) A debt secured by a lien on livestock, farm and home and recreational equipment, and harvested feed, not to exceed the market value of such property serving as security for the debt being refinanced. However, any portion of a secured debt which is in excess of the market value of such property may be considered for refinancing under subparagraph (2) of this paragraph.

(2) A debt, other than one authorized to be refinanced in subparagraph (1) of this paragraph, not to exceed the applicant's equity in the livestock and farm and recreational equipment to be taken as security for the loan. The applicant's equity in crops, livestock increase, and livestock products on hand may be included in determining his equity when the debt being refinanced was incurred for operating expenses during the crop year for which the loan is being made. See refinancing limitations in § 1831.8(b) of this Subpart A.

(m) Purchase of milk base either with or without cows where such action is necessary to assure the borrowers a satisfactory market for his dairy products, as authorized or approved by the State Director.

(n) Purchase of grazing license or permit rights of private parties which can be validly sold and transferred or waived separate from any land lease or other interest in land either with or without eligible livestock, provided loans for this purpose are authorized or by the State Director.

(o) The purchase of equipment, animals and birds, or facilities, and for operating expenses relating to the acquisition, development, and operation of recreational enterprises such as boating, fishing, swimming, picnicking, horseback riding, hunting, ski jumps, tennis courts, vacation cottages, camp grounds, and nature trails not otherwise provided for in this Subpart A.

(p) Purchase of fish used to stock ponds, streams, or lakes under controlled conditions, and for operating expenses relating to such enterprises.

(q) The following real estate improvements, subject to the limitations in § 1831.8 of this Subpart A.

(1) Purchase, construction, alteration, repair, or relocation of essential farm service buildings and minor repairs or alterations to farm dwellings.

(2) Purchase, construction, alteration, repair, or relocation of facilities or buildings to be utilized in a recreational enterprise.

(3) Land and water development, use, and conservation essential to the operation of the farm or recreational enterprise such as fencing, land clearing, establishment and development of forest lands, establishment and improvements of permanent hay or pasture, drainage and irrigation facilities, construction of small lakes or ponds, basic applications of lime and fertilizer, and the development of farmstead, livestock, and irrigation water supply and equipment therefor. Loan funds may be used to pay that part of the cost facilities, improvements, and practices which is to be earned by participation in the Agricultural Conservation or Great Plains programs only when such costs cannot be covered by purchase orders or assignments to material suppliers or contractors. If loan funds are advanced and the portion of the payment for which funds were advanced likely will exceed $500, the applicant will assign the payment to the Farmers Home Administration.

(r) Additional purposes in Hawaii as follows:

(1) For purchasing necessary coffee-drying equipment and trellises for passion fruit under provisions of this paragraph provided such equipment does not become a part of the real estate. Consideration should be given to the acquisition of such equipment through the use of group services where possible.

(2) Subject to the limitations prescribed in § 1831.8(d) of this Subpart A for erecting necessary farm buildings and making essential repairs and improvements to existing farm buildings provided the buildings, repairs or improvements for which the loan is made are normally considered a part of the cost of operating the farm and will enable the applicant to establish or reorganize an approved farming enterprise.

(3) Subject to the limitations prescribed in § 1831.8(d) of this Subpart A for establishing and improving pastures, hay crops, coffee, pineapple, banana, and similar perennial-type crops and for the construction of terraces, water ways, and farm ponds; clearing, leveling and draining land; and paying for other Soil and Water Conservation and improvement mortgage.

(4) When loans are made to tenants for real estate improvements as authorized in this paragraph, the lease must provide for an assignment of the lease to the Government or to someone designated by the Government. Loans may not be made to tenants operating on Hawaiian Homes Commission lands unless its present regulations and policies are changed in a manner which would permit the Farmers Home Administration to obtain a valid crop mortgage.

(s) Financing feeder cattle enterprises to enable the borrower to provide a profitable means of using feed produced on the ranch or farm. Only feeder enterprises in which the borrower producers practically all the required hay and other roughage and a substantial part of the grain needed will be considered favorably for financing with Operating loans. Only sound feeder operations which do not involve excessive risks to either the borrower or to the Government will be financed.

(1) Loans will not be made to finance commercial feed lot operations or where the applicant will require a substantial amount of credit for either the purchase of feed or for grazing fees.

(2) Ordinarily loans will be made only to finance feeder enterprises where light-weight feeders, such as feeder calves or yearlings are involved, and not to finance feeding operations involving heavy cattle, feeders which will be fed for only a short period, or feeders to be finished to prime grade.

(3) The making of operating loans involving poultry production is subject to policies for such loans contained in Part 1821 of this chapter.

§ 1831.8 Loan limitations and special requirements.

(a) *Refinancing of debts and obtaining credit elsewhere.* (1) When an applicant's request includes the use of loan funds for refinancing of debts it must be determined before a loan is made that his present creditors will not give him rates and terms on the existing debts that he reasonably could be expected to meet. If the applicant has requested loan funds for additional purposes, a determination also must be made that his present creditors or other sources will not extend to him the additional credit he needs on such rates and terms. County Supervisors will therefore:

(i) Discuss with the applicant the possibility of obtaining the needed credit from the applicant's present creditors or other sources. He may request the applicant to contact his present creditors to explain his credit needs and to determine if the creditors will provide any additional funds needed, renew, extend, change, or reduce the present debts as appropriate. He will also advise the applicant of other credit sources available in the area which might assist him with his credit needs and request that he contact such credit sources. If the applicant is unsuccessful in his efforts to obtain credit or to get a revision of the rates and terms of his indebtedness, the County Supervisor will obtain from the applicant and document the reasons given for not assisting the applicant.

(ii) If the County Supervisor is notified by the applicant that his negotiations with the present creditors or other sources were unsuccessful he will determine on the basis of the applicant's financial statement, planned income and expenses, estimated amount available for debt payment, and the additional facts presented by the applicant, whether it appears necessary to refinance the debts or any portion of the debts or to obtain a change in the rates and terms. When it is determined that refinancing may be necessary, he will contact in person, when practicable, each secured creditor and each unsecured creditor to whom substantial debts are owed for the purpose of verifying the necessity for refinancing. If the loan is to be processed, a statement of each secured account to be refinanced showing the final due date, interest rate, annual installment, amount delinquent, unpaid principal, and accrued interest will be obtained. A statement also will be obtained for each unsecured account to be refinanced.

(b) *Purposes for which loans may not be made.* While it is impracticable to list all of the purposes for which loans may not be made, the following are those commonly requested by applicants which are not authorized:

(1) Purchase of passenger automobiles, the refinancing of debts secured by liens on such automobiles, or the payment of unsecured debts incurred for the purchase of such automobiles.

(2) Payment of Federal or State Income Taxes, or Social Security taxes payable by borrowers in their own behalf.

(3) Purchase of real estate, or the making of payments on, or the refinancing of, any real estate indebtedness other than the payment of taxes and interest as authorized in this Subpart A. In addition, loans may not be made for carry-

ing on any land purchasing or land leasing program.

(4) Replacing livestock, farm equipment, or crops sold, or refinancing chattel debts incurred primarily for the purpose of obtaining funds for any of the real estate purposes referred to in subparagraph (3) of this paragraph, if such action was taken by the applicant with the intent of replacing the chattel property or refinancing the debts with Operating loan funds.

(5) Payment of taxes or insurance premiums in connection with real estate securing Farmers Home Administration loans other than Operating loans.

(6) Payment of debts owed by the applicant to the Farmers Home Administration or to make principal or interest payments on such debts.

(7) Loan funds will not be used to (i) purchase memberships or stock in production cooperatives, (ii) purchase memberships or stock for the purpose of establishing control by the Farmers Home Administration in any type of cooperative, or (iii) furnish a majority of the associations' capital requirements.

(8) To convert or develop his entire farming into a recreational enterprise.

(c) *Limitations on loans for other family-farming operations.* Loans may not be made to establish individuals in farming operations of the scope referred to in § 1831.2(b) of this subpart.

(d) *Limitations on loans for real estate improvements.* (1) Not more than $2,500 may be advanced to a borrower in any one fiscal year for real estate improvements; furthermore, Operating loans will not be made year after year to make substantial real estate improvements. Equipment which is installed under a severance agreement and on which a valid chattel lien is obtained is not considered real estate improvement.

(2) Before an Operating loan is made for real estate improvements, a careful analysis must be made of the applicant's resources and proposed operations and a determination made that:

(i) Such real estate improvements cannot be provided practicably through a real estate loan.

(ii) The sum of the Operating loan being made for real estate improvements and the unpaid indebtedness against the farm and other security which secures the Farmers Home Administration real estate loan will not exceed the total indebtedness or the normal value limitations prescribed for real estate loans.

(iii) The applicant will likely continue to operate the farm for a sufficient period of time and under such terms that will enable him to obtain reasonable returns on his investment.

(3) Operating loans may not be made to a tenant to finance real estate improvements unless he has a written lease under equitable terms. In addition, the lease in such case must provide for compensating the tenant for any unexhausted value of the improvement upon termination of the lease.

(e) *Limitations on amount of loan.* The amount of each loan will be limited to the needs of the applicant and his ability to pay. In addition, consideration will be given to the value of the chattel property, including crops, which will be available as security. In no case may a loan be made which would result in the total principal balance outstanding to exceed $35,000 for Operating loans (including Production and Subsistence). In addition, not more than 25 percent of the Operating loan appropriation for any fiscal year may be used to increase the indebtedness of any borrower above $15,000.

(f) *Debt settlement cases.* A loan will not be made to an applicant whose debts have been settled pursuant to Part 1864 of this chapter or who has been released from personal liability under Part 1872 of this chapter, as reflected by the County Office records, or where settlement or release under such regulations is contemplated, unless the applicant's failure to pay his loan indebtedness was the result of circumstances beyond his control, the conditions which necessitated the debt settlement or release, other than weather hazards, disasters, or price fluctuations, have been removed, and the borrower's operations will be sound and afford him a reasonable prospect of repaying the loan and meeting his other obligations. Prior to approval of the loan the State Office will determine whether the loan should be made.

(g) *Loans to individuals for forestry purposes.* Applicants for operating loans for forestry purposes are responsible for getting technical assistance from the Extension Service, U.S. Forest Service, Soil Conservation Service, State Forest Technicians, or other competent technicians in developing a forest plan on management and operation of his forest farm or farm woodlot. The plan will include projected yields, with operating expenses and estimated income, as well as a cruise of existing timber. The cruise report should include information such as an inventory of the kind and amount of timber on the land, the size and growth rate of the predominant type of trees, amount of merchantable timber on the farm, and the dates the timber should be marked for sale. Also, it should show the kind of forestry product sales such as pulpwood, mine-timber, railroad ties, or sale for other timber uses. No loan may be considered for a deferred payment or for a 3 percent interest rate unless an acceptable forestry plan of operation and management is provided and the loan approval official is reasonably assured that such a plan will be followed.

(h) *Loans to individuals jointly engaged in farming.* (1) A joint loan may be made to two eligible applicants living together or living separately and operating jointly not larger than one family-farm unit. When joint loans are made, both individuals will execute the application, loan authorization, notes, mortgages, and other documents required in connection with the making and closing of the loan.

(2) Separate loans may be made to eligible applicants who are engaged jointly in farming, provided not more than two individuals are interested in the operations, and the operations provide the equivalent of not larger than a family-farming operation for each individual. If a loan is made to only one such individual, it will be secured by a lien on his interest in the crops and chattel property as required by § 1831.10 of this subpart. If a loan is made to each of the two individuals, a separate mortgage may be executed by each borrower on his interest in the property to secure his loan or a joint mortgage may be excuted by both borrowers to secure both loans.

(i) *Relationship with Emergency loans.* Initial operating loans will not be made to applicants in areas designated for Emergency loans when credit needs can be met adequately with Emergency loans and can be scheduled for payment in full from the first year's operations.

(j) *Loans for recreational enterprises.* The farm and home plan will have sufficient information attached to determine the feasibility and soundness of the applicant's request for Farmers Home Administration assistance in conducting a recreational enterprise in conjunction with his farming operation. Such information will indicate whether the enterprise provides sufficient income to meet its operating expenses, depreciation, proportionate share of the debt, and make a reasonable contribution to the family's income.

§ 1831.9 Rates and terms.

Interest will be charged at the rate of 5 percent per annum on all Operating loans, except that loans made for the purchase of equipment to be used primarily in connection with a forestry enterprise and loans for operating expenses directly relating to a forestry enterprise will bear interest at the rate of 3 percent per annum. Interest will accrue from the date of the loan check on outstanding principal only and will not be compounded. Loans will be scheduled for payment as follows:

(a) Payments of principal on Operating loans will be scheduled on the note in accordance with the borrower's reasonable ability to pay, determined by an analysis of his farm and home operations as reflected in his farm and home plans. Principal payments on such loans will be scheduled at least annually, unless it is determined that income sufficient to meet the initial payment will not be received within 12 months from the date of the loan check, in which case the initial payment may be scheduled on a date coinciding with the date of the income is to be received, but not beyond the end of the second full crop year following the date of the loan. At least one payment will be scheduled during each 12-month period thereafter. In no event will any payment be scheduled later than 7 years from the date of the loan check.

(1) Advances for annual recurring operating expenses will be scheduled for payment when the principal income from the year's operations normally would be received. This includes advances for the payment of debts incurred in connection with the current

year's operations, interest, taxes, and depreciation.

(2) Advances to purchase or produce feed for productive livestock, or livestock to be fed for the market, will be scheduled for payment when the principal income from the sale of such livestock or livestock products can be expected.

(3) Advances for the purchase of equipment or the refinancing of debts on equipment will ordinarily be scheduled for payment over a period not to exceed 5 years. In determining the payment period for advances made for such purposes, the loan approval official will give careful consideration to the useful life of the property and the fact that repayment on such advances must more than offset depreciation, including obsolescence, of the equipment if the borrower is to make financial progress.

(4) Advances for purposes other than those enumerated in subparagraphs (1), (2), and (3) of this paragraph will be scheduled for payment over the minimum period consistent with the applicant's ability to pay, as determined from an analysis of the farm and home operations. In no instance may the payment schedule extend beyond the useful life of the security offered for the advance.

(5) When conditions warrant such action, principal payments scheduled in accordance with subparagraphs (3) and (4) of this paragraph may vary in amount. For example, when a livestock enterprise is being expanded as the feed and pasture program is developed, a graduated payment schedule could be used if necessary. In connection with subsequent loans for such purposes, it is necessary to consider payment schedules established previously for outstanding loans in order to assure a realistic overall payment schedule within the prescribed limits.

(b) Loans will be scheduled for repayment from anticipated income within a 7-year period. The last installment will not be larger than the amount which can then be refinanced with another lender or be repaid within a renewal period of not to exceed 5 years.

§ 1831.10 Security policies.

(a) Except as provided in subparagraph (3) of this paragraph, and in paragraphs (b), (c), and (d) of this section each loan will be secured as follows:

(1) *Crops, title to which is held by the borrower.* By a first lien on the applicant's crops, or his share of the crops if he is a share tenant, which are growing or to be grown by him, subject only to:

(i) The landlord's lien on the crops for reasonable cash or privilege rent for the current year.

(ii) The real estate mortgagee's lien on real estate purchase contract holder's lien on the crops for the current year's installment on the real estate debt, provided such installment is reasonable when related to the normal rental charges for similar farms in the area.

(iii) The lien of another creditor on particular crops for advances made or to be made by him to produce such crops provided no advance will be made by the Farmers Home Administration in connection with such crops.

(iv) The contract of another creditor or the lien in connection with such contract on particular crops for advances made or to be made by him to produce, harvest, process, or market such crops, provided the crops are under written contract with the creditor, and the contract limits advances to production, harvesting, processing, or marketing costs in connection with the contract crop or to purposes related thereto.

(2) *Crops grown under contract when title to the crop is held by the contractor.* When a crop is being produced, harvested, processed, or marketed by the applicant under an equitable written contract with a responsible contractor and title to the crop is retained by such contractor, loans may be made in connection with such crops provided (i) the contractor limits his advances to production, harvesting, processing, or marketing costs in connection with the contract crop or to purposes related thereto, and (ii) an assignment of all or part of an applicant's share of the income from the crop is given to the Farmers Home Administration and is accepted in writing by the contractor holding title to the crops. The assignment will be in an amount at least equal to the amount planned to be paid on the applicant's Farmers Home Administration indebtedness from such crop. However, when no payment is expected to be made on the loan from the crops, an assignment will not be required. The form for use in obtaining such assignments will be approved by the Office of the General Counsel.

(3) *Feed crops only.* Subject to the limitations of subparagraph (6) of this paragraph, a crop mortgage need not be taken when the crops to be produced by the borrower are for feed purposes only and the loan approval official determines that the loan is otherwise reasonably well secured and that liquidation action either voluntary, or involuntary, is not likely to occur during the crop year for which the loan is made.

(4) *Livestock, poultry, farm equipment, and facilities purchased or refinanced. (This includes animals, fish, birds, and recreational equipment and facilities.)* By a first lien on all such items, including buildings and fixtures which can be made subject to a valid chattel lien and undivided interests in such property, purchased or refinanced with the proceeds of the loan. However, liens will not be taken on poultry kept primarily for subsistence purposes, on household goods and equipment, on small tools and equipment. An applicant obtaining a loan for the purchase of an undivided interest in the property referred to above or the refinancing of debts on such items will secure his loan by a mortgage on his undivided interests in the item purchased or refinanced along with any other security required by this § 1831.10. Joint mortgages will not be taken except as provided in § 1831.8(f) of this subpart. Each party having an undivided interest in such property will execute Form FHA 441–12, "Agreement for Disposition of Jointly-Owned Property," providing for the disposition of his interest in the property. However, Form FHA 441–12 will not be required when a tenant and landlord own property jointly and the lease provides for satisfactory division of such property or the proceeds from its sale, or a joint mortgage is taken to secure loans to two individuals jointly engaged in farming.

(5) *Other livestock, poultry, farm equipment, and facilities of security value. (This includes animals, fish, birds, and recreational equipment and facilities.)* By the best lien obtainable on as much of such property of significant security value owned by the applicant at the time the loan is approved as is necessary to protect the interest of the Government. This will include any undivided interest in such property owned by the applicant jointly with others who have an interest in the operation.

(i) Ordinarily liens should not be taken on only part of a herd or flock due to the security servicing problems involved.

(ii) Liens should not be taken on small equipment and tools, household goods and equipment, passenger automobiles, or livestock or poultry kept primarily for subsistence purposes, or on undivided interests in property owned jointly by the applicant or others who have no interest in the farming operation or recreational enterprise.

(6) *Liens and assignments to protect the Government's interest in feed purchased or produced with loan funds.* Loans made to purchase or produce feed for livestock being fed for market or to be fed to productive livestock (excluding livestock and poultry kept primarily for subsistence purposes) will ordinarily be secured by first liens on such livestock. However, when a first lien cannot be obtained, the loan will be secured by liens or assignments as provided below:

(i) When the livestock will be owned by the applicant and a first lien cannot be obtained, a junior lien will be taken, provided it is determined that the applicant has, or will acquire during the feeding period, an equity in the livestock being fed or will receive income from livestock or livestock products, either of which must be commensurate with the investment made for this purpose; and provided prior lienholders sign Form FHA 441–13, "Division of Income and Nondisturbance Agreement," or similar form approved by the Office of the General Counsel, agreeing to a suitable nondisturbance period and to a division of the income to be received from the livestock and livestock products, which will permit the applicant to pay his loan in accordance with the policies expressed herein. However, when no payment is expected to be made on the loan from the livestock or livestock products, Form FHA 441–13 will not be required.

(ii) When the livestock enterprise is to be managed by the applicant under a livestock share lease, share agreement, or contract, and the income to be received therefrom will be from the live-

stock fed, or from livestock products, an assignment of all or a part of such income will be taken provided the owner or purchaser of the livestock or livestock products accepts in writing the assignment. The assignment will be in an amount at least equal to the amount planned to be paid on the applicant's Farmers Home Administration indebtedness from such income. The form for use in obtaining such assignments will be approved by the Office of the General Counsel. However, when no payment is expected to be made on the loan from the livestock or livestock products, an assignment will not be required. When the borrower's compensation under the livestock share lease, share agreement, or contract is livestock increase, the applicant will be required to agree in writing at the time the loan is made to give a first lien on such increase as soon as an effective lien can be taken, unless an after-acquired property clause in an existing lien instrument will provide such a first lien.

(7) *Assignments of crop insurance.* Assignments of all or a part of crop insurance proceeds will be taken when the loan approval official determines such action is necessary to protect the interests of the Government. However, an assignment is not required in cases where a crop insurance policy contains a standard mortgage clause naming the Farmers Home Administration as mortgagee.

(8) *Assignments of proceeds from sale of agricultural products.* When loans are made to finance dairy or commercial egg enterprises from which payments are expected, assignments will be taken on the milk or egg income to assist in obtaining regular payments as income is received whenever it is possible to obtain an agreement from the purchaser to honor the assignments. The assignment will be in an amount sufficient to meet repayments planned from this source. Assignments of proceeds from the sale of other agricultural products or agricultural income, including wool incentive and agricultural program payments, will be taken when necessary to protect the interest of the Governmen and can be obtained.

(9) *Severance agreements.* When Operating loan funds are used to purchase or refinance debts on property which is or may become attached to real estate and it is necessary to sever such property from the real estate to meet the security requirements contained in subparagraph (4) of this paragraph, Form FHA 440–6, "Severance Agreement," will be obtained.

(10) *Real estate.* Real estate security will not be taken in connection with making initial Operating loans. Furthermore, real estate security will not be taken in connection with making subsequent Operating loans except in individual cases in which it appears that it may be necessary to rely on such security for payment of the loan. When such security is taken the provisions of § 1871.2 (b) of this chapter will apply.

(b) Loans made for the acquisition of memberships or the purchase of stock in cooperative associations may be made on the basis of the borrower's promissory note without taking other security except as follows:

(1) An assignment or a pledge of the stock or other evidence of membership will be obtained, provided such a pledge or assignment would have security value. Assignments may also be taken on significant amounts of dividends to be received from stock, memberships or patronage, or on undivided profits and other retains. The assignment or pledge will be made on forms and in the manner approved by the Office of the General Counsel.

(2) In individual cases, loan approval officials may require a lien on crops or chattels as security for a loan made for the acquisition of a membership or stock if they determine that such action is necessary to protect the interest of the Government due to such reasons as the amount of the advance or the borrower's financial situation.

(c) Loans made under participation agreements between the Farmers Home Administration and other lenders under Form FHA 441–3, as prescribed in § 1831.6 of this subpart, will be secured by liens taken by the other lenders. Such liens will be taken on livestock or farm equipment or crops and may also include any other chattel property which the other lender determines is desirable. In such cases the loan approval official must determine that the security to be obtained by the other lender in accordance with the provisions of the participation agreement will be adequate to protect the interests of the Government under that agreement.

(d) Loans of not more than $1,500 for real estate improvements may be made on the basis of the borrower's promissory note without taking other security when the applicant has a good reputation for paying his debts promptly, when he clearly has sufficient income to meet all of his obligations, and when he has assets from which a recovery of the loan could be made in case of default.

(e) Property and public liability and property damage insurance will be obtained as follows:

(1) Applicants obtaining Operating loans should be encouraged to carry insurance on their livestock, equipment, crops, feed, seed, and other property necessary to afford them adequate protection against substantial losses from the common hazards existing in an area. It is especially desirable that insurance be obtained by applicants who obtain large loans and have considerable livestock, equipment, feed, and seed which are housed over an extended period. Such insurance may be required. It may be obtained from any insurance company properly authorized to do business in the area.

(2) Applicants receiving loans for a recreational enterprise will be advised of the possibilities of incurring liability and encouraged to obtain public liability and property damage insurance.

(3) When insurance is required on property serving as security for an Operating loan, a Form FHA 426–2, "Property Insurance Mortgage Clause (Without Contribution)," or a standard mortgage clause which is in general use in the area will be attached to or printed in the policy and will show the United States of America (Farmers Home Administration) as mortgagee.

(f) State Directors will inform County Supervisors on a State basis if it is necessary, because of State statutes or types of leases, land purchase contracts, and real estate mortgages commonly in use, to obtain subordination agreements, and to take other action as necessary.

(g) Lien searches will be obtained in accordance with the provision of Subpart B of this part to determine that the Farmers Home Administration will have the required security except that when the loan is made under a written participation agreement with another lender a lien search will not be required by the Farmers Home Administration if the loan approval official determines that the other lender will take the necessary steps in closing the loan to assure proper protection of the Government's interests.

§ 1831.11 Land tenure.

Good land tenure is essential in building a sound and successful farming business. Applicants will, therefore, be required to make satisfactory arrangements for the use of sufficient land of the quality necessary for carrying on an approved system of farming on a sound and practical basis. The tenure policies set forth below will be followed in the making and approving of loans.

(a) *Tenant operators.* (1) Before a loan is made the tenant, the landlord, and the County Supervisor must understand the terms and conditions of the tenure arrangements. The understanding will include how the farm will be operated, the manner in which the planned adjustments and improvements will be financed, the distribution of income and expenses and other contributions by the tenant or the landlord, provisions for the division of the jointly owned property when the lease is terminated, agreement on any pertinent long-time aspects of the case, as outlined in Part 1802 of this chapter, and any other factors affecting the tenure relationship.

(2) Ordinarily, loans will not be made unless the applicant obtains a satisfactory written lease. However, when for good reason an applicant cannot obtain a written lease on part or all of the land he expects to operate, the loan may be approved, provided the County Supervisor determines that the understanding existing between the tenant and landlord are definite and the rental terms are satisfactory, the lack of a written lease will not likely jeopardize the applicant's farming operations, and the rental arrangements made with respect to each tract of land are documented.

(b) *Owner operators.* Before loans are made to owner operators, the terms existing with respect to any real estate indebtedness owing will be ascertained

and a determination will be made as to whether the applicant's proposed farming operations will enable him to meet the required payments on the real estate indebtedness as well as being sound in other respects, and the applicant will have reasonably secure tenure on the farm under the terms of the real estate mortgage or purchase contract.

§ 1831.12 Loan approval.

(a) *Administrative determinations and responsibilities.* When the County Committee certification has been made, the loan approval official will determine administratively whether:

(1) The applicant is eligible and likely to be successful in the proposed operations and to achieve the objectives of the loan.

(2) The applicant has available, under satisfactory tenure arrangements, a farm adequate in size and productivity to reasonably expect success, taking into consideration off-farm income and income from a recreational enterprise.

(3) Plans have been made and documented for the proper system of farming and for any crucial adjustments, improvements, and practices essential for the applicant's success and whether provision has been made for proper follow-up supervision and corrective action.

(4) The proposed farm and home operations and recreational enterprise of the applicant are sound.

(5) The loan is sound and can be repaid from income as scheduled.

(6) The amount of the loan and the purposes for which the funds are to be used are consistent with the applicant's needs and are for authorized purposes.

(7) The security requirements can be met.

(8) The certifications required of the applicant and County Committee have been made.

(9) The loan meets all other Farmers Home Administration requirements.

(b) *Authority.* State Directors are authorized hereby to approve Operating loans in accordance with the requirements of this Subpart A and Subpart B of this part. However, no initial or subsequent Operating loan may be approved by the State Director without the consent of the National Office if (1) the loan being made will cause the total principal balance of Operating loans (including Production and Subsistence loans) plus the total principal balance owed on any Emergency-type loans (including Special Livestock loans) to exceed $25,000, or (2) the applicant is indebted for a Farmers Home Administration real estate loan or such a loan is being made, and the total principal balance on all indebtedness to, or insured by, Farmers Home Administration will exceed $50,000. However, when the National Office has concurred in the approval of an Operating loan as provided under subparagraph (1) or (2) of this paragraph, the case need not be resubmitted to the National Office in connection with requests for additional Operating loans unless major changes are made in the planned farm and home operations, or the borrower has not made satisfactory progress in the repayment of the loan.

(c) *Redelegation of authority.* (1) State Directors are authorized to redelegate to qualified State Office employees, including Area Supervisors, County Supervisors, and GS–7 Assistant County Supervisors, his authority to approve loans subject to the following limitations:

(i) Area Supervisors may not be authorized to approve a loan to an applicant which will cause the total principal balance of Operating loans (including Production and Subsistence loans) plus the total principal balance owed on any Emergency-type loans (including Special Livestock loans) to exceed $18,000.

(ii) County Supervisors and GS–7 Assistant County Supervisors may not be authorized to approve a loan to an applicant which will cause the total principal balance of Operating loans (including Production and Subsistence loans) plus the total principal balance owed on any Emergency-type loans (including Special Livestock loans) to exceed $12,000.

(2) Each State Director will determine the loan approval authority to be redelegated to State and County Office employees and will issue redelegations of such authority on a position basis.

(3) State Directors will restrict or revoke the exercise of delegated loan approval authority to individual State and County Office employees by written notice where such action is necessary in the administration of a sound loan program.

Subpart B—Loan Processing

AUTHORITY: The provisions of this Subpart B issued under secs. 311, 312, 313, 315, 316, 333, 339, 75 Stat. 310, as amended, 311, 314, 318, 343, 76 Stat. 632, secs. 2, 4, 64 Stat. 99, 100; 7 U.S.C. 1941, 1942, 1943, 1945, 1946, 1983, 1989, 1991; 40 U.S.C. 440, 442; Order of Sec. of Agr., 19 F.R. 74, 26 F.R. 8403, 27 F.R. 5005.

§ 1831.31 General.

This Subpart B of this Part 1831 sets forth the requirements and procedures for the preparation and execution of documents and for other routines in connection with making Operating loans.

§ 1831.32 Loan forms and routines.

(a) *Applications for loans.* (1) Applicants who are not indebted for Operating, any Emergency, or Special Livestock loans will execute Form FHA 410–1, "Application for FHA services," in accordance with Part 1801 of this chapter.

(2) Applicants who are indebted for Operating, any Emergency, or Special Livestock loans will not be required to execute Form FHA 410–1 if the application taken in connection with such loans or a Form FHA 431–2, "Farm and Home Plan," reasonably reflects their current status.

(b) *Form FHA 440–2, "County Committee Certification."* (1) When the applicant is determined to be eligible, the County Committee will execute Form FHA 440–2 before the loan is approved. This certification will cover any Operating loans to be made to the applicant for the crop year specified within the maximum amount of credit established by the County Committee. The date designated by the County Committee as the end of the crop year and the maximum amount of credit will be inserted in the appropriate spaces.

(i) It is intended that County Committees will have some latitude in determining for which crop years credit may be extended. In some cases where an initial Operating loan is being made, the County Committee may indicate that the crop year for which credit may be extended coincides with that for which an interim plan is developed. Such action may be taken because the Committee wishes to review the circumstances of the applicant again at the end of the interim crop year before committing itself for the succeeding crop year. In other cases, the County Committee may, when an application is being acted upon during the latter part of a crop year, establish the maximum amount of credit for both the interim crop year and the next crop year, provided the operations for the current year have advanced to the point that the County Committee will be able to determine with reasonable certainty the maximum amount of credit which the applicant would need for the next crop year under normal conditions. The same principles with respect to County Committee certifications for an initial loan may be followed in connection with subsequent loans.

(ii) If it is found, after an applicant has been certified as eligible, that a different farm will be operated or that an amount of credit in excess of the maximum previously established by the County Committee will be required for the designated crop year, it will be necessary for the County Committee again to certify the applicant as eligible on the basis of the changed circumstances if a loan is to be made.

(2) When the County Committee has agreed to increase the original amount of loan assistance certified for the crop year because such amount was insufficient to meet the needs of the borrower, a new Form FHA 440–2 will be prepared and executed. The date of the end of the same crop year (month, day, and year) as that indicated in the original certification will be inserted in the appropriate space. In the space indicating the maximum amount of credit for the crop year, the amount to be inserted will be the sum of the latest certification for the crop year for any Operating, any Emergency, and Special Livestock loan plus the additional amounts of any such loans the County Committee determines are necessary to meet the actual credit needs of the borrower for the remainder of the crop year. A notation will be made in the blank space on Form FHA 440–2 that the County Committee has again reviewed the applicant's situation and his credit needs for the crop year are as indicated rather than $_____ shown on the previously executed Form FHA 440–2. The new Form FHA 440–2 should be executed by the County Committee and dated as of that date.

(c) *Form FHA 431–1, "Long-Time Farm and Home Plan."* Form FHA 431–1 will be developed with those applicants who are to receive intensive supervision as prescribed in Part 1801 of this chapter.

(d) *Form FHA 431–2, "Farm and Home Plan."* Form FHA 431–2 will be developed with all applicants as prescribed in Part 1801 of this chapter except when a loan is made only for the acquisition of membership or the purchase of stock in a cooperative association and the applicant is not indebted for another Farmers Home Administration loan. In the latter case, the best estimates available will be used to complete Table J of Form FHA 431–2 in order to determine whether the loan requested can be paid and the period over which payments should be scheduled. The source of payment should be shown in Table K. When the preparation of Table J is inadequate to enable the loan approval official to make the required determinations, other portions of Form FHA 431–2 as necessary will be used. When a loan is being made for a recreational enterprise, a statement of income and expenses will be attached to the farm and home plan as prescribed in § 1831.8(j).

(e) *Appraisal of property.* (1) When a secured debt is to be refinanced under the provisions of § 1831.7(1), the following information will be recorded concerning each debt: the name of the applicant; the name of the lienholder; the amount owed on the debt; a description of each item of property on which the indebtedness is owed and the market value of each; the total value of all property on which the indebtedness is owned; and the name and title of the person making the report. If more than one secured debt is to be refinanced, a separate appraisal form will be used for each.

(2) When other debts are to be refinanced under the provisions of § 1831.7 (l) (2), an appraisal report will be prepared showing the name of the applicant; the value of the livestock, poultry, farm equipment, animals, fish, birds, recreational equipment and facilities to be taken as security for the loan; the amount of indebtedness secured by liens on such property; the applicant's equity in such property; and the name and title of the person making the report. If the debt being refinanced was incurred for operating expenses during the crop year for which the loan is being made and it is necessary to compute the applicant's equity in crops, livestock increase, and livestock products in order to determine whether refinancing can be done under the provisions of § 1831.7(l)(2), the value of the applicant's equity in such items also will be shown in the appraisal.

(3) When funds are to be advanced for the payment of depreciation pursuant to § 1831.7(g), an appraisal report will be made with respect to the farm equipment or recreational equipment involved for the purpose of making the determination required in that paragraph.

(f) *Tenure agreement.* Generally, a copy of the lease agreement between tenant applicants and their landlords will be obtained and made a part of the loan docket. Where it is not practical to obtain a copy of the lease agreement, a statement setting forth those terms and conditions of the agreement which are not clearly reflected in the Farm and Home Plan will be prepared and made a part of the loan docket.

(g) *Form FHA 441–1, "Promissory Note."* The amount of each loan and the scheduled payments thereon will be in multiples of $10. Not more than four payments on a single note will be scheduled for any year. The time limitations for payment schedules prescribed in § 1831.9 run from the date of the loan check instead of from the date of the note. Form FHA 441–1 will be dated as of the date of execution by the applicant. The applicant's spouse will be required to execute Form FHA 441–1 when legally required by State law; or the loan approval official determines that the signature is needed because of the spouse's interest in the farm being operated or in property offered as security; or it is determined by the State Director, on a state basis, that the spouse's signature will be required.

(1) When an Operating loan is made for purposes which would be secured in accordance with the provisions of § 1831.10(a) and also for purposes in which the security provisions of § 1831.10 (b) (1) or (d) apply, separate notes will be required.

(2) When an Operating loan is being made simultaneously for forestry purposes at the rate of 3 percent interest as prescribed in § 1831.9 and for other operating purposes, separate notes will be prepared.

(h) *Form FHA 441–3, "Participation Agreement."* This form will be used when the Farmers Home Administration is participating in a loan under the provisions of § 1831.6. Form FHA 441–3 will be executed by the applicant and the other lender before it is executed by the loan approval official on behalf of the Government.

(i) *Form FHA 441–16, "Repayment Schedule for Participation Loans."* This form will be used when the Farmers Home Administration is participating in a loan to provide the repayment schedule agreed upon for each advance to be made by the Farmers Home Administration under the Participation Agreement. Form FHA 441–16 will show the same repayment schedule as is shown on the note taken by the lender to evidence each Farmers Home Administration advance.

(j) *Form FHA 441–4, "Participation Notice."* When the Farmers Home Administration is participating in a loan, this form will be used by the lender to notify the County Supervisor of the actions taken in closing the loan.

(k) *Form FHA 440–9, "Supplementary Payment Agreement."* This form will be used, as needed, with applicants and borrowers who will be receiving regular off-farm income and income from a recreational enterprise from which payments are to be made on the loan.

(l) *Form FHA 440–1, "Payment Authorization."* (1) Form FHA 440–1 will be prepared for the total amount of the loan as indicated on Form FHA 441–1. Separate Forms FHA 440–1 will be prepared for each loan. However, when separate notes are prepared in accordance with § 1831.32(g) of this Subpart B, Form FHA 440–1 will be prepared for the total amount of the notes. The approval official will indicate his determination that the applicant is eligible and his approval of the loan by signing and dating the original in the space provided, and by inserting his title. The type of loan will be inserted in the space provided for that purpose.

(m) *Immediate and future disbursements.* All of the applicant's anticipated credit needs for the crop year will be planned for when Form FHA 431–2 is developed and all of the documents for loan advances required for the crop year may be submitted to the Finance Office at one time. Such documents may provide for the loan funds to be disbursed in an immediate loan advance; an immediate loan advance and one or more future loan advances; or one or more future loan advances without an immediate advance, provided, however, all such loans must be disbursed at least 30 days apart. Subsequent loans also may be submitted at any time during the crop year to meet credit needs of the applicant which could not be anticipated at the beginning of the crop year, provided the need for such credit is reflected on a revision of Form FHA 431–2. When credit is to be extended in more than one loan advance, a separate payment authorization and note must be submitted for each advance and for each future advance.

(n) *Form FHA 440–4 (State), "Crop and Chattel Mortgage."* The property listed should be described accurately and adequately and should be reconciled with any existing security instruments and Form FHA 462–1, "Record of the Disposition of Security Property." When a chattel mortgage is to be taken in connection with a fish or recreational enterprise, any necessary changes will be made in the text of the security instrument and the proper description of the property to be described in the security instrument. The requirements for the signature of the applicant's spouse will be as prescribed for Form FHA 441–1 in § 1831.32(g).

(o) *Form FHA 441–5, "Subordination Agreement."* When a subordination agreement is required, Form FHA 441–5 or other form approved by the State Director, where Form FHA 441–5 is not legally sufficient, will be used. The years to be covered by the subordination generally will be for the unexpired period of the lease but as a minimum will be for the year for which the loan is made.

(p) *Form FHA 441–8, "Assignment of Proceeds from the Sale of Agricultural Products."* Form FHA 441–8 or other form approved by the State Director, will be used to obtain an assignment of proceeds from the sale of farm, dairy, poultry, or other agricultural products.

(q) *Form FHA 440–6, "Severance Agreement."* (1) If severance agreements are required, such agreements will be

executed no later than the date on which the property purchased with loan funds is delivered to the farm, or prior to the release of loan funds to the creditor if refinancing of debts on such property is involved.

(2) Form FHA 440–6 will be executed by the parties indicated (including the Farmers Home Administration if a real estate lienholder) in the following situations:

(i) When the borrower owns the land free of any liens other than liens for real or personal property taxes, he will execute the form.

(ii) When the borrower owns the land subject to liens, he and all lienholders except those holding liens for real or personal property taxes will execute the form.

(iii) When the borrower is purchasing the land under a title retaining contract, he, the owner, and all lienholders except those holding liens for real or personal property taxes will execute the form.

(iv) When the borrower is leasing the land, he and the owner only will execute the form.

(3) State Directors will specify the situation in which severance agreements are required under State law to comply with the requirements of Subpart A of this Part 1831; whether the severance agreement should be filed or recorded; and whether the spouse of the borrower and the spouses of other parties of interest also will be required to execute the severance agreement. In specifying the situations in which severance agreements will be required, consideration will be given to the actions necessary to prevent the property from becoming part of the real estate as well as to severance after it has become attached to the real estate.

(r) *Form FHA 441–13, "Division of Income and Nondisturbance Agreement."* Form FHA 441–13 will be used when it is necessary to obtain both a division of income and a nondisturbance agreement from prior lienholders.

(s) *Form FHA 441–10, "Nondisturbance Agreement."* Form FHA 441–10 will be used when it is necessary to obtain only nondisturbance agreements from creditors of an applicant who are in a position to interfere wth the applicant's farming operations.

§ 1831.33 Review and approval or rejection.

After the documents prescribed in § 1831.32 of this Subpart B have been assembled, the loan approval official will make the determinations required in § 1831.12(a).

(a) *Approval of loans.* If the loan is to be approved, the loan approval official will date and sign Form FHA 440–1 and insert his title in the spaces designated for these purposes. The loan approval official also will specify any special conditions of approval or special security requirements.

(b) *Rejection of loans.* If a loan is rejected, the County Supervisor will notify the applicant of the rejection and will return to him the original of Form FHA 441–1, any tenure agreements, and any executed security instruments.

§ 1831.34 Loan closing.

(a) *Check delivery.* Upon receipt of a loan check, the County Supervisor will notify the applicant promptly on Form FHA 440–8, "Notice of Check Delivery"; or mail the check to him; or if a "participation loan" is involved, deliver the loan check to the other lender and notify the applicant of such delivery; or when a supervised bank account is required and the depository bank does not require the applicant's endorsement for deposit, he may deposit the loan check in the supervised bank account and furnish the applicant a copy of the deposit slip. If the bank will not accept the loan check for deposit in a supervised bank account without the applicant's endorsement, the County Supervisor will retain the check and arrange with the applicant for a time and place for its deposit. If a "participation loan" is made the other lender will close the loan, including the taking of the security instruments, in accordance with the provisions of the "Participation Agreement."

(b) *Form FHA 440–13, "Report of Lien Search."* Form FHA 440–13 or other form providing substantially the same information will be prepared.

(1) Lien searches will be obtained at a time which will assure that the security instruments filed or recorded give the Government the required security.

(2) Except as otherwise provided in this subparagraph, applicants are required to obtain and pay the cost of lien searches. Applicants should select the sources through which lien searches are made. The cost of lien searches may be paid from the proceeds of loan checks when necessary.

(i) State Directors may authorize the employees of a particular County Office unit to make lien searches without cost to applicants when the cost of lien searches is exorbitant, such service is not available, or experience has shown that the service available will cause undue delay in the closing of loans or make it difficult to determine before withdrawal of loan funds that required security has been obtained.

(ii) County Office employees may make continuation lien searches when such searches are necessary to assure that the Government will obtain the required security, or are required by the State Director in connection with subsequent mortgages taken to describe additional chattels purchased with loan funds.

(3) State Directors will determine the minimum requirements for lien searches, including the records to be searched and the period to be covered with respect to each.

(c) *Security Documents.* County Office employees in bonded positions are authorized to execute and file or record any legal instruments necessary to obtain or preserve security for loans. This includes mortgages and similar lien instruments, as well as affidavits, acknowledgments, and other certifications, when the mortgagee must execute such instruments under State law.

(d) *Obtaining security for Operating loans.* In cases in which capital goods are to be purchased and covered by a lien, the County Supervisor will encourage the applicant to make preliminary arrangements for the purchase of all such items by the time the initial mortgage is taken in order to eliminate the taking of additional mortgages. The taking of security in closing loans will be governed by the following requirements:

(1) If all of the loan funds are deposited in a supervised bank account, the initial mortgage to secure the loan will be taken not later than the date of the first withdrawal of any of the loan funds from such account.

(2) If only a part or none of the loan funds are deposited in a supervised bank account, the initial mortgage to secure the loan will be taken not later than the time of the delivery of the loan check to the applicant.

(3) If, at the time the initial mortgage is taken, a part of the property which is to serve as security for the loan as yet to be purchased, a first lien will be taken on such property at the time it is purchased, unless the after-acquired property clause in the mortgage gives the Government a first lien on such property.

(e) *Executing and recording or filing.* Crop and chattel mortgages must be delivered or mailed to the recording office for recordation or filing, whichever is appropriate.

(f) *Fees.* Statutory fees for filing or recording mortgages or other legal instruments and notary and lien search fees incident to loan transactions in all cases will be paid by the borrower from personal funds or from the proceeds of the loan. Whenever cash is accepted by the Farmers Home Administration personnel to be used to pay the filing or recording fees for security instruments, or the cost of making lien searches, Form FHA 440–12, "Acknowledgment of Payment for Recording, Lien Search, and Releasing Fees," will be executed. Farmers Home Administration personnel who accept custody of such fees will make it clear to the borrower that the amount so accepted is not received by the Government as credit on the borrower's indebtedness, but is accepted only for the purpose of paying the recording, filing, or lien search fees on behalf of the borrower.

§ 1831.35 Revision in the use of Operating loan funds.

(a) *Authority of the County Supervisor.* The County Supervisor is authorized to approve changes in the purposes for which loan funds are to be used provided: the loan was within the County Supervisor's loan approval authority; such a change is for an authorized purpose and within applicable limitations; such a change will not adversely affect the soundness of the farming operation, the recreational enterprise, or the Government's interest. If the County Supervisor is uncertain as to the probable effect the change would have on the soundness of the farming operation or on the Government's interest, he should obtain the advice of the

State Director prior to approving the change.

(b) *Authority of State Office Officials.* (1) The State Director may delegate additional authority to County Supervisors to approve certain kinds of changes in the use of loan funds provided prior approval is obtained from the National Office.

(2) The State Director and employees in the State Office who have loan approval authority are authorized to approve changes in the use of loan funds provided the changes are consistent with authorities, policies, and limitations for making Operating loans.

(c) *Documentation and routines.* When changes are made in the use of loan funds, no revision will be made in the repayment schedule on Form FHA 441–1. However, when funds loaned for the purchase of capital goods are to be used to meet operating expenses, the borrower must agree to repay the funds so used in accordance with the repayment terms prescribed in § 1831.9 of this chapter. Appropriate changes with respect to the repayments will be made in Table K of Form FHA 431–2 and initialed by the borrower.

PART 1832—EMERGENCY LOANS

Subpart A—Policies and Authorities

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Subpart B—Loan Processing

1832.21 General.
1832.22 Processing.

Subpart A—Policies and Authorities

AUTHORITY: The provisions of this Subpart A issued under sec. 321–327, 333, 339, 75 Stat. 311, as amended, 314, 318; 7 U.S.C. 1961–1967, 1983, 1989. Order of Sec. of Agr., 19 F.R. 74, 26 F.R. 8403, 27 F.R. 5005.

§ 1832.1 General.

This subpart prescribes the policies and authorities for making Emergency loans to farmers and stockmen. Special provisions with respect to certain types of Emergency loans are set forth in the last sections of this Subpart A. The basic objectives are to assist eligible applicants to continue their normal farming or livestock operations, and return to local sources of credit as soon as possible. These objectives will be accomplished through the extension of credit and such supervisory assistance as is determined necessary to achieve the objectives of the loan and protect the Government's interest. Supervisory assistance will be given in accordance with the provisions of Part 1802 of this chapter. Such loans made to certain Indians and to permittees and lessees on Indian trust lands are subject to the additional policies and procedures contained in Part 1892 of this chapter.

§ 1832.2 Designation of Emergency loan areas.

(a) The Secretary of Agriculture may designate an area as an Emergency loan area when there exists in the area a general need for agricultural credit which cannot be met for temporary periods by private, cooperative, or other responsible sources, including other types of loans made by the Farmers Home Administration, and when the need for agricultural credit in the area is the result of a natural disaster. Such designation will cover a specific period during which initial loans will be made but such period may be extended by the Secretary.

(b) When an additional natural disaster occurs in a designated Emergency loan area and results in a need for emergency credit which can be met without extending the period for approving initial loans, the State Director, may authorize Emergency loans under the existing designation to meet the need for credit resulting from the additional disaster.

§ 1832.3 Scope of farming operations to be financed with Emergency loans.

The scope of farming operations to be financed with Emergency loans is the same as for Operating loans in Part 1831 of this chapter, except that Emergency loans may be made to established operators of larger than family farms.

§ 1832.4 Eligibility requirements.

To be eligible for an Emergency loan, an applicant must:

(a) Be a citizen of the United States, if an individual. If a partnership, the individual partners must be citizens of the United States.

(b) Be an established farmer or rancher, whether owner or tenant, (including a partnership or corporation organized in the United States engaged primarily in farming or ranching).

(c) Operate in a designated area, or in a nondesignated area and have substantial losses as the result of a recent natural disaster not general to the area.

(d) Possess legal capacity to contract for the loan.

(e) Possess the character, ability, industry, and experience necessary to carry out the proposed farming or ranching operations and will honestly endeavor to carry out the undertakings and obligations required of him in connection with the loan.

(f) Be unable to obtain sufficient operating credit elsewhere to finance his actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which he resides for loans for similar purposes and periods of time. The applicant's equity in real estate, chattels, and other assets should be considered in determining his ability to obtain credit from private and cooperative sources. When the applicant is a partnership or corporation, the partners or principal stockholders must be unable to supply the needed credit from their own resources or with loans obtained from other sources.

§ 1832.5 Certification by County Committee.

(a) Before an Emergency loan to an individual is approved, the County Committee will certify on Form FHA 440–2, "County Committee Certification," that the applicant is eligible for a loan in accordance with § 1832.4. In addition, the County Committee will establish the maximum amount of credit which may be extended under the certification to meet the actual needs of the applicant during the crop year indicated. This will not necessarily represent the amount which actually will be loaned.

(b) Before an Emergency loan is made to a partnership or corporation, the County Committee will certify on Form FHA 440–2 that the partnership or corporation is eligible and will recommend that a loan be made in an amount not to exceed the maximum certified amount shown on Form FHA 440–2.

§ 1832.6 Loan purposes.

Emergency loans may be made for the following purposes:

(a) Purchase of feed, seed, fertilizer, insecticides, and farm supplies; the repair of equipment; and other essential farm operating expenses.

(b) Purchase of livestock to replace those lost, destroyed, or disposed of as a result of the natural disaster for which the area was designated; purchase of replacement farm machinery and equipment; and for other farm needs.

(c) Payment of not more than one year's customary and equitable cash rent or cash charges for the use of farm buildings, pasture, hayland, cropland for the production of feed crops, and grazing permits if all of the following conditions exist:

(1) Arrangements cannot be made for such rent or charges to fall due at the time when income for such payments is expected to become available.

(2) The applicant is obligated under a written lease to pay such rent or charges in advance of the time when income is expected to become available to him for that purpose and the payment from loan funds is made in advance of such time.

(d) Payment of not more than one year's taxes on personal property and real estate other than Farm Ownership and Housing farms; not more than one year's premiums for insurance on personal property and real estate, other than Farm Ownership, Soil and Water Conservation, and Housing farms; Social Security taxes in connection with hired labor only; and water or drainage charges or assessments.

(e) Payment of bills that were incurred during the crop year for which the loan is being made and during previ-

ous crop years for annual recurring operating expenses in connection with the production of livestock, livestock products, and crops. However, bills incurred in connection with livestock, livestock products, and crops that have been disposed of, destroyed or lost, may be paid only to the extent of the applicant's equity in the livestock and equipment taken as security for the loan. Loans will not be made for the payment of bills which:

(1) Can be paid from the sale of livestock, livestock products, or crops to be marketed within a few weeks following the approval of the loan, or

(2) Represent an amount beyond the applicant's ability to repay within a reasonable period.

(f) Payment of not more than one year's interest calculated at a rate not to exceed that which is reasonable and customary for the area, that is due or about to become due on debts secured by liens of other creditors on livestock, farm equipment, and farm real estate.

(g) Payment of depreciation in any one year not to exceed 15 percent of the market value of essential farm equipment under prior lien to another creditor or 15 percent of the amount owed to such creditor, whichever is lesser.

(h) Meeting family subsistence needs, including premiums on reasonable amounts of health and life insurance and expenses for medical care. Applicants must understand, however, that within the limits of their resources, they should plan and carry on adequate food production and conservation programs.

(i) Purchase of essential replacement home equipment and furnishings, and the payment for home equipment repairs required by the applicant family to sustain itself on the farm in a reasonably satisfactory manner.

(j) Expenses incident to loan closing.

(k) The replacement or repair of buildings, fences, and drainage or irrigation systems, necessary as a direct result of the natural disaster for which the area was designated, in order to bring the farm back to normal production and use.

(l) The re-leveling of land and the clearing of debris made necessary as a direct result of the natural disaster for which the area was designated.

(m) The purchase of trees, rootstock, and plants for reestablishing commercial orchards or berry and perennial corps, when necessary as a direct result of the natural disaster for which the area was designated.

(n) The payment of bills incurred for emergency repairs and improvements to farm real estate, necessary as a direct result of the disaster, provided it is determined that the expenditures were essential to a preservation of the property or a continuation of the applicant's normal farming or livestock operations, and had to be made before an Emergency loan could be obtained; and provided the loan for such purposes is approved within a reasonable period following designation of the area.

§ 1832.7 Loan limitations.

Emergency loans will not be made:

(a) To refinance debts, either secured or unsecured, except the payment of bills as authorized in § 1832.6 (e) and (n).

(b) To pay Federal or State income taxes, or Social Security taxes payable by borrowers in their own behalf.

(c) To purchase passenger automobiles.

(d) To enable an applicant to become established or reestablished in farming or ranching, or to reorganize his farming or ranching operations.

(e) To enable an applicant to expand his farm or ranch operations substantially in excess of his typical operations during the two or three years prior to the loan application.

(f) To finance commercial feed lot operations.

(g) To a landlord to furnish his tenant operators, whether share, cash, or standing rent is paid by these tenants. However, loans may be made to operating landlords or tenants to furnish their sharecroppers.

(h) To an applicant whose debts have been settled pursuant to Part 1864 and Part 1872 Subpart A, of this chapter, unless the requirements of § 1831.8(e) of this chapter are met.

(i) To finance unproven types of farming operations in an area.

§ 1832.8 Relationship with other types of Farmers Home Administration loans.

Initial Emergency loans, instead of initial Operating loans will be made to eligible applicants who need credit which can be scheduled for repayment in full from the first year's operations. Otherwise, initial Emergency loans will not be made to other applicants whose credit needs can be met with another type of Farmers Home Administration loan.

§ 1832.9 Rates and terms.

Interest will be charged at the rate of 3 percent per annum on all Emergency loans. Interest will accrue from the date of the loan check on outstanding principal only and will not be compounded. Loans will be scheduled for payment as follows:

(a) Payments of principal will be scheduled on the note in accordance with the borrower's reasonable ability to pay, determined by an analysis of his farm and home operations as reflected in his farm and home plans. Principal payments on such loans will be scheduled at least annually, unless it is determined that income sufficient to meet the initial payment will not be received within 12 months from the date of the loan check, in which case the initial payment may be scheduled on a date coinciding with the date the income is to be received, but not beyond the end of the second full crop year following the date of the loan. At least one payment will be scheduled during each 12-month period thereafter. In no event will any payment be scheduled later than seven years from the date of the loan check, except as provided in subparagraph (4) of this paragraph.

(1) Advances for annual recurring operating expenses will be scheduled for payment when the principal income from the year's operations normally would be received. This includes advances for the payment of bills incurred in connection with the current year's operations, interest, taxes, and depreciation.

(2) Advances to purchase or produce feed for productive livestock, or livestock to be fed for the market, will be scheduled for payment when the principal income from the sale of such livestock or livestock products can be expected.

(3) Advances for the purchase of farm and home equipment will ordinarily be scheduled for payment over a period not to exceed five years. In determining the payment period for advances made for such purposes, the loan approval official will give careful consideration to the useful life of the property and the fact that repayment on such advances must more than offset depreciation, including obsolescence, of the equipment if the borrower is to make financial progress.

(4) Advances for real estate purposes, secured primarily by real estate liens, may be scheduled over periods not to exceed 20 years.

(5) Advances for purposes other than those enumerated in subparagraphs (1), (2), (3), and (4) of this paragraph will be scheduled for payment over the minimum period consistent with the applicant's ability to pay, as determined from an analysis of the farm and home operations. In no instance may the payment schedule extend beyond the useful life of the security offered for the advance.

§ 1832.10 Security policies.

(a) Emergency loans for other than real estate purposes will be secured as follows:

(1) *Crops, title to which is held by the borrower.* By a first lien on the applicant's crops, or his share of the crops, if he is a share tenant, which are growing or to be grown by him, subject only to:

(i) The landlord's lien on the crops for reasonable share rent for the current year.

(ii) The real estate mortgagee's lien or real estate purchase contract holder's lien on the crops for the current year's installment on the real estate debt, provided such installment is reasonable when related to the normal rental charges for similar farms in the area.

(iii) The lien of another creditor on particular crops for advances made or to be made by him to produce such crops provided no advances will be made by the Farmers Home Administration in connection with such crops.

(iv) The contract of another creditor or the lien in connection with such contract on particular crops for advances made or to be made by him to produce, harvest, process, or market such crops, provided the crops are under written contract with the creditor, and the contract limits advances to production, harvesting, processing, or marketing costs in connection with the contract crop or to the purposes related thereto.

(2) *Crops grown under contract when title to the crop is held by the contractor.* When a crop is being produced, harvested, processed, or marketed by the

applicant under an equitable written contract with a responsible contractor and title to the crop is retained by such contractor, loans may be made in connection with such crops provided: the contractor limits his advances to production, harvesting, processing, or marketing costs in connection with the contract crop or to purposes related thereto; and an assignment of all or a part of an applicant's share of the income from the crop is taken by the Farmers Home Administration and is accepted in writing by the contractor holding title to the crops. The assignment will be in an amount at least equal to the amount planned to be paid on the applicant's Farmers Home Administration indebtedness from such crops. However, when no payment is expected to be made on the loan from the crops, an assignment will not be required. The form for use in obtaining such assignments will be approved by the Office of the General Counsel.

(3) *Livestock, farm equipment, and facilities purchased with loan funds.* By a first lien on all livestock, including poultry and farm equipment and facilities, including buildings and fixtures which can be made subject to a valid chattel lien and on any undivided interest in such property purchased with the proceeds of the loan. However, liens will not be taken on poultry kept primarily for subsistence purposes, on household goods and equipment, on small tools, and equipment.

(i) An applicant obtaining a loan for the purchase of an undivided interest in livestock, farm equipment, or facilities will secure his loan by a mortgage on his undivided interest in the item purchased, along with any other security required by this section. Each party having an undivided interest in the livestock, farm equipment, or facility purchased will execute Form FHA 441–12, "Agreement for Disposition of Jointly-Owned Property," providing for the disposition of his interest in the property. However, Form FHA 441–12 will not be required when a tenant and landlord own property jointly and the lease provides for satisfactory division of such property or the proceeds from its sale, or when a joint mortgage is taken to secure loans to two individuals jointly engaged in farming.

(4) *Other livestock and farm equipment of security value.* By the best lien obtainable on as much of the other livestock, poultry, and farm equipment of significant security value owned by the applicant at the time the loan is approved as is necessary to protect the interest of the Government. This will include any undivided interest in such property owned by the applicant jointly with others who have an interest in the farming operation.

(i) Ordinarily, liens should not be taken on only part of a herd or flock due to the security servicing problems involved.

(ii) Liens should not be taken on small equipment and tools, household goods and equipment, passenger automobiles, or livestock or poultry kept primarily for subsistence purposes, or on undivided interest in farm equipment or facilities owned jointly by the applicant or others who have no interest in the farming operation.

(5) *Liens and assignments to protect the Government's interest in feed purchased or produced with loan funds.* Loans made to purchase or produce feed for livestock being fed for market or to be fed to productive livestock (excluding livestock and poultry kept primarily for subsistence purposes) will ordinarily be secured by first liens on such livestock. However, when a first lien cannot be obtained, the loan will be secured by liens or assignments as provided below:

(i) When the livestock will be owned by the applicant and a first lien cannot be obtained, a junior lien will be taken, provided it is determined that the applicant has, or will acquire during the feeding period, an equity in the livestock being fed or will receive income from livestock or livestock products, either of which must be commensurate with the investment made for this purpose; and provided prior lien holders sign Form FHA 441–13, "Division of Income and Nondisturbance Agreement," or similar form approved by the Farmers Home Administration, agreeing to a suitable nondisturbance period and to a division of the income to be received from the livestock and livestock products, which will permit the applicant to pay his loan in accordance with the policies expressed herein. However, when no payment is expected to be made on the loan from the livestock or livestock products, Form FHA 441–13 will not be required.

(ii) When the livestock enterprise is to be managed by the applicant under a livestock share lease, share agreement, or contract, and the income to be received therefrom will be from the livestock fed, or from livestock products, an assignment of all or a part of such income will be taken provided the owner or purchaser of the livestock or livestock products accepts in writing the assignment. The assignment will be in an amount at least equal to the amount planned to be paid on the applicant's Farmers Home Administration indebtedness from such income. The form for use in obtaining such assignments will be approved by the Office of the General Counsel. However, when no payment is expected to be made on the loan from the livestock or livestock products, an assignment will not be required. When the borrower's compensation under the livestock share lease, share argeement, or contract is livestock increase, the applicant will be required to agree in writing at the time the loan is made to give a first lien on such increase as soon as an effective lien can be taken, unless an after-acquired property clause in an existing lien instrument will provide such a first lien.

(6) *Assignments of crop insurance.* Assignments of all or a part of crop insurance proceeds will be taken when the loan approval official determines such action is necessary to protect the interests of the Government. However, an assignment is not required in cases where a crop insurance policy contains a standmortgage clause naming the Farmers Home Administration as mortgagee.

(7) *Assignments of proceeds from sale of agricultural products.* When loans are made to finance dairy or commercial egg enterprises from which payments are expected, assignments will be taken on the milk or egg income to assist in obtaining regular payments as income is received whenever it is possible to obtain an agreement from the purchaser to honor the assignments. The assignment will be in an amount sufficient to meet repayments planned from the source. Assignments of proceeds from the sale of other agricultural products or agricultural income, including wool incentive and Agricultural Conservation Program payments, will be taken when necessary to protect the interest of the Government and can be obtained.

(8) *Severance Agreements.* When Emergency loan funds are used to purchase property which is or may become attached to real estate and it is necessary to sever such property from real estate to meet the security requirements contained in subparagraph (3) of this paragraph, Form FHA 440–6, "Severance Agreement," will be obtained.

(9) *Real estate.* The best lien obtainable will be taken as additional security when in the opinion of the loan approval official such a lien is needed to adequately protect the Government's interest. When a lien is required as additional security, an appraisal of the farm will not be necessary and title evidence will not be required. Property insurance will be required only when the loan approval official determines that insurance is necessary to protect the Government's interest.

(b) Advances for real estate repairs and improvements will be secured, except as provided in subparagraph (7) of this paragraph, only by liens on real estate in which the applicant has sufficient equity to provide adequate security for the loan, subject to the following:

(1) The determination of the applicant's equity in the real estate offered as security will be based on an appraisal of the property by a qualified Farmers Home Administration employee authorized to appraise farms, using Forms FHA 422–1, "Appraisal Report," and related forms. However, when the amount of the loan does not exceed $5,000, the County Supervisor may make the appraisal in which event only Parts 1, 2, and 7 of Forms FHA 422–1 will be completed.

(2) If the property is held under a purchase contract, it must be determined that the applicant has a mortgageable interest in the property and that the purchase contract is not subject to summary cancellation upon default, and does not contain other provisions which might jeopardize the Government's security position or the borrower's ability to repay the loan.

(3) If any of the prior liens against the property contain future advance provisions, or other provisions which might jeopardize the security position of the Government or the applicant's ability

to meet his obligations under these prior liens and also repay his Emergency loan, the prior lienholders involved must agree in writing before the loan is closed, to modify, waive, or subordinate such objectionable provisions. This usually will be accomplished on Forms FHA 446 or 427-8, "Agreement with Prior Lienholder," subject to any modifications necessary to meet legal requirements for closing a particular loan.

(4) In states where a prior lienholder may foreclose his security instrument under power of sale or otherwise and extinguish junior liens of private parties without making junior lienholders parties or giving them actual notice and a junior lien on real estate is to be taken as security for the loan, the prior lienholders must agree in writing to give the Government advance notice of foreclosure or assignment of the mortgage. Such agreements will be recorded when legally permissible.

(5) If there are insurable buildings located on the property, or if new buildings are to be erected or major improvements made to existing buildings, the applicant will provide adequate property insurance coverage, at the time of loan closing or as of the date materials are delivered to the property, as appropriate, in accordance with the provisions of Part 1806 of this chapter.

(6) If insurance claims for loss or damage of buildings to be replaced or repaired with loan funds are outstanding at the time the loan is made, the applicant will be required to agree in writing for the proceeds of such claims to be used for replacement or repair of buildings or to be paid to the Government for application on the loan when settlement is made, or for such proceeds to be applied on debts secured by prior liens.

(7) When a relatively small amount is being advanced for real estate purposes and it can be secured adequately by a first lien on chattel property and repaid over a period not in excess of five years, such a lien may be taken in lieu of a lien on real estate, provided the taking of a chattel lien will not interfere with the applicant's ability to obtain operating credit during that period.

(c) When a loan is made which includes funds for operating expenses, and real estate purposes other than under the circumstances described in paragraph (b)(7) of this § 1832.10, only one loan docket will be prepared. However, notes and vouchers will be prepared separately for the amounts of loan funds to be used for each of these two purposes, and the loan will be secured as follows:

(1) That portion of the loan made for operating purposes will be secured as outlined under paragraph (a) of this § 1832.10, and also, if legally possible, by any liens taken to secure advances made for real estate purposes. The notes for advances for operating purposes will be described in both the crop and chattel mortgage and the real estate mortgage.

(2) That portion of the loan made for real estate purposes will be secured as outlined under paragraph (b) of this § 1832.10. The notes for advances for real estate purposes will be described only in the real estate mortgage, unless scheduled for repayment within five years and a chattel lien is obtained in accordance with paragraph (b)(7) of this § 1832.10.

§ 1832.11 Loan approval.

(a) *Administrative determinations and responsibilities.* When the County Committee certification has been made, the loan approval official will determine administratively whether:

(1) The applicant is eligible and likely to be successful in the proposed operations and to achieve the objectives of the loan.

(2) The applicant has satisfactory tenure arrangements for the farm to be operated.

(3) The proposed farm and home operations of the applicant are reasonably sound.

(4) The loan is sound and can be repaid from income as scheduled.

(5) The amount of the loan and the purposes for which the funds are to be used are consistent with the applicant's needs and are for authorized purposes.

(6) The security requirements can be met.

(7) The certifications required of the applicant and County Committee have been made and are a part of the loan docket.

(8) The loan meets all other Farmers Home Administration requirements.

(b) *Authority.* State Directors are authorized hereby to approve Emergency loans in accordance with the requirements of Part 1832 of this chapter. However, no initial or subsequent Emergency loan may be approved by the State Director without the consent of the National Office if the loan being made will cause the total principal balance of any Emergency-type loans (including Special Livestock loans) plus the total principal balance owed on Operating loans (including Production and Subsistence loans) to exceed $25,000; or the applicant is indebted for a Farmers Home Administration Real Estate loan or such a loan is being made, and the total principal balance on all indebtedness to, or insured by, Farmers Home Administration will exceed $50,000. However, when the National Office has concurred in the approval of an Emergency loan as provided under the above limitations, the case need not be resubmitted to the National Office in connection with requests for additional Emergency loans unless the additional loan being made would cause the total principal balance owed on Emergency-type loans and Operating loans to exceed $35,000; major changes are made in the planned farm and home operations; or the borrower has not made satisfactory progress in repaying the previous loan.

(c) *Redelegation of authority.* Except for loans as described in paragraph (d) of this § 1832.11, State Directors are authorized hereby to redelegate and to restrict or revoke such redelegations to qualified State Office employees, including Area Supervisors, and County Supervisors, GS-7 Assistant County Supervisors, and Emergency loan Supervisors, his authority to approve Emergency loans subject to the following limitations:

(1) Area Supervisors may not be authorized to approve a loan to an applicant which will cause the total principal balance of any Emergency-type loan (including Special Livestock loans) plus the total principal balance owed on Operating loans (including Production and Subsistence loans) to exceed $18,000.

(2) County Supervisors, GS-7 Assistant County Supervisors, and Emergency Loan Supervisors may not be authorized to approve a loan to an applicant which will cause the total principal balance of any Emergency-type loan (including Special livestock loans) plus the total principal balance owed on Operating loans (including Production and Subsistence loans) to exceed $12,000.

(d) *Loans in nondesignated areas.* Within the limitations of the loan approval authority delegated in paragraph (b) of this § 1832.11, State Directors are authorized hereby to approve Emergency loans for eligible applicants in nondesignated areas, including partnerships and corporations engaged primarily in farming or ranching, who have suffered severe production losses resulting from a natural disaster not general to the area. This authority may not be redelegated to Area Supervisors, County Supervisors, GS-7 Assistant County Supervisors, or Emergency Loan Supervisors.

(e) *Subsequent loans.* Subsequent Emergency loans may be made within the limitations, policies, and authorities contained herein, without regard to the termination date for making initial loans, when the applicant is still unable to obtain credit from other sources because of the natural disaster which caused the designation of the area, or the subsequent loan is necessary to protect the Government's interest in Emergency loans, previously made, including Production Emergency, Economic Emergency, Special Emergency, and Special Livestock loans. In either event, there must be reasonable assurance that the subsequent loan will be repaid and the balances owed on previous loans will be repaid or substantially reduced within a reasonable period.

(f) *Loans to paid-up borrowers.* With the prior concurrence of the Administrator, the State Director may authorize additional loans on an area basis to otherwise eligible applicants who received Emergency loans during the previous year and have repaid their Emergency accounts in full but are still unable, because of the natural disaster which caused the designation of the area, to obtain needed credit from other sources. The prior concurrence of the Administrator may be requested only when a substantial number of paid-up borrowers in an area are unable to obtain from other sources the credit required to continue their normal farming or livestock operations. This authority

does not relate to paid-up Production Emergency loan borrowers.

§ 1832.12 Subsequent Emergency loans to cranberry growers.

Subsequent Emergency loans to eligible and qualified cranberry growers will be made and processed in accordance with the requirements of this Part 1832 of this chapter except as provided for in this § 1832.12. A subsequent Emergency loan as used in this § 1832.12 is an Emergency loan to a cranberry grower who is indebted for an Emergency loan or a Production Emergency loan previously made.

(a) *Eligibility.* Section 1832.4 of this Subpart A is supplemented by the following:

(i) If the applicant is a partnership or corporation, it must be determined that the partners or principal stockholders are unable personally to finance the operations involved or to obtain the necessary credit for this purpose.

(ii) The applicant will personally manage the cranberry operations involved. If the applicant is a partnership or corporation, the operations must be under the personal direction of a partner or principal stockholder.

(b) *Loan purposes.* Loans to cranberry growers will be restricted to the purposes authorized in paragraphs (a), (d), (f), (h), and (j) of § 1832.6 of this Subpart A. In addition, loans may include funds for the payment of bills already incurred for annual recurring expenses in connection with the cranberry crop being financed and to make necessary repairs to machinery and irrigation equipment.

(c) *Rates and terms.* Section 1832.9 of this Subpart A is modified to provide that loans to cranberry growers will be scheduled for repayment as the income from the crop being financed is expected to be received.

(d) *Security.* Section 1832.10 of this Subpart A is supplemented to provide that an assignment will be obtained on the cranberry crop being financed and accepted by the marketing facility.

§ 1832.13 Emergency loans for orchard rehabilitation and other related purposes.

Emergency loans for orchard rehabilitation and other related purposes will be made subject to the requirements of this Part 1832, except as modified and supplemented by this § 1832.13, which shall be effective only upon order by the Administrator for use in a particular area.

(a) *Definition.* "Orchard rehabilitation" means the renovation or reestablishment of orchards made necessary because of major damage resulting from natural disasters. This includes either complete or partial rehabilitation.

(b) *Eligibility.* Section 1832.4 of this Subpart A is modified to the extent that loans under this § 1832.13 will be made only to owner-applicants.

(c) *Loan purposes.* Emergency loans may be made to eligible orchardists for rehabilitating diseased or destroyed orchards; continuing the normal operation of fruit trees which have not been damaged by disease or other natural disaster; and establishing new agricultural or livestock enterprises to take the place, completely or partially, of diseased or destroyed fruit trees. Such loans may be made for the purposes specifically authorized by § 1832.6 of this Subpart A except as modified below:

(1) The purposes authorized by paragraphs (c), (i), and (n) of § 1832.6 of this Subpart A are not applicable.

(2) Paragraph (b) of § 1832.6 of this Subpart A is modified to permit the advance of loan funds to purchase livestock and equipment as necessary to establish new enterprises.

(3) Paragraph (e) of § 1832.6 of this Subpart A is modified to provide only for the payment of bills incurred during the crop year for which the loan is made for annual recurring expenses in connection with the production of livestock, livestock products, and crops yet to be sold.

(4) Paragraph (h) of § 1832.6 of this Subpart A is modified to provide that advances will not be made for family subsistence to an applicant for only an orchard rehabilitation loan unless his full time will be required for orchard rehabilitation, and then only if other arrangements cannot be made for meeting subsistence expenses.

(5) Paragraph (k) of § 1832.6 of this Subpart A is modified to provide for the purchase and installation of fencing, as necessary to protect replanted orchards; and the purchase and installation of needed irrigation systems when a Soil and Water Conservation loan cannot be made.

(6) Loans may be made to enable established orchard owners who are otherwise eligible for Emergency loans to rehabilitate orchards for the production of the same type of fruit, or for the production of a different type of fruit suitable for the area when the applicant has had adequate experience to assure reasonable prospects of success with that type of fruit. For example, a diseased pear orchard may be rehabilitated for the production of apples. Loans for orchard rehabilitation may be made only to applicants who are otherwise eligible and who agree to replant with the species of trees approved by the Farmers Home Administration. Trees used for orchard rehabilitation will be certified to in writing by the selling nurseryman.

(7) *Establishing new enterprises.* Loans may be made to otherwise eligible orchardists to enable them to reorganize their operations to include field crops, pastures, livestock enterprises, or other agricultural enterprises when this can be done on a sound basis with applicants who have had adequate experience to assure reasonable prospects for success. This may include the interplanting of crops in orchards during the first few years of the rehabilitation period. When an applicant is receiving an Emergency loan for orchard rehabilitation and also for other purposes, separate notes will be used to evidence the advances for orchard rehabilitation and for other purposes. In such case, the amounts to be advanced for orchard rehabilitation will be itemized in Form FHA 431-2, "Farm and Home Plan."

(d) *Rates and terms.* Section 1832.9 of this Subpart A is modified hereby to provide that advances for orchard rehabilitation will be scheduled for repayment in annual installments over the shortest period consistent with the applicant's estimated repayment ability from all sources, including income from other crops, livestock, and outside employment, but not to exceed 20 years from the date of the initial loan. If the applicant will not have income from crops, livestock, or other sources which would enable him to make earlier annual payments, repayments on advances for orchard rehabilitation, including interest when necessary, may be deferred until income is to be received from the rehabilitated fruit trees. When the loan approval official determines that a portion of the interest that will accrue as of the due date of the first principal installment should be deferred, the following change in Form FHA 441-1, "Promissory Note," should be made:

(1) Change the period to a comma at the end of the first sentence of the second paragraph, insert an asterisk, and then type the following on the margin or below the printed language of the note and have it initialed by the signers: "except that at least one-half of the interest accrued to the due date of the first principal installment may be paid on that date and the balance of such interest on the second principal installment due date."

(e) *Security.* Emergency loans for orchard rehabilitation will be secured in accordance with § 1832.10(b) of this Subpart A. Amounts loaned for purposes other than orchard rehabilitation will be secured in accordance with the applicable requirements of § 1832.10(a) of this Subpart A and, in addition, by the best lien obtainable on real estate when such additional security is needed to adequately secure the loan.

(f) *Loan approval and administrative determinations.* Before an Emergency loan is made for orchard rehabilitation, the loan approval official will make the following determinations in addition to those required by § 1832.11(a) of this Subpart A:

(1) The applicant will have reasonable prospects of repaying the total amount it will be necessary to borrow for orchard rehabilitation. This determination will be based on a careful analysis of the estimated costs and income, and fixed obligations, by years, for the rehabilitation period, and the same information for a typical year after normal production is achieved. The estimated costs will include both operating and living expenses.

(2) The current market value of the applicant's farm real estate as rehabilitated will be not less than the total of the debts secured by liens on the property plus the estimated total cost of the rehabilitation, as defined above. This determination will be based on an appraisal

made in accordance with § 1832.10(b)(1) of this Subpart A.

(3) The applicant will be able to make satisfactory arrangements, on an annual basis, with regard to annual installments on real estate debts and other fixed obligations. When necessary, in the opinion of the loan approval official, annual nondisturbance agreements will be obtained from creditors in position to interfere with the applicant's orchard operations.

§ 1832.14 Loans to oyster planters.

(a) *General.* Emergency loans may be made to established oyster planters to enable them to continue their normal oyster planting operations, including annual operating costs as well as expenses of rehabilitating oyster planting operations when necessary. Such loans will be subject to the requirements of Subpart A of this Part 1832, except as modified and supplemented by this § 1832.14. Emergency loans are the only type of Farmers Home Administration loan which may be made to finance oyster planting operations.

(b) *Definitions.* (1) "Oyster planting" means renovating oyster seed beds and planting, caring for, cultivating, and harvesting planted oysters on the applicant's owned or leased oyster ground. Other types of oyster operations, such as contract planting and gathering wild oysters, are not "oyster planting" operations within the intent of this § 1832.14.

(2) "Oyster planter" means, one who performs or actively manages oyster planting functions, described in subparagraph (b) of this § 1832.14, as his own operations, on owned or leased oyster ground. An operator who performs any or all of these functions other than his own oyster planting operations, or is self-employed or employed by others in any type of oyster operations or marine life operations other than oyster planting operations as described in this paragraph (b) of this § 1832.14, is not considered an oyster planter. However, these activities on a limited basis would not disqualify an applicant who conducts oyster planting operations.

(3) "Rehabilitating oyster planting operations" means, restoring such operations to a normal pattern. Generally, a period of three years is required for planted oysters to reach the harvesting stage. It is the normal pattern for operators to plant one-third of their oyster ground each year in order to have a crop for sale each year. When all of an applicant's planted oysters are destroyed by a natural disaster, the rehabilitation to a normal pattern generally consists of replanting one-third of the applicant's oyster ground during the first year, one-third during the second year, and one-third during the third year. The operations then will have been restored to a normal pattern and subsequent replantings each year will be normal and will not be considered as for rehabilitation purposes.

(i) It is recognized that there may be variations of the normal pattern of oyster planting operations in some areas. The making of loans will always be adapted to the proven normal pattern of the area. Therefore, when the normal pattern of a particular designated or nondesignated area differs from that described in this § 1832.14, the State Director will report the matter to the National Office for additional instructions.

(4) "Oyster ground" means, ground under water on which oyster planting operations are conducted.

(c) *Designation of Emergency loan areas.* Section 1833.2 of this Subpart A is supplemented hereby to provide that Emergency loans can be made to oyster planters in designated areas only if the area designation specifies that such loans may be made.

(d) *Eligibility requirements.* Section 1832.4 of this Subpart A is supplemented by the following:

(1) Section 1832.4(b) of this Subpart A is supplemented to require the following:

(i) The applicant must actively manage his oyster planting operations. An applicant who does not devote full time to his oyster planting operations may be considered as the active manager if he exercises control and visits the operations often enough to give instructions and see that they are carried out. Applicants who visit their operations only infrequently or who have entrusted management to some other individual or firm cannot meet this requirement. If a partnership or corporation, the operations must be actively managed by a principal partner or stockholder.

(ii) The applicant must furnish satisfactory evidence from other reliable sources, such as banks and other lenders, buyers, and lessors, of a good record of oyster planting operations in the past.

(iii) The applicant must agree in writing to abide by any Federal and State laws or regulations applicable to oyster planting operations in his area.

(2) Section 1832.4(f) of this Subpart A is supplemented to require that the applicant must be unable to provide the needed funds from his own resources or to obtain credit from other responsible sources. For partnerships or corporations, the partners or principal stockholders must be unable to provide the needed funds from their personal resources or to obtain credit from other responsible sources.

(e) *Loan purposes.* Section 1832.6 of this Subpart A is not applicable. Instead, Emergency loans to eligible oyster planters may be made for the following purposes:

(1) Purchase of seed oysters and oyster planting supplies; the repair of oyster planting machinery or equipment; purchase of replacement oyster planting machinery and equipment; and other essential operating expenses, including funds for oyster seed bed renovation.

(2) Family subsistence needs for applicants who devote a major portion of their time to their oyster planting operations when funds are not available from other sources for this purpose.

(3) Payment of not more than a year's interest calculated at a rate not to exceed that which is reasonable and customary for the area, that is due or about to become due on debts secured by liens of other creditors on equipment and real estate essential to the applicant's oyster planting operations.

(4) Payment of not more than one year's customary and equitable cash rent or cash charges for the use of grounds leased for oyster planting operations, provided other arrangements cannot be made for the payment of rent and the applicant holds a written lease.

(5) Payment of not more than one year's taxes on personal property and real estate other than Farm Ownership or Rural Housing farms; payment of not more than one year's premiums for insurance on personal property and real estate other than on Farm Ownership, Soil and Water Conservation, and Rural Housing farms; and payment of Social Security taxes in connection with hired labor only.

(6) Expenses incident to loan closing.

(f) *Loan limitations.* Section 1832.7 of this Subpart A is supplemented to prohibit making any Emergency loan to finance an applicant's oyster planting needs, rehabilitation or otherwise, for a period longer than one crop year at a time. This is not intended, however, to prohibit subsequent loans in succeeding years on a crop year basis. This prohibits deals only with loan making and not with scheduling loans for repayment.

(g) *Repayment terms.* (1) Emergency loans for authorized purposes in connection with the rehabilitation of oyster planting operations, including annual operating expenses during the rehabilitation period, will be scheduled for repayment over the shortest period consistent with the applicant's estimated repayment ability from all sources, but not longer than three years from the date of the loan. Also, if the applicant will not have income from any source which would enable him to make earlier repayments, the full amount may be scheduled for repayment in the third year.

(2) Emergency loans to oyster planters for other than rehabilitating oyster planting operations will be scheduled for repayment strictly in accordance with § 1832.9 of this Subpart A. Amounts advanced for annual operating expenses during a rehabilitation period will be considered as for rehabilitation purposes but that any advanced for normal annual replantings will not be considered as for rehabilitation purposes.

(h) *Security.* Section 1832.10 of this Subpart A is not applicable. Instead, Emergency loans to oyster planters will be secured by a first lien on all oysters planted or to be planted by the applicant, a first lien on all replacement machinery and equipment purchased with loan funds, the best lien obtainable on all other machinery and equipment of security value, the best lien obtainable on all real estate of security value owned by the applicant, an assignment of leases on oyster grounds held by the applicant, when possible, an assignment of income from the sale of oysters or other produce, and liens on such other property of security value as the loan approval official determines is necessary. Insurance will be required on buildings, machinery, and equipment, especially boats, serving as security for the loan, when the loan ap-

proval official determines this is necessary to protect the Government's interest. Insurance obtained on buildings will be in accordance with Part 1806 of this chapter. Insurance obtained on other property will be in such form, amount, and against such hazards as the loan approval official requires with policy assignment or mortgage clause in favor of the Government.

(i) *Loan approval.* Section 1832.11(a) of this Subpart A is supplemented to require the following additional determinations by the loan approval official:

(1) That the applicant either owns or has under lease sufficient acreage in oyster grounds to justify the loan.

(2) That if grounds are leased, the lease arrangements are such that the applicant will have secure tenure during the term of the loan with reasonable rental terms.

(3) That the applicant will have reasonable prospects for repaying the loan on schedule. This determination will be based on a careful analysis of estimated costs and income and fixed obligations by years until normal operations are achieved, and the same information for a typical year with normal sales.

(4) That the applicant will furnish prior to loan closing a statement indicating his plans for selling the oysters or other produce.

(j) *Processing.* Emergency loans to oyster planters will be processed in accordance with the applicable requirements of Subpart B of this Part 1832, except that the taking of security and the filing of recording of security instruments will be in accordance with the requirements of the Office of the General Counsel.

Subpart B—Loan Processing

AUTHORITY: The provisions of this Subpart B issued under sec. 321–327, 333, 339, 75 Stat. 311, as amended, 314, 318; 7 U.S.C. 1961–1967, 1983, 1989; Order of Sec. of Agr., 19 F.R. 74, 26 F.R. 8403, 27 F.R. 5005.

§ 1832.21 General.

This subpart sets forth the requirements and procedures for the preparation and execution of documents and for other routines in connection with making initial subsequent Emergency loans.

§ 1832.22 Processing.

Emergency loans will be processed in the same manner as Operating loans in accordance with the provisions of Subpart B of Part 1831 of this chapter with the following modifications and additions:

(a) Section 1831.32(d) of this chapter is supplemented by the following:

(1) If the applicant is a partnership, personal financial statements will be obtained from each of the partners and included in the loan docket, in addition to the partnership's financial statement.

(2) If the applicant is a corporation, the corporation will furnish a complete list of its stockholders, showing the address, principal occupation, and the number of shares of stock held in the corporation by each. Personal financial statements will be obtained from each of the principal stockholders and included in the loan docket. Principal stockholders as used herein means each stockholder owning as much as 10 percent of the stock of the corporation. A copy of the corporation's charter or articles of incorporation, bylaws, any resolutions adopted by the Board of Directors authorizing the corporation to borrow and pledge its assets, and any leases, contracts, or agreements that have been entered into by the corporation which may be pertinent to a consideration of its application also will be included in the loan docket.

(b) Section 1831.32(e) of this chapter is applicable only to appraising chattels under prior lien to another creditor when funds are to be advanced for the payments of depreciation pursuant to § 1832.6(g) of this Part 1832 and bills pursuant to § 1832.6(e) of this Part 1832, incurred in connection with the production of livestock, livestock products, or crops that have been disposed of, destroyed, or lost.

(c) Section 1831.32(g) of this chapter is supplemented by the following:

(1) When the applicant is a partnership, or operates as such, Form FHA 441–1, "Promissory Note," will be executed so as to evidence the liability of the partnership as well as each partner as an individual. This will be accomplished by typing the names of the partnership above the space provided for signatures and having the note executed by each member of the partnership both as an individual and as a partner. To evidence the liability of the partnership, the words "As Partners" will be typed immediately beneath the name of the partnership and each partner will sign thereunder. To evidence the partners' liability as individuals, the words "As Individuals" will be typed at the top of the blank space to the left of the lines for signatures, and each partner will sign thereunder, along with his spouse, if required.

(2) When the applicant is a corporation, Form FHA 441–1 will be executed by the corporation acting through its appropriate officials and, in order to evidence their personal liability for the debt, by the principal stockholders as individuals, except in unusual circumstances including legal disability, absence from the country, limitations in prior contracts with the corporation, or lack of assets owned by a stockholder. The name of the corporation will be typed above the space provided for signatures, to sign for the corporation will be typed below his signature. The signatures of the principal stockholders will be obtained in the same manner as indicated above for the individual members of a partnership.

(3) When an Emergency loan is made for purposes which would be secured in accordance with the provisions of § 1832.10 (a) and (b) of this Part 1832, separate notes will be required.

(d) Section 1831.32(g) (1) and (2), (h), (i), and (j) of this chapter are not applicable.

(e) Section 1831.32(n) of this chapter is supplemented by the following:

(1) Form FHA 427–2 (State), "Real Estate Mortgage for _____ (Direct Loan)," will be used in taking liens on real estate. This form will be prepared, executed, and filed or recorded in accordance with State laws and any closing instructions.

(2) Title clearance and the closing of Emergency loans which are to be secured only by real estate liens will be in accordance with the requirements of Part 1807 of this chapter, except that the promissory note will be dated as of the date of execution instead of the date of loan closing. Title clearance will not be required when real estate is taken as additional security only, but in such cases the lien instrument will be executed by the applicant before the loan is closed.

(f) Section 1831.32(o) of this chapter is supplemented to provide that when an Emergency loan is made to an applicant who is paying cash rent for land to be used for the production of cash crops, the parenthetical statement with regard and the name and title of each official to rent in Form FHA 441–5, "Subordination Agreement," will be deleted and the lienholder will initial the deletion in the margin.

(g) The administrative determinations required by § 1832.11(a) of this Part 1832 will be made in lieu of those prescribed by § 1831.33 of this chapter.

SUBCHAPTER D—SPECIAL TYPES OF LOANS

PART 1841—LOANS TO INDIANS

Sec.
1841.1 General.
1841.2 Policies.
1841.3 Processing loan applications from Indians.
1841.4 Servicing loans to Indians.

AUTHORITY: The provisions of this Part 1841 issued under sec. 510, 63 Stat. 437, sec. 339, 75 Stat. 318; 42 U.S.C. 1480, 7 U.S.C. 1989; Orders of Sec. of Agr., 19 F.R. 74, 26 F.R. 8403, 27 F.R. 9957, 28 F.R. 9676.

§ 1841.1 General.

This part outlines the general policies, procedures, and authorizations for making and servicing Real Estate loans, Operating loans, and Emergency loans under the provisions of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1921 et seq.), and Rural Housing loans under the provisions of Title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.), to Indians owning land or chattel property in a trust or restricted status, or who have undivided interests in tribal property.

§ 1841.2 Policies.

(a) An Indian who (1) holds individually all of his land under fee patents or unrestricted deeds, (2) owns all nontrust chattel property, and (3) has no undivided interest in tribal lands is eligible for all loans provided he meets all eligibility factors required of non-Indians. An Indian who meets all eligibility factors required of non-Indians but who does not meet the applicable requirements of subparagraphs (1), (2), and/or (3) of this paragraph may be made loans only upon fulfillment of the

applicable requirements set forth in §§ 1841.2 to 1841.4.

(b) Loans to be secured by real estate liens may be made to Indians holding land in severalty under trust patents or deeds containing restriction against alienation subject to statutes under which said land may be validly mortgaged with the approval of the Secretary of Interior, such as 70 Stat. 62, 63. An Indian applicant who owns land in a trust or restricted status and applies for a loan to acquire land to enlarge a farm will not be required to convert the trust or restricted land he owns to an unrestricted status. Land in trust or restricted status purchased with Farmers Home Administration loan funds may be acquired and held by the Indian in a trust or restricted status.

(c) Loans to be secured by chattel security only may be made to Indians who hold land in severalty under trust patents or deeds containing restrictions against alienation subject to statutes under which such land may be validly mortgaged with the approval of the Secretary of Interior and who own chattel property in a trust or restricted status or who have undivided interests in tribal property. Such loans also may be made to those tribal Indians who live within or without the boundaries of the Indian reservations and who have available a suitable farm or ranch under satisfactory tenure arrangements. An Indian applicant who owns chattels in trust or restricted status and applies for an Operating loan will be required to convert the trust or restricted chattels to an unrestricted status before such loan is made when such property is to serve as security for the loan. Forms 5–848, "Application for Release of Interest of the United States," and 5–841, "Release of Interests of the United States," will be executed by the applicant and the appropriate Indian Bureau official to remove the trust or restricted status of the property.

(d) Utilization of split lines of chattel credit:

(1) *Definitions.* "Split lines of chattel credit" are those where the financing of a particular enterprise is undertaken by more than one lender. "Split security" means that the Indian Lending Organization and the Farmers Home Administration each have liens of equal priority on a different part of the livestock of a particular type owned by a borrower.

(2) *Policy*—(i) *Operating loans.* A split line of credit in connection with a particular livestock herd or flock is unauthorized in connection with Operating loans.

(ii) *Emergency loans.* Such loans may be made even though such may result in a split line of credit if the following conditions are met:

(a) The arrangements with respect to the split financing is acceptable to both the Farmers Home Administration, the Indian Lending Organization, and the Bureau of Indian Affairs representative.

(b) The applicant's farming or ranching operations, after he receives the loan, will be sound and, under the conditions likely to prevail, will enable him to make the required payments of all his indebtedness on schedule.

(c) When loans for operating expenses result in the Farmers Home Administration acquiring liens on livestock from which payments on the loan are expected, and such livestock are subject to a prior lien of the Indian Lending Organization, an agreement will be reached before such loans are closed as to an equitable division of livestock income for application on the loans of the two lenders. Form FHA 441–13, "Division of Income and Nondisturbance Agreement," or a similar form will be used for this purpose and will be executed by an authorized representative of the Indian Lending Organization and by the Bureau of Indian Affairs. In the case of cattle, separate brands will be used to identify the cattle under the lien to each of the lenders. In the case of livestock other than cattle, descriptions will be used by each lender which will make possible the identification of property serving as security for each loan.

§ 1841.3 Processing loan applications from Indians.

(a) *County Committee action.* (1) When the Farmers Home Administration County Committee determines that an Indian applicant is clearly ineligible for the loan applied for, the applicant will be notified in writing of this determination by the Farmers Home Administration County Supervisor.

(2) When such Committee determines that an Indian applicant will likely qualify for the loan, the Farmers Home Administration County Supervisor will obtain from the Bureau of Indian Affairs representative full information with respect to the applicant's character, his financial condition, the manner in which he holds his property and other information necessary to determine the applicant's eligibility, and, if the applicant is eligible, to enable the County Supervisor to develop the loan docket.

(b) *Development of loan dockets.* If the applicant is found eligible the loan docket will be developed in accordance with applicable Farmers Home Administration regulations. After a Real Estate loan has been approved and the title evidence has been furnished, the docket will be submitted to the appropriate representative of the Office of the General Counsel, United States Department of Agriculture, for review and preparation of closing instructions.

(c) *Special loan closing conditions.* When preparing closing instructions for loans to be secured by real estate, the representative of the Office of the General Counsel will insert at the end of the security instrument, after the form provided for acknowledgment of the borrower's signature a "Certificate of Approval" to be executed on behalf of the Secretary of Interior by a duly authorized agent. After execution, but before recording the security instrument, the County Supervisor will submit the original executed security instrument to the Bureau of Indian Affairs. Upon return of the original executed security instrument with the Certificate of Approval duly signed and acknowledged by the authorized representative of the Secretary of Interior, the County Supervisor will file it for record. No loan funds will be disbursed until the security instrument is filed for record and the loan is, in all other respects, properly closed.

(d) *When consent of Bureau of Indian Affairs is required.* No consent is necessary on deeds, mortgages, or other instruments affecting non-trust or unrestricted property whether real estate or chattels; mortgages of trust chattels against which there is no indebtedness to the Indian Lending Organization; for mortgages on crops grown on trust or restricted land after severence if there is no prior lien thereon; and mortgages on crops on tribal land leased to an Indian under the same terms and conditions as leases of tribal land to non-Indians. Consent is necessary on mortgages or deeds of trust on restricted property, both real estate and chattels; mortgages on trust chattels against which there is indebtedness to the Indian Lending Organization; and mortgages on crops grown on trust or restricted land prior to severance, and after severance if there is a prior lien thereon.

§ 1841.4 Servicing loans to Indians.

(a) *Assignment of income from trust property.* When repayment of any loans made hereunder is dependent in whole or in part upon income the borrower will receive from trust or restricted land, the Indian must, upon request by the County Supervisor, execute Form 5–845, "Assignment of Income from Trust Property," in favor of the Farmers Home Administration. Before execution, the form must be modified by the County Supervisor by adding in the first paragraph, line 3 between the words "loans" and "all," the following: "_____ percent (_____ %) of,".

(b) *Supervision provided by the Farmers Home Administration.* County Supervisors and other officials shall give the same supervisory assistance afforded to non-Indian borrowers to the extent such be necessary or desirable for effectuating the purpose of the loan as well as to assure the orderly repayment thereof. Where an Indian Lending Organization has a lien on the borrower's land or chattels, or the borrower owns land or chattels in a trust or restricted status or leases land through the Bureau of Indian Affairs, the County Supervisor and the Bureau of Indian Affairs will review jointly each borrower's plans of operation.

(c) *Collection and foreclosure.* All collection and foreclosure policies applicable to non-Indian borrowers shall be equally applicable to Indian borrowers.

SUBCHAPTER E—ACCOUNT SERVICING

PART 1861—ROUTINE

Subpart A—Account Servicing Policies

Sec.
1861.1 General.
1861.2 Definition of types of payments on all loan accounts.
1861.3 Distribution of payments when a borrower owes both real estate and other loans to the Farmers Home Administration.
1861.4 Application of payments on Operating, Emergency, Special Livestock, Soil and Water Conservation coded J, and other production-type loan accounts.
1861.5 Application of payments on Farm Ownership, Soil and Water Conservation (except Soil and Water Conservation loans coded J but including Soil and Water Conservation loan accounts coded 18F), Farm Housing, Rural Rehabilitation and Resettlement Project cooperative association, and other real estate loan accounts.
1861.6 Changes in the application of loan payments.
1861.7 Overpayments and refunds.
1861.8 Return of paid-in-full or satisfied notes to borrower.
1861.9 Definitions and other information on Farm Ownership, Soil and Water Conservation, Other Real Estate, and Farm Housing accounts.

Subpart B—[Reserved]

Subpart C—Servicing Loans to Cooperative Associations

1861.41 General.
1861.42 Policies.
1861.43 Authorities.
1861.44 Responsibilities.
1861.45 Budget and report submission by associations.
1861.46 Analysis, transmittal and approval of budget and analysis of audit reports.
1861.47 Loan servicing.

Subpart D—Servicing Accounts of Borrowers Entering the Armed Forces

1861.61 General.
1861.62 Borrower owing Farmers Home Administration loans which are secured by chattels.
1861.63 Borrower owing Farmers Home Administration loans which are secured by real estate.

Subpart A—Account Servicing Policies

AUTHORITY: The provisions of this Subpart A issued under R.S. 161, 5 U.S.C. 22; Order, Acting Sec. Agr., 19 F.R. 74, 22 F.R. 8188. Secs. 361.1 to 361.3, 361.5 and 361.7 also issued under secs. 1, 21, 41, 2, 6, 50 Stat. 522, as amended, 524, as amended, 528, as amended, 869, as amended, 870, sec. 5, 54 Stat. 1122, as amended, secs. 2, 12, 14, 60 Stat. 1062, as amended, 1076, as amended, 1078, as amended, 62 Stat. 1038, secs. 1, 2, 501, 502, 510, 1, 63 Stat. 43, as amended, 44, as amended, 82, 432, 433, 437, 883, secs. 4, 2, 64 Stat. 100, 998, secs. 9, 10, 1, 68 Stat. 735, 999, as amended, secs. 16, 69 Stat. 553, as amended, secs. 1, 8, 70 Stat. 525, 1090, secs. 18, 11, 72 Stat. 840, 841; 7 U.S.C. 1001, 1007, 1015, 16 U.S.C. 590s, 590w, 590z–3, 7 U.S.C. 1001 Note, 1005b, 1005d, 12 U.S.C. 1148–1 and Note, 1148a–2, 42 U.S.C. 1471, 1472, 1480, 7 U.S.C. 1006a, 40 U.S.C. 442, 440, 16 U.S.C. 590x–2, 590x–3, 12 U.S.C. 1148a–1 Note, 7 U.S.C. 1006c, 16 U.S.C. 1006a, 7 U.S.C. 1006e, 16 U.S.C. 590x–4; §§ 361.4 and 361.8 also issued under secs. 21, 41, 2, 6, 50 Stat. 524, as amended, 528, as amended, 869, as amended, 870, sec. 2, 60 Stat. 1062, as amended, 62 Stat. 1038, secs. 1, 2, 63 Stat. 43, as amended, 44, as amended, 63 Stat. 82, secs. 4, 2, 64 Stat. 100, 998, sec. 1, 68 Stat. 999, as amended; 7 U.S.C. 1007, 1015, 16 U.S.C. 590s, 590w, 7 U.S.C. 1001 Note, 12 U.S.C. 1148a–1 and Note, 1148a–2, 40 U.S.C. 442, 440, 12 U.S.C. 1148a–1 Note; §§ 361.5 and 361.9 also issued under secs. 1, 41, 50 Stat. 522, as amended, 528, as amended, sec. 5, 54 Stat. 1122, as amended, secs. 12, 14, 60 Stat. 1076, as amended, 1078, as amended, secs. 501, 502, 510, 1, 63 Stat. 432, 433, 437, 883, secs. 4, 2, 64 Stat. 100, 998, secs. 9, 10, 68 Stat. 735, sec. 16, 69 Stat. 553, as amended, secs. 1, 8, 70 Stat. 525, 1090, secs. 18, 11, 72 Stat. 840, 841; 7 U.S.C. 1001, 1015, 16 U.S.C. 590z–3, 7 U.S.C. 1005b, 1005d, 42 U.S.C. 1471, 1472, 1480, 7 U.S.C. 1006a, 40 U.S.C. 442, 440, 16 U.S.C. 590x–2, 590x–3, 7 U.S.C. 1006c, 16 U.S.C. 1006a, 7 U.S.C. 1006e, 16 U.S.C. 590x–4.

§ 1861.1 General.

Borrowers will be required to pay their debts to the Farmers Home Administration in accordance with their agreements and their ability to pay and will be encouraged to pay ahead of schedule to an extent consistent with sound farming and money management. When borrowers have acted in good faith and have exercised due diligence in an effort to pay their indebtedness but cannot pay on schedule because of circumstances beyond their control, future servicing actions will be consistent with the best interest of the borrower and the Government.

(a) *Accounts of active borrowers.* The foundation for proper and timely debt payment is sound farm and home planning or budgeting, including plans for debt payments supplemented by effective follow-up supervision. Account Servicing, therefore, must begin with initial planning and must be an integral part of year-end analysis and subsequent planning, as well as follow-up supervision when required.

(b) *Accounts of collection-only borrowers.* Collection-only borrowers are expected to make final settlements of their debts to Farmers Home Administration to the extent of their ability to pay. This objective will be accomplished by collecting in full the amounts owed by these borrowers or, in appropriate cases, by the application of the established debt settlement policies.

(c) *Notifying Farmers Home Administration borrowers of payments.* County Supervisors are responsible for notifying borrowers of the dates and amounts of payments that have been agreed upon for all types of accounts.

(d) *Subsequent servicing.* If a borrower fails to make a payment as agreed upon, the County Supervisor will write or otherwise contact the borrower or request him to make the payment or request him to come to the office to discuss the reasons why the payment was not made and to develop specific plans for making the payment. In the event the borrower refuses to make the payment when he has the income, or it is determined that his farming operations will not permit him to make the payment in a reasonable length of time, as well as make future payments, action will be taken to protect the Government's security interest in accordance with applicable Farmers Home Administration Instructions.

§ 1861.2 Definition of types of payments on all loan accounts.

(a) *Regular payments.* Regular payments will be all payments other than extra payments and refunds. Usually, regular payments will be derived from normal farm income other than proceeds from the sale of basic chattel or real estate security. Regular payments also will include payments derived from sources such as Agricultural Conservation Program payments other than those included in paragraph (b) of this section, off-farm income, inheritances, life insurance, and income from leases or bonuses or sale or rental of real estate security of a non-depreciating or non-depleting nature.

(R.S. 161, sec. 41, 6, 50 Stat. 528, as amended, 870, sec. 510, 63 Stat. 437, as amended, sec. 4, 64 Stat. 100, sec. 10, 68 Stat. 735; 5 U.S.C. 22, 7 U.S.C. 1015, 16 U.S.C. 590w, 42 U.S.C. 1480, 40 U.S.C. 442, 16 U.S.C. 590x–3; Order of Acting Sec. of Agr., 19 F.R. 74, 22 F.R. 8188 26 F.R. 8403)

(b) *Extra payments.* Extra payments will be payments derived from sale of basic chattel or real estate security, including rental or lease of real estate security of a depreciating or depleting nature; refinancing of real estate debt; mineral royalties; cash proceeds of real property insurance as provided in § 306.5 of this chapter; sale, pursuant to a condition of loan approval, of real estate not mortgaged to the Government; Agricultural Conservation Program payments as provided in § 1851.2(b)(2) of this chapter; and transactions of a similar nature.

(c) *Refunds.* Refunds will be payments derived from the return of unused loan funds.

§ 1861.3 Distribution of payments when a borrower owes both real estate and other loans to the Farmers Home Administration.

(a) *Distribution of regular payments.* When a borrower owes both Farmers Home Administration real estate loans and other Farmers Home Administration loans, payment received from each crop year's income as regular payments will be distributed in accordance with the following principles, except that regular payments derived from rental or lease of real estate security after approval of foreclosure or voluntary conveyance will be distributed to the real estate lien of the highest priority.

First, to other than real estate loans an amount equal to any advances for the year's operating expenses.

Second, to the real estate and other Farmers Home Administration loans in proportion to the approximate amounts due on each for the year. In determining the amounts due for the year on other than real estate loans, deduct an amount equal to any advances for the year's operating expenses.

Third, to the real estate and other Farmers Home Administration loans in proportion to the delinquencies existing on each.

Fourth, to the real estate and other Farmers Home Administration loans for making advance payments. In making such distribution take into consideration the principal balance outstanding on each, the relative security position of each type of loan, the borrower's wishes, and related circumstances.

A different distribution, when necessary, will be made to correct any previous improper distribution or to protect the Government's interest.

(b) *Distribution of extra payments.* Extra payments will be distributed first to the Farmers Home Administration loan having highest priority of lien on the security from which the payment was derived, except as provided in § 1872.3(e) of this chapter. When the payment is in excess of the unpaid balance of the Farmers Home Administration lien having the highest priority, the balance of such payment will be distributed to the Farmers Home Administration loan having the next highest priority.

(c) *Application of payments.* After the decision is reached as to the amount of each payment that is to be distributed to the real estate and other Farmers Home Administration loans, application of the payment will be governed by § 1861.4 or § 1861.5, as appropriate.

§ 1861.4 Application of payments on Operating, Emergency, Special Livestock, Soil and Water Conservation coded J, and other production-type loan accounts.

Employees receiving payments on Operating, Emergency, Special Livestock, Soil and Water Conservation coded J, and other production-type loan accounts will select, in accordance with the provisions of this section, the account or accounts to which such payments will be applied. Such employees will make application first to the unpaid interest on the selected account or accounts, as shown on the latest Form FHA–646 or FHA 450–1, "Statement of Account," in the County Office and then to the unpaid principal on such account or accounts, except that for 1934–35 Drought Feed loans, collections will be applied to principal only until all principal has been repaid. Loan refunds will be applied to principal only, except as provided in paragraph (a) of this section. Employees receiving collections are authorized to make exceptions to the policy of applying payments to interest first when the unpaid interest on the selected account or accounts as shown on Form FHA–646 or FHA 450–1 is not due under the provisions of the note or notes and the borrower requests that his payment be applied to principal only, or the collection does not represent the proceeds of the sale of security property and a large amount of unpaid interest has accumulated and the borrower requests in writing that his payment be applied to principal first, stating that he will make the payment only if his request is granted. If the borrower agrees to make subsequent payments only on condition that they be applied to principal first, such information will be incorporated in a written agreement.

(a) *Selection of accounts.* Except for total loan refunds as provided in subparagraph (4) of this paragraph, payments, regardless of source, will be applied first to any recoverable costs which have been charged to the borrower's account, after which the following rules will govern the selection of accounts and installments to which payments will be applied.

(1) Payments derived from the sale of mortgaged property representing normal farm income or from assignments of income will be applied first to accounts with small balances for the purpose of removing such accounts from the records. Any balance of the remittance will be applied on debts secured by the mortgage in the following order:

(i) To amounts due or falling due on loans made in connection with the current year's operations, except:

(*a*) When funds loaned for the purchase of capital goods were used to meet the current year's operating expenses, payments will be applied first to the final unpaid installments to the extent of the loan funds so used. Such payments will be treated as extra payments. Payments to be applied in this manner may be prorated to more than one installment when the amount of the loan funds was large and will result in reducing the annual repayment ability of the borrower because of a change in the farming operations caused by such transfer of loan funds.

(*b*) When installments on loans previously made fall due early in the year and prior to the installment on the loan for the current year's operations or when such loans are delinquent and it is anticipated that sufficient income will be received to meet the installment on the current year's operations when due, collections may be applied first to installments on loans made in previous years.

(ii) To accounts having the oldest delinquencies, or if no delinquencies, to the oldest unpaid account.

(2) Payments derived from the sale of basic security, including real estate security, will be applied to the earliest account secured by the earliest mortgage covering such basic security. The amount to be applied to principal will be applied to the final unpaid installments. When such payment is large and the sale of the basic security, or real estate security, will result in a change in the farming operation which will reduce the annual repayment ability of the borrower, it may be prorated to more than one installment.

(3) Partial loan refunds will be applied to the final unpaid installments on the notes which evidence such advances, except that when such refund represents an advance for current farm and home expenses repayable within the year, it may be applied to the principal on the first unpaid installment on such note as a regular payment, and when such refund is large and results from a change in the farming operations which will reduce the annual repayment ability of the borrower, it should be prorated to more than one installment.

(4) Total refunds of loan advances will be applied to the notes which evidence such advances.

(5) In applying payments from sources other than those in subparagraphs (1) to (4) of this paragraph, the borrower has the right of election as to the loan account on which such payments will be applied. In the absence of the borrower's election, such payments generally will be applied in the following order:

(i) To accounts with small balances.

(ii) To accounts with the oldest unsecured notes.

(iii) To accounts with the oldest delinquencies.

(iv) To accounts with the oldest secured notes.

(6) When a borrower owes both Farmers Home Administration and State Rural Rehabilitation Corporation loan accounts, payments described in subparagraph (5) of this paragraph in the absence of the borrower's election and any balances remaining after payments are made under subparagraphs (1) and (2) of this paragraph, will be prorated between Farmers Home Administration and the State Rural Rehabilitation Corporation loan accounts on the basis of the total balances (including principal and interest) owed to each. The portions thus prorated will be applied respectively to the Farmers Home Administration and State Rural Rehabilitation Corporation loan accounts as prescribed in subparagraph (5) of this paragraph.

(7) When the Farmers Home Administration has advanced funds to complete State Rural Rehabilitation Corporation commitments, any payment that normally would be applied to any of the borrower's State Rural Rehabilitation Corporation accounts will be applied to the 6F__ account until it is paid.

(8) When the need arises, County Supervisors are authorized to apply payments to specific notes within loan-type accounts according to the rules of application prescribed in this paragraph.

(b) *Payments in full.* (1) When it is intended to pay one or more of a borrower's accounts in full, the collection official will collect all of the interest and principal shown on the latest Form FHA–646 or FHA 450–1 for the accounts to be paid in full plus interest on the account from the date of the Form FHA–646 or FHA 450–1 to the date of the collection.

(2) Errors of significant amount in computation or collection will be called to the attention of the official making the collection by the Finance Office and the borrower's note will not be returned until the balance on the loan account is paid in full.

§ 1861.5 Application of payments on Farm Ownership, Soil and Water Conservation (except Soil and Water Conservation loans coded J but including Soil and Water Conservation loan accounts coded 13F), Farm Housing, Rural Rehabilitation and Resettlement Project cooperative association, and other real estate loan accounts.

(a) *Regular payments.* Payments on accounts of the above types should be

applied so as to maintain the note accounts in balance at the end of the year with respect to installments due on the notes and other charges.

(1) *Direct loan accounts.* All regular payments on direct loan accounts will be applied first to interest accrued to the date of the receipt of payment, and then to principal.

(2) *Insured loan accounts.* All regular payments on insured loan accounts will be applied first to any unpaid balance of the insurance account including unpaid interest on any advances from the insurance fund which is shown on the statement of account, and second to interest accrued on the note as of the date of the U.S. Treasury check issued to the holder or the date of the receipt of payment in case the note is held by the insurance fund or under a 2(f) agreement. Any remainder will be applied to the principal balance on the note.

(b) *Refunds and extra payments.* (1) Refunds will be applied to the note representing the loan from which the advance was made.

(2) Extra payments will be applied to the note secured by the earliest mortgage on the property from which the extra payment was obtained.

(3) Refunds and extra payments will be applied first to interest accrued on the note and the remainder to the principal balance on the note.

(c) *County office actions*—(1) *Issuance of receipt.* The County Supervisor will issue Form FHA–37 or FHA 451–1, "Receipt for Payment," for each payment received.

(2) *Notifying borrowers of application of payments.* Notification of the application of payments will be sent to borrowers who request it.

(d) *Finance Office handling.* Collections (regular, extra, and refunds) received for application to insured loans evidenced by notes so permitting will be accumulated by the Finance Office until such collections total $200 or more or until the end of the calendar quarter, whichever occurs first. Collections accumulated until the end of the calendar quarter will be remitted to lenders within three weeks after the end of the calendar quarter. Collections for application to insured loans evidenced by other note forms will be remitted to private lenders immediately by the Finance Office.

(1) *Regular payments*—(i) *Direct loan accounts.* The application of principal and interest on direct loan accounts will be reflected in the record of accounts maintained by the Finance Office. Amounts paid on direct loan accounts will be credited on the Finance Office records as of the date of Form FHA–37 or FHA 451–1. Collections will be applied by the Finance Office first to interest accrued to the date of the receipt of payment, second to the principal balance of the loan.

(ii) *Insured loan accounts.* The Finance Office will apply all regular payments on insured loan accounts in the following order of priority to the following items shown on the statement of account:

(*a*) Billed interest on advances from the insurance fund as shown on the latest annual statement of account. (If the collection is intended for final payment of the loan, the collection will be applied first to the interest accrued on the advance to the date of the receipt.)

(*b*) Principal of advance from the insurance fund.

(*c*) Unpaid loan insurance charges, including the current year's charge.

(*d*) The payment on each note account will be applied by the Finance Office first to accrued interest, and second to the principal balance on the note. If the note is held by a private lender, the interest will be accrued on the note to the date the U.S. Treasury check is issued to the holder. The Finance Office will send the original of Form FHA–282 or FHA 451–5 to the U.S. Treasury Regional Disbursing Office for inclusion in the envelope containing the check to be sent to the holder and a copy to the appropriate County Office. If the note is held by the insurance fund or under a 2(f) agreement, the interest will be accrued on the note to the date of the receipt for payment. Amounts paid will be credited on the Finance Office records as of the date of Form FHA–37 or FHA 451–1. A copy of Form FHA–37 or FHA 451–1 showing the application of principal and interest on the account will be returned to the County Office.

(2) *Extra payments and refunds.* Extra payments and refunds will be applied by the Finance Office first to interest accrued on the note account and then to note principal. Extra payments and refunds will not relieve an insured loan borrower from paying the amount due the insurance account each year, even though the borrower may be ahead of schedule on his note account.

§ 1861.6 Changes in the application of loan payments.

(a) *Authority of State Directors.* State Directors are authorized to approve requests on Form FHA 451–7, "Request for Change in Application," for changes in the application of payments between a borrower's real estate and other loan accounts when payments have been applied in error and such requests conform to the policies expressed in this part. However, no change in the application of payments will be made if it would involve the reapplication of funds from an insured loan account to other Farmers Home Administration accounts after the payment has been made to the lender or if the payment applied in error resulted in the payment in full of any Farmers Home Administration loan of the borrower and the canceled notes have been returned to him. If the payment applied in error resulted in the payment in full of any Farmers Home Administration loan of the borrower and the canceled notes have not been returned to him, or if the reapplication from an Operating, Emergency, Special Livestock, or other production-type loan to an insured loan would result in a loss of interest of more than one dollar to the borrower, the request for change in the application will not be made without a written request from the borrower.

(b) *Authority of County Supervisors.* County Supervisors are authorized to approve requests on Form FHA 451–7 for changes in the application of payments within and between Operating, Emergency, Special Livestock, Soil and Water Conservation coded J, and other production-type loan accounts and within and between real estate accounts, when payments have been applied in error and such requests conform to the rules of application set forth in this part.

(c) *Changes made by the Finance Office in application of remittances.* (1) When reapplication of collection is initiated by the Finance Office, it will be accomplished by means of Form FHA–648 or FHA 451–8, "Journal Voucher for Loan Account Adjustments," or Form FHA–281 or FHA 405–8, "Journal Voucher for Insured Loan," a copy of which will be forwarded to the County Office.

(2) When it is necessary for the Finance Office to make any corrections in Form FHA–37 or FHA 451–1, it will notify the County Office by returning a copy of Form FHA–37 or FHA 451–1 stamped "Receipt Corrected."

(d) *Notifying borrowers.* County Supervisors will inform borrowers of any reapplication between real estate and other loan accounts, and of any other reapplication of a significant amount.

§ 1861.7 Overpayments and refunds.

(a) If, after all principal and interest indebtedness of a borrower has been repaid, there is an additional amount identifiable as "excess" for credit to the borrower, it will be refunded to him.

(b) If a borrower believes he has made an overpayment and requests a refund, such a request must be in writing.

§ 1861.8 Return of paid-in-full or satisfied notes to borrower.

(a) *Return of notes after collection.* When a note (or loan-type account) evidencing an Operating Emergency, Special Livestock, Soil and Water Conservation loan coded J, or other production-type loan has been satisfied by payment in full, or otherwise, the Finance Office will return such note, stamped with an appropriate legend, to the County Office. If the County Supervisor determines that the account has been satisfied, the note will be returned to the borrower immediately except that:

(1) When the final payment is made in a form other than currency and coin, Treasury check, cashier's check, certified check, Postal or bank money order, bank draft, or a check issued by a responsible lending institution, the note will not be surrendered until 15 days after the date of final payment, and

(2) When the note is needed in making marginal releases or satisfactions of security instruments, it will be held until the instruments are satisfied.

(b) *Surrender of notes to effect collection.* (1) In individual cases, the Fi-

nance Office, upon request from County Supervisors, is authorized to furnish them with promissory notes and a statement of the amount due under such notes when the surrender of the notes is necessary to effect final collection. County Supervisors will surrender the notes to borrowers in such cases when final payments of the amount due are made in the form of currency and coin, Treasury check, cashier's check, certified check, Postal or bank money order, bank draft, or a check issued by a responsible lending institution.

(c) *Lost notes.* If notes evidencing satisfied accounts cannot be found, State Directors may authorize County Supervisors to execute appropriate affidavits regarding lost notes in cases in which such affidavits are requested by borrowers.

(d) *Return of notes reduced to judgment.* Notes which have been reduced to judgment are a part of the court records and ordinarily cannot be withdrawn and returned to the borrower even after satisfaction of the judgment. Therefore, no effort will be made to obtain and return such notes except upon the written request of the judgment debtor or his attorney. Such requests will be referred to the Office of the General Counsel.

§ 1861.9 Definitions and other information on Farm Ownership, Soil and Water Conservation, Other Real Estate, and Farm Housing accounts.

(a) *Installment on note and other charges*—(1) *Direct loan accounts.* For a borrower with a direct loan, the term "installment on note and other charges," as used in this part, will be the sum of the following:

(i) Annual installment for the year as provided in his promissory note.

(ii) Any recoverable cost charges paid for the borrower during the year, such as taxes and insurance.

(2) *Insured loan accounts.* For a borrower with an insured loan, the term "installment on note and other charges," as used in this part, will be the sum of the following:

(i) Annual installment for the year as provided in his promissory note.

(ii) Annual insurance charge except in case of insured loans evidenced by Forms FHA–218, FHA 442–10, FHA–251, FHA 443–14, FHA–252, and FHA 442–2.

(iii) Any recoverage cost charges paid for the borrower during the year, such as taxes and insurance.

(iv) Any accrued interest on advances made out of the insurance fund as shown on the statement of account.

(b) *Insurance account.* The term "insurance account" applies only to a borrower with an insured loan and is a combination of the following:

(1) The annual insurance charge except in case of insured loans evidenced by notes on Form FHA–218, FHA 442–10, FHA–251, FHA 443–14, FHA–252, and FHA 442–2.

(2) Any advances made out of the insurance fund.

(3) Any accrued interest on advances made out of the insurance fund.

(c) *Schedule status.* For direct and insured loans, a borrower will be on schedule, ahead of schedule, or behind schedule when the sum of his regular payments through the last preceding due date of the note equals, exceeds, or is less than, respectively, the sum of "installments on his note and other charges" due through the same date.

(d) *Farm Ownership payments.* The agreements of most borrowers provide a system of variable payments which permits paying more than the scheduled installment on the note and other charges in good years and using the excess to reduce the amount to be paid in poor years.

(1) *Payment requirements.* (i) Farm Ownership borrowers whose loans were approved prior to November 1, 1946, and who are repaying their loans under variable payment agreement forms FSA–LE–228 or FSA–550, will be required, subject to the terms of the agreement, to pay each year the amount determined by the County Supervisor to be within their ability to pay.

(ii) Any borrowers whose agreement calls only for fixed payments will be encouraged to make additional payments in accordance with his ability.

(iii) All other Farm Ownership borrowers will be required to pay one installment on note and other charges each year plus any amount the borrower is behind schedule and any additional sums agreed to by the borrower and the County Supervisor. However, any borrower who is ahead of schedule and whose income for the year is determined to be below normal will be required to pay at least an amount sufficient to keep him on schedule as of the next due date.

(2) *Determination of below-normal income for the year.* (i) The County Supervisor will make a determination as to whether or not a borrower's income for the year was below-normal only when requested to do so by a borrower in the category covered by subparagraph (1) (iii) of this paragraph who is ahead of schedule and has not paid an amount equal to the installment on note and other charges for the year. The County Supervisor will advise such a borrower by letter as to whether or not his income for the year has been determined to be below normal and whether he will need to pay a full installment for the year or may pay less than a full installment.

(ii) The borrower's income will be considered not below normal when it is equal to or exceeds an amount sufficient to pay usual family living and reasonable farm operating expenses, make normal capital replacements within reasonable conformance with the farm and home plan, and pay installment on his note and other charges for the year. If the borrower is not receiving year-end analysis, the determination of whether the borrower had a below-normal income year will be made on the basis of an estimate of the borrower's income, based on the information concerning the borrower's production for the year as compared with the production of other borrowers in the area. The County Supervisor may take into consideration factors which probably would affect the borrower's income, such as drought, hail or insects prevalent in the area and on the borrower's farm, the prevailing level of commodity prices compared with the costs which were probably encountered by the borrower in his particular type of farming, and any other relevant information acquired by the County Supervisor during the year from farm visits, personal interviews, or other reliable sources.

(e) *Farm housing payments.* (1) A borrower may make payments ahead of schedule at any time. He may later use such ahead-of-schedule payments to forego payments or to supplement the amount available during any year for payment on his annual installment on note and other charges. All borrowers should be encouraged to establish prepayment reserves.

(2) One annual installment on note and other charges will be due each year plus any amount behind schedule, except that a borrower who is ahead of schedule will be required to pay an amount sufficient to keep him on schedule as of the next due date.

(f) *Soil and water conservation payments.* (1) A borrower may make payments ahead of schedule at any time. He may later use such ahead-of-schedule payments to forego payments or to supplement the amount available during any year for payment on his annual installment on note and other charges.

(2) The annual insurance charge for borrowers whose insured loans are evidenced by notes not on Forms FHA–218, FHA 442–10, FHA–252 or FHA 442–2 is computed on the basis of the amount of the unpaid principal obligation as of the annual installment due date, and is due and payable on that date.

(3) One annual installment on note and other charges will be due each year plus any amount behind schedule, except that a borrower who is ahead of schedule will be required to pay an amount sufficient to keep him on schedule as of the next due date.

(g) *Reamortizing direct Farm Ownership, Farm Housing, and direct Soil and Water Conservation accounts.* (1) Such accounts will be reamortized when:

(i) A Farm Ownership borrower whose loan was approved prior to November 1, 1946, and who signed Form FSA–LE–228, is behind schedule, and has such agreement canceled, unless immediate foreclosure proceedings are recommended.

(ii) Any borrower who is not behind schedule, has made extra payments and refunds totaling 10 percent or more of his loan, requests reamortization on Form FHA 451–21, "Request for Reamortization of Real Estate Loan," and the State Director determines that the borrower is likely to have difficulty in meeting his obligations unless the loan is reamortized.

(2) A revised amortization schedule will be in accordance with the following:

(i) The total amount (interest and principal) owed on the note as of the due date previous to the date the request for reamortization is received in the Finance Office (minus any extra payments

or refunds made between those dates) will be reamortized so as to retire the debt in equal annual installments by the maturity date of the note.

(ii) The borrower's note account will be on schedule as of the last installment due date preceding the date of reamortization. The installment due date will be the same as the due date on the note (or accounts) being reamortized.

(3) When the revised amortization schedule has been calculated, the County Supervisor will notify the borrower of the change. It will not be necessary to obtain a new note or to change the face value of the reamortized note.

Subpart B—[Reserved]

Subpart C—Servicing Loans to Cooperative Associations

AUTHORITY: The provisions of this Subpart C issued under sec. 41, 50 Stat. 528, as amended, sec. 6, 50 Stat. 870; 7 U.S.C. 1015, 16 U.S.C. 590w. Interpret or apply sec. 41, 50 Stat. 528, as amended, sec. 2, 50 Stat. 869, as amended; 7 U.S.C. 1015, 16 U.S.C. 590s.

§ 1861.41 General.

Sections 1861.42 to 1861.47 prescribe the policies, authorities, responsibilities and procedures for loan servicing and supervision of all active cooperative associations. Active cooperative associations, referred to in this subpart as "associations," include water facility associations and all other cooperative associations indebted to the Government for direct loans which have not been approved for liquidation.

§ 1861.42 Policies.

(a) Associations are expected to place all phases of their operations on a sound basis, and to manage their own affairs with a minimum of technical advice and guidance from the Farmers Home Administration.

(b) Servicing of association loans will be directed toward the repayment of loans on schedule and obtaining compliance with all provisions of the loan agreements, notes and security instruments. Associations will be encouraged to prepay their indebtedness to the Government when possible.

(c) When technical services related to operations, accounting and membership relations are available through other Government agencies, regional cooperative organizations, or other independent sources, associations will be expected to use such services and will be directed to them.

(d) Personnel of the Farmers Home Administration will not perform any of the following functions or services for borrower associations: (1) Serve as officials; (2) perform any administrative or employee functions with respect to any phases of the business; (3) perform clerical services, maintain financial or other records, prepare financial reports or develop operating budgets for the associations. This will not prohibit the necessary training of association Boards of Directors, committees and employees in the performance of their respective duties or the exercise of official duties by Farmers Home Administration employees specifically authorized in individual cases for the protection of the Government's financial interests. This paragraph does not apply to State and County Committeemen who are members but not directors or officers of borrowing associations; however, no such State or County Committeemen may act upon any matters relating to Farmers Home Administration loans to associations in which they hold memberships.

(e) Associations in default and not operating on a sound basis, which after careful analysis do not evidence prospects of attaining future successful operations within a reasonable time, will be liquidated in an orderly and businesslike manner in accordance with authorizations and instructions issued by the National Office in individual cases.

[13 F. R. 9438, Dec. 31, 1948, as amended at 17 F. R. 2705, Mar. 28, 1952]

§ 1861.43 Authorities.

(a) Subject to the provisions of §§ 1861.42 to 1861.47 and the approval of the representative of the Office of the General Counsel as to legal sufficiency, State Directors are authorized to perform the following functions when it is determined that such action will not be to the detriment of the Government:

(1) Approve annual budgets submitted by associations.

(2) Approve requests from associations to extend credit to patrons.

(3) Require additional security when it is determined that existing security is inadequate.

(4) Require associations to carry insurance of the types and amounts determined necessary on property mortgaged to the Government.

(5) Require associations to provide adequate bond coverage on officials and employees handling a substantial amount of cash or property.

(6) When required by the loan agreement: Approve the general manager appointed by an association and the amount of his salary; approve the discharge of a manager upon request of the association; and request the association to discharge its manager when such action is deemed necessary to protect the Government's interest.

(7) Approve requests from associations for revision of existing charters and by-laws.

(8) Inform associations of the conditions under which the Government will release liens on mortgaged property to be sold or exchanged and after sale or exchange release such property from lien instruments held by the Government, *Provided:*

(i) The sale or exchange of the property will not impair future successful operations.

(ii) The security is sold for cash at not less than its current fair market value and the proceeds are remitted to the Government for application on the association's indebtedness; or, the exchange will result in the Government obtaining other security property or cash or both, which is equivalent to the fair market value of the property exchanged.

(9) Approve requests from associations to purchase stock or other securities or become a member of any other corporation or association when the benefits to be derived therefrom are commensurate with the investment.

(10) Approve requests from associations for the distribution of cash dividends or patronage refunds.

(11) Approve requests from associations for voluntary dissolution and liquidation of assets when it is determined that the sale of the association's assets will retire in full its indebtedness to the Government.

(12) Appoint a supervisor to act as the Government's representative, if provision is made therefor in the loan agreement, when:

(i) The association has failed to comply with the terms and conditions of the loan agreement and such failure has jeopardized seriously the Government's interest or in all probability will do so.

(ii) Other methods of securing voluntary compliance with the loan agreement have failed.

(13) Approve requests from associations for construction or for the acquisition of construction materials and equipment involving major improvements and repairs.

(14) Approve requests from associations to borrow funds or contract liabilities outside the regular and usual course of business.

(15) Renew existing security instruments.

(b) All requests or applications from associations which the State Director is not authorized to approve will be referred to the National Office together with the State Director's recommendations. These will include, among others, the following:

(1) To renew or amend the terms or conditions of existing notes or loan agreements.

(2) To modify the requirements for setting aside funds or collecting retains for application on the association's indebtedness to the Government.

(3) To merge or consolidate with another organization.

(4) To transfer any assets to another organization except in the regular and usual course of business.

(5) To voluntarily dissolve an association and liquidate its assets when it is determined that the proceeds of sale will not retire in full the association's obligation to the Government.

§ 1861.44 Responsibilities.

(a) County Supervisors are responsible for:

(1) Informing associations of their obligations to the Government under existing loan agreements, notes and security instruments.

(2) Informing associations of the types and frequency of report requirements under § 1861.45.

(3) Prompt collection of association loan obligations to the Government and servicing security for such loans as required by §§ 1861.42 to 1861.47.

(4) Securing compliance by the association of other terms and conditions of its agreements with the Government.

(5) Reporting to State Directors promptly the failure of any association to comply with the terms and conditions of its agreements after such non-compliance has been brought to the attention of the association and has not been corrected.

(6) Furnishing such training and technical guidance, not readily available through other sources, to associations as is required for protecting the Government's interests. This training and guidance may relate to business operations, personnel training, membership activities or any other phase which vitally affects such association's operations and the Government's interest.

(7) Attending the annual meeting and, as necessary, other membership or directors meetings of associations in the capacity of technical adviser.

(b) State Field Representatives are responsible for:

(1) Providing County Supervisors with technical guidance, training, and follow-up supervision as needed.

(2) Administrative follow-up to ascertain that County Supervisors carry out their responsibilities as prescribed in §§ 1861.42 to 1861.47.

(3) Consulting with and, if necessary, arranging for the assistance of State Office personnel on special training and problems of cooperative associations.

(c) State Directors are responsible for:

(1) Coordinating and directing loan servicing and supervisory activities relating to associations under their jurisdiction and performing other functions as prescribed by §§ 1861.42 to 1861.47.

(2) Establishing a record system in such manner as deemed advisable for maintaining follow-up action to assure prompt compliance by associations with requirements related to budget and report submissions, insurance and bond renewals, reports required under State Laws, chattel security expirations, repayment schedules and other major loan and security servicing requirements.

§ 1861.45 Budget and report submission by associations.

(a) *Annual budget.* (1) When required by loan agreements, annual operating budgets will be submitted to the Government by associations at the beginning of the association's fiscal year. A sixty-day grace period is allowed within which each association will complete its budget and transmit it to the County Supervisor.

(2) The annual budget may be submitted in any form desired by the association, but must set forth clearly and in detail the estimated income and expenses for the year. If the budget proposes any significant changes from the previous year's operating record, the budget must be supported by a written narrative explaining all estimates that indicate a significant change.

(b) *Audit reports.* (1) Pursuant to the provision of the loan agreement, associations are obligated to furnish such reports as the Government will from time to time require. It is the policy under this provision of the loan agreement to require annual audit reports of associations and such additional reports as the State Director or the Administrator deems necessary. The annual audit report referred to in this paragraph may be in the form desired by the association but must consist of a balance sheet showing the association's current financial position as of the end of each fiscal year and an operating statement showing the results of operations for the year just closed.

(2) When an association's total outstanding indebtedness to the Government exceeds $15,000, the audit report will be prepared by a qualified independent auditor. The auditing services of a central or federated cooperative will be considered an independent audit. When an association's total outstanding indebtedness to the Government is $15,000, or less, the audit may be made by a committee of the membership not including any officer, director or employee of the association. Audits made by a committee of members will consist of a verification of the balance sheet and operating statement. The State Director may in the case of any association in this latter group require an independent audit where the nature of operations, volume of business or other factors indicate an independent audit to be necessary, and the cost would not be an undue financial burden to the association.

(3) The annual audit report will be submitted preferably with the budget but in all cases as soon as possible after the close of the fiscal year. If the annual audit report has not been completed at the time for submitting the budget for approval, an unaudited copy of the balance sheet and operating statement will be submitted with the budget in order to permit expeditious analysis and approval of the budget.

§ 1861.46 Analysis, transmittal and approval of budget and analysis of audit reports.

(a) *Budgets*—(1) *Analysis.* As soon as possible after the receipt of the budget and financial information in the form of the audit report or balance sheet and operating statement from an association, and after securing such additional information as may be necessary, the County Supervisor will analyze the budget and supporting material and prepare Form FHA–958, "Financial and Budget Analysis," in an original and two copies. The analysis will be made in the light of sound business practices, basic cooperative principles, and financial interest of the Government. The County Supervisor will consult with the State Field Representative in analyzing the budget and in making his recommendations for approval or disapproval. The State Field Representative will attach his recommendations or indicate concurrence in those of the County Supervisor.

(2) *Transmittal.* The County Supervisor will transmit to the State Director:

(i) Form FHA–958 in an original and one copy. The remaining copy will be retained in the County Office.

(ii) The annual audit report or the unaudited balance sheet and operating statement as the case may be.

(iii) The budget as submitted by the association with his recommendations.

(iv) Copies of the minutes of the annual meeting and of any meetings of the Board of Directors at which the budget was discussed or acted upon.

(v) Any other related material.

(3) *Approval.* (i) The State Director after review of the budget will signify his approval or conditional approval by a letter addressed to the County Supervisor.

(ii) An appropriate notation will be entered on the State Office record system of the receipt and approval of each association's annual budget. This notation will be made at the time of approval by the State Director.

(iii) The State Director will retain in his files the original of Form FHA–958. The copy of Form FHA–958 and a copy of the letter approving the budget will be transmitted to the National Office.

(iv) All budgets, audit reports, financial reports, and other material submitted in connection with the budget will be returned by the State Director to the County Supervisor with the approval letter and will become a part of the Farmers Home Administration County Office permanent records.

(v) The County Supervisor will notify the association in writing of the approval of the budget and of any conditions prescribed in connection with such approval.

(b) *Analysis of late audit reports.* When the audit report is submitted subsequent to the budget, the County Supervisor will analyze the report and compare it with the financial and operating statement that was submitted with the budget. In the event there are any substantial differences, the County Supervisor will confer with the State Field Representative as to further action.

§ 1861.47 Loan servicing.

(a) *Repayments*—(1) *Notice of payment due.* Form FHA–93, "Statement of Account and Notice of Payment Due," will be prepared in an original and three copies by the Area Finance Manager by the tenth of each month for all associations having installments of principal or interest falling due from the twenty-sixth of the current month through the twenty-fifth of the following month. The status of each note or suffix will be shown as well as the total of all notes on the Form FHA–93. Interest will be accrued and matured to the date of principal maturity in accordance with the terms of the note. The Area Finance Manager will mail the original to the association, a copy to the County Supervisor, and a copy to the State Director.

(2) *Receiving and transmitting of repayments.* Repayments from associations will be handled in accordance with §§ 1862.1 to 1862.3 of this chapter.

(b) *Statement of account.* The Area Finance Manager, upon request of the State Director, will furnish the original

and two copies of Form FHA–749, "Statement of Cooperative Loan Account," showing the status of the loan account of any association as of the date the information is requested.

(c) *Form FHA–106, "Register of Loan Control Transactions."* The Area Finance Manager will prepare Form FHA–106 in an original and three copies as of June 30th and December 31st of each year. The original and one copy of this form will be sent to the National Office, Attention: Finance Division, Fund Accounting Section; one copy will be sent to the State Director; and one copy will be retained in the Area Finance Office.

(d) *Satisfactions.* When a loan has been paid in full, the Area Finance Manager will prepare Form FHA–597, "Notice of Fully Paid Notes," in an original and one copy and forward them to the Communications and Records Management Section having custody of the notes. The notes will be stamped "Paid in Full" and will be sent, attached to the original of Form FHA–597, to the State Director. The copy of the Form FHA–597, with appropriate notation that the notes have been returned, will be filed in the client file in the Communications and Records Management Section. Upon receipt of Form FHA–597 and accompanying notes, State Directors are hereby authorized to satisfy and discharge lien instruments by executing Form FHA–77, "Satisfaction," when all notes secured by such lien instruments are fully paid. Form FHA–77, notes, related security instruments, insurance policies, and bonds will be transmitted to the County Supervisor. County Supervisors are authorized to deliver Form FHA–77, paid in full notes, related security instruments, insurance policies, and bonds to the association and are authorized to make marginal releases of security instruments described in Form FHA–77 as may be required by State Laws. The original of Form FHA–597 will be filed in the client file in the County Office.

(e) *Insurance and bonding.* (1) Thirty days prior to the expiration date or premium payment date of an insurance policy or bond, the State Director will notify the County Supervisor of the coverage required and the County Supervisor will request the association to obtain such coverage. The originals of policies and bonds will be transmitted by the County Supervisor to the State Office where they will be retained.

(2) Insurance policies will have attached the standard mortgage clause (without contribution) or Form FHA–878, "Insurance Mortgage Clause." If a mortgage clause has been approved or is made mandatory by the laws of any State, such clause will be used in that State. If a standard mortgage clause (without contribution) is printed in the policy, then a loss payable clause will be required. The name of the United States of America as mortgagee will be inserted in the mortgage clause.

(3) Associations will obtain required fidelity bonds locally through acceptable bonding companies. The State Director or his successor in office acting for the United States Government will be named as obligee in the bond, jointly with the association.

(f) *Renewals.* (1) Direct loans to active associations may be renewed when all of the following conditions exist:

(i) The Association has a substantial delinquency which cannot be liquidated within one year.

(ii) The renewal action will not operate to the financial detriment of the Government or impair the security rights of the Government.

(iii) The budget and/or plan of operations of the association provide reasonable assurance that the association will be able to make payments from normal operating income in accordance with the terms of the proposed renewal.

(iv) The Board of Directors and membership have definite plans for obtaining membership support and providing competent management for the continued activity of the association.

(2) Associations desiring to renew notes evidencing loans from the Government will submit their applications to the County Supervisor. These applications will be supported by the following:

(i) A current financial report consisting of a balance sheet and operating statement which presents an accurate report of the association's financial condition. This report must be certified as to its accuracy by a responsible official of the association.

(ii) A certified copy of an appropriate resolution adopted by the Board of Directors and/or membership authorizing the renewal action.

(iii) A budget referred to in subparagraph (1) (iii) of this paragraph. This budget must be supported by a narrative statement describing any significant changes in the association's plan of operation that will reflect the association's ability to make payments from normal operating income in accordance with the proposed renewal.

(iv) An independent current fair market value appraisal of all property owned by the association on which the Government holds a lien.

(3) All applications for renewal of association loans will be submitted to the State Director with recommendations from both the County Supervisor and State Field Representative.

(4) Upon receipt of an application for renewal of an association's loan, the State Director shall request the Area Finance Manager to prepare a special statement of account. The State Director will review the special statement of account, the application for renewal and supporting information and forward the complete docket with his recommendations to the National Office for further consideration.

(5) The State Director will be advised of the action taken on a request for renewal. If the renewal is approved, the State Director will then be supplied with a renewal note form which he will prepare in an original and two copies. The note will be dated as of the date on which the renewal will take effect. The repayment schedule of the renewal note will be in annual principal installments as prescribed by the National Office. The State Director will, after securing approval of the representative of the Office of the General Counsel as to legal sufficiency, transmit the original and copies of the note to the County Supervisor with a letter of instruction with reference to execution of the renewal note and complying with any renewal conditions. A copy of this letter will be sent to the Area Finance Manager who will discontinue accruing interest until he receives the original executed renewal note. When the original note has been executed by the appropriate officials of the association, the County Supervisor will forward the original to the Area Finance Manager, one copy will be furnished the association, and one copy retained in the County Office. The County Supervisor will also advise the State Director that the renewal note has been executed.

(g) *Releasing security.* (1) Any dispositions of property mortgaged to the Government are made subject to such mortgage. Associations will be held strictly accountable to the Government for all proceeds derived from the sale of mortgaged property which the Government is entitled to receive under its lien.

(2) Before security property mortgaged to the Government is sold or exchanged, associations are required to obtain from the Farmers Home Administration a statement of the conditions under which the lien will be released. This statement will be made on Form FHA–851. "Statement of Conditions on Which Lien Will Be Released."

(3) When an association desires to sell or exchange the mortgaged property, it will submit to the County Supervisor the following:

(i) A certified copy of an appropriate resolution adopted by the Board of Directors and/or membership requesting permission to dispose of security property.

(ii) A narrative statement setting forth the reasons for disposing of security property.

(iii) A report reflecting the current fair market value of the property to be released.

(4) The County Supervisor will prepare an original and two copies of Form FHA–851. One copy will be retained in the County Office and the original and one copy will be forwarded to the State Director along with the request for permission to dispose of security property, supporting information received from the association and the County Supervisor's recommendations. The State Director will indicate his approval of conditions of sale or exchange by executing the original of Form FHA–851 and returning it to the County Supervisor for delivery to the Association.

(5) When security property is sold or exchanged in accordance with the conditions stated in the approved Form FHA–851, the County Supervisor will prepare Form FHA–99, "Release," in an original and two copies. One copy will be retained in the County Office and the original and one copy will be forwarded to the State Director to be executed. After execution the original will be sent

to the County Supervisor for delivery to the association.

(6) Property acquired by associations by exchange or by purchase with proceeds from the sale of other mortgaged property must be made subject to a lien in favor of Farmers Home Administration in such manner as the Representative of the Office of the Solicitor advises to be appropriate under applicable State laws. When a new security instrument is necessary, it will be taken at the time of acquisition of the new property.

(h) *Reporting on defaulted cases.* (1) Defaults by associations under their notes, loan agreements, mortgages or other security instruments, which have not been cured by the association after a reasonable amount of loan servicing and supervision by County Supervisors with the advice of the State Field Representative, will be reported in narrative form to the State Director with either their joint or separate recommendations. The association file and other pertinent material will be forwarded to the State Director with the report.

(2) In cases where the County Supervisor and the State Field Representative recommend liquidation of an association's assets the following additional information will be included in the report to the State Director.

(i) A statement as to whether or not the liquidation would be voluntary on the part of the association. If the association has authorized liquidation, then a copy of the resolution should be attached.

(ii) Specific recommendations on the method of carrying out the liquidation.

(iii) Estimate of the net amount that probably will be realized from disposal of the assets, and an estimate of the loss, if any, to the Government.

(iv) A list of unsalable assets and recommendations for disposal if title to such assets will rest in the Government.

(3) If the liquidation of an association's assets is involved and the recommended liquidation action is not within the approval authority of the State Director as prescribed in § 1861.43, the complete docket, together with the State Director's recommendations, will be forwarded to the National Office. In such instances specific authorities and instructions will be issued by the national Office when liquidation is authorized.

(4) After all liquidation action has been completed, the complete docket will be returned to the unit office and placed in the official files in that office.

(i) *Appointment of supervisor*—(1) *Notice to the supervisor.* (i) When the loan agreement so provides and the State Director determines that an association's failure to comply with the terms and conditions of the loan agreement is jeopardizing seriously or in all probability will jeopardize seriously the Government's interest and all other methods of securing voluntary compliance with the loan agreement have failed, he will appoint a supervisor, as defined in the loan agreement, to act as the Government representative for the purpose of carrying out the terms and conditions of the agreement.

(ii) The State Director will notify in writing the person selected of his appointment as supervisor. The letter which must be approved by the representative of the Office of the General Counsel for legal sufficiency, will include:

(*a*) A statement of the supervisor's duties and responsibilities.

(*b*) The authorities granted him in order to carry out his duties and responsibilities of managing the operations of the association.

(*c*) A stipulation of the salary, if any, which he is to receive for his work. In case an employee of the Government is appointed supervisor he will receive no compensation in addition to his regular salary.

(*d*) Other information and instructions necessary to enable him to perform his duties effectively.

(2) *Notice to the association.* The State Director will notify the association, in writing, of the appointment of a supervisor citing the appropriate provisions of the loan agreement. The letter of notification will include the following:

(i) A notice of the specific breach(es) of the loan agreement which renders the appointment necessary and the objectives of the Government in taking control.

(ii) The name of the supervisor and his salary, if any, as fixed by the Government.

(iii) A detailed statement describing the specific authorities and duties of the supervisor.

(3) *Bonding.* The State Director will require that an adequate bond be obtained by the supervisor, the cost to be borne by the association.

(4) *Notice to the National Office.* The State Director will immediately notify the National Office of the appointment of a supervisor and submit a statement for future handling of the association which will include plans for returning management to the association or recommendations for liquidation actions.

(j) *Reporting other associations requests and applications.* (1) Requests and applications from associations for other loans servicing actions not specifically covered by this action will be made in written form addressed to the County Supervisor and must be supported by a copy of the resolution adopted by the members or Board of Directors in connection with such request.

(2) The County Supervisor will attach to the request or application, the association county office file containing the Charter, By-Laws, current year's budget, where required, and the latest audit report.

(3) The County Supervisor will analyze the request or application, make his recommendations after consulting with the State Field Representative, and transmit the complete docket to the State Director. The State Field Representative will attach his recommendations or indicate concurrence in those of the County Supervisor by initialing the docket.

(4) In certain cases, the State Director may require additional information such as a current statement of account from the Area Finance Manager, or a current fair market value appraisal of the association's property. When such appraisals are required they must be made at no cost to the Government.

(5) When the loan servicing action is not within the approval authority of the State Director as prescribed in § 1861.43, the complete docket, together with the State Director's recommendations will be forwarded to the National Office. Specific authorities and instructions will be issued in individual cases.

[13 F.R. 9438, Dec. 31, 1948, as amended at 22 F.R. 4011, June 7, 1957]

Subpart D—Servicing Accounts of Borrowers Entering the Armed Forces

AUTHORITY: The provisions of this Subpart D issued under R.S. 161, secs. 41, 6, 50 Stat. 528, as amended, 870, sec. 510, 63 Stat. 437, sec. 4, 64 Stat. 100; 5 U.S.C. 22, 7 U.S.C. 1015, 16 U.S.C. 590w, 42 U.S.C. 1480, 40 U.S.C. 442. Interpret or apply secs. 1, 21, 50 Stat. 522, as amended, 524, as amended, secs. 2, 501, 63 Stat. 44, as amended, 432, sec. 2, 67 Stat. 150, secs. 9, 10, 68 Stat. 735; 7 U.S.C. 1001, 1007, 12 U.S.C. 1148a–2, 1148a–4, 42 U.S.C. 1471, 16 U.S.C. 590x–2, 590x–3.

§ 1861.61 General.

It is not the policy of the Farmers Home Administration to renew, postpone, or modify annual installments due under a borrower's promissory note because of his entry in the armed services. However, scheduled payments will not be enforced against such a borrower when such payments are beyond his ability to pay. Nevertheless, the long-time interest of the borrower can be served best by prompt and satisfactory arrangements for the use and protection, or disposition of the security property in accordance with the policies expressed herein.

§ 1861.62 Borrower owing Farmers Home Administration loans which are secured by chattels.

(a) *Policy.* When information is received that a borrower is entering the armed forces, the County Supervisor will be responsible for contacting the borrower immediately for the purpose of reaching an understanding concerning the actions to take in connection with the Farmers Home Administration loan indebtedness. Such a borrower will be permitted to retain his chattel security property when arrangements can be worked out which will be satisfactory to the borrower and the Farmers Home Administration. However, because of the nature of chattel security, such a borrower will be informed of the usual depreciation of such security property and will be encouraged to sell the property and apply the proceeds on his loan(s). In most cases, the interests of both the borrower and the Government can be served better by arranging for a voluntary sale of the security property. A borrower retaining security property will be expected to make payments on his loan(s) equal to scheduled payments.

(b) *Methods of handling.* In carrying out the above policy, the cases of bor-

rowers entering the armed forces will be handled in accordance with one of the following methods:

(1) *Voluntary sale of security property.* When it is determined that the security property will be liquidated, the borrower will be urged to sell the property through the use of Form FHA–217, "Agreement for Public Sale," for a public sale, or Form FHA–851, "Statement of Conditions on which Lien will be Released," for a private sale. If for any reason it is more desirable or necessary for the property to be sold by the Farmers Home Administration, the sale will be through the use of Form FHA–209, "Agreement for Voluntary Liquidation of Mortgaged Chattels," executed by the borrower before he is accepted for service in the armed forces if the sale is to be completed before the borrower is accepted for service, or after he is accepted for service if the sale cannot be completed before the borrower is so accepted. For this purpose, an individual will be considered as accepted for service after he is ordered to report for induction, or if in the enlisted reserve, after he is ordered to report for service in the armed forces.

(2) *Assumption of indebtedness.* When the borrower arranges with a person satisfactory to the Farmers Home Administration to purchase the security property and to assume the Farmers Home Administration loan indebtedness secured by chattels, the State Director is authorized to approve an assumption agreement for this purpose between the borrower, the person assuming the debt, and the Farmers Home Administration. In such a case, the original borrower will not be released from liability.

(3) *Arrangements with third persons.* When the borrower arranges with a relative or other reliable person to maintain the security property in a satisfactory manner and to make scheduled payments, the State Director is authorized to approve the arrangement. In such a case, the borrower will be required to execute a power of attorney, prepared or approved by the Attorney in Charge, authorizing an attorney-in-fact to act for him during his absence.

(4) *Possible legal action.* If the borrower fails or refuses to cooperate in the servicing of his Farmers Home Administration loan indebtedness secured by chattels in accordance with one of the methods set forth herein, his case will be forwarded to the State Director for action to be taken in protecting the Government's interest.

(c) *Statements of accounts and transfers.* Borrowers entering the Armed Forces will be requested to designate mailing addresses for statements of account. In cases in which assumption agreements have been executed, statements of account will be mailed to the assuming borrower.

§ 1861.63 Borrower owing Farmers Home Administration loans which are secured by real estate.

Any borrower who is definitely entering the Armed Forces should consult with the County Supervisor prior to the borrower's military service concerning the most advantageous arrangements that can be made regarding the farm. The County Supervisor will assist such a borrower in working out mutually satisfactory arrangements.

(a) *Power of attorney.* Borrowers entering the armed forces who retain ownership of their farms should be encouraged to execute a power of attorney authorizing the person of their choice to take any actions necessary to insure proper operation and maintenance of the farm, payment of insurance and taxes, and repayment of the loan. No employee of the Farmers Home Administration will act as attorney-in-fact for a borrower.

(b) *When the borrower wishes to retain ownership of the farm.* When a borrower wishes to retain ownership of his farm, the Farmers Home Administration will assist him in making arrangements for the operation of the farm which will protect the interests of both the Government and the borrower.

(1) *Leasing.* It will be more satisfactory if the farm is leased under a written lease in accordance with equitable leasing policies and applicable Farmers Home Administration procedures. The County Supervisor should assist the borrower in securing a dependable tenant who is a good farmer, who will secure maximum production, and who will maintain the farm in good condition. The borrower should make arrangements for the rental income to be used for regular payments on the loan in order to avoid the accumulation of unpaid interest. The borrower also should make arrangements for the payment of taxes and insurance and maintenance of the farm to avoid having these charges paid by the Government and charged to his account. It would be desirable to provide that the lease will continue for the duration of the borrower's military service, unless either party gives written notice of earlier cancellation of the lease.

(2) *Operation by family.* When a borrower wishes to have the farm occupied and operated by his family or relatives without a written lease, the County Supervisor should advise him as to whether the proposed arrangements will be in the best interests of the borrower and the Government. When the farm is to be operated by relatives, the hazards and disadvantages to the borrower and the Government which are inherent in unwritten contracts will be discussed, and every effort will be made to induce the borrower to enter into formal contractual arrangements whenever possible to do so.

(c) *When the borrower does not desire to retain ownership of the farm.* When a borrower feels that the burden of managing the farm and continuing with payment of the indebtedness will be too great for him and his family, he may wish to transfer the farm to another approved applicant or to sell it outside the program. In any such case, the Farmers Home Administration will cooperate with the borrower in effecting a sale or transfer of the farm in accordance with applicable procedures.

(d) *When the borrower abandons the farm or fails to make satisfactory arrangements.* When a borrower abandons the farm or fails to make satisfactory arrangements for maintenance of the farm, and payment of taxes, insurance, and installments on the loan, the County Supervisor will send a complete report on the case to the State Director and will include all the information he can secure regarding the borrower's plans for the farm and any evidence that indicates abandonment, in fact, has taken place. Abandonment cases, or instances in which the borrower fails to take action to transfer or sell his property and evidences no interest in it or desire to retain it, will be processed in accordance with applicable procedures.

(e) *Statements of account.* Borrowers entering the armed forces who retain ownership of their farms will be requested to designate mailing addresses for statements of accounts.

PART 1862—COLLECTIONS

Sec.
1862.1 General.
1862.2 Authority.
1862.3 Receipts.

AUTHORITY: The provisions of this Part 1862 issued under R.S. 161, secs. 41, 6, 50 Stat. 528, as amended, 870, sec. 510, 63 Stat. 437, sec. 4, 64 Stat. 100; 5 U.S.C. 22, 7 U.S.C. 1015, 16 U.S.C. 590w, 42 U.S.C. 1480, 40 U.S.C. 442.

§ 1862.1 General.

(a) Checks, money orders, and similar items to be remitted as payments on accounts of the Farmers Home Administration should be made payable to the Farmers Home Administration, except that offers in compromise of judgment accounts authorized in Part 1864 of this chapter will be made payable to the Treasurer of the United States. All collection items in any form other than coin and currency will be accepted subject to collection, that is, subject to the items being paid. Post dated checks will not be accepted for payment on indebtedness due the Farmers Home Administration. When such checks are received, they will be returned immediately to the remitter.

(b) Collection items containing restrictive endorsements or notations which will not permit such items to be processed and applied to accounts in accordance with this chapter will be returned to the remitters by the Farmers Home Administration official receiving such items with a request that such notations be withdrawn. However, items containing restrictive endorsements or notations not affecting the handling thereof (for example: "payment in full," when the amount thereof does in fact pay the account in full) will be accepted and processed.

(c) In order to expedite the application of collections to insured loan accounts, insured loan borrowers should be advised to make payments on such loans by cash, postal money orders, certified checks, cashier's checks, bank drafts, or bank money orders.

§ 1862.2 Authority.

Farmers Home Administration employees in bonded positions are hereby authorized to receive, receipt for, exchange for money orders or bank drafts, and transmit collections.

[21 F.R. 3856, June 6, 1956]

§ 1862.3 Receipts.

Form FHA–37, "Receipt for Payment," will be used in receipting for collections and loan refunds. No other form of receipt will be used for this purpose.

PART 1863—REAL ESTATE TAXES

Sec.
1863.1 General.
1863.2 Servicing taxes.
1863.3 Servicing delinquent taxes

AUTHORITY: The provisions of this Part 1863 issued under R.S. 161, sec. 41, 50 Stat. 528, as amended, sec. 510, 63 Stat. 437, sec. 4, 64 Stat. 100, sec. 10, 68 Stat. 735; 5 U.S.C. 22, 7 U.S.C. 1015, 42 U.S.C. 1480, 40 U.S.C. 442, 16 U.S.C. 590x–3. Interpret or apply secs. 3, 51, 50 Stat. 523, as amended, 531, as amended, sec. 12, 60 Stat. 1076, as amended, sec. 502, 63 Stat. 433, sec. 2, 64 Stat. 98, secs. 9, 10, 68 Stat. 735; 7 U.S.C. 1003, 1025, 1005b, 42 U.S.C. 1472, 40 U. S. C. 440, 16 U. S. C. 590x–2, 590x–3.

§ 1863.1 General.

Each borrower with a Farm Ownership, Farm Housing, Other Real Estate or Soil and Water Conservation loan secured by real estate will be responsible for paying taxes, and all similar assessments, levies, and charges, on his farm to the proper taxing authorities. The obligation of the borrower to pay his taxes before they become delinquent is included in the mortgage securing his loan.

§ 1863.2 Servicing taxes.

(a) The County Supervisor will be responsible for ascertaining that all mortgaged real estate is listed properly for tax purposes, and

(b) The County Supervisor will encourage each borrower to pay taxes promptly in order to avoid any penalties. Normally, this can be accomplished through routine servicing of loans by emphasizing the advantages of setting aside sufficient income to meet tax obligations when they become due. Taxes will be adequately budgeted for those borrowers with whom Form FHA–14, "Farm and Home Plan," is developed. Each borrower will be encouraged to notify the County Supervisor when he has paid his taxes.

§ 1863.3 Servicing delinquent taxes.

(a) Prior (usually about ninety days) to the time it is legally possible for action to be taken that will cause the borrower to lose title or right of possession of his farm, the County Supervisor will contact the borrower and definitely determine whether he will pay the delinquent tax immediately. If the borrower is unable or unwilling to pay the delinquent tax after every appropriate effort has been made to have him do so and the Government's mortgage is a first mortgage, the County Supervisor will prepare and process Standard Form 1034, "Public Voucher for Purchases and Services Other Than Personal," to cover the amount of the delinquent tax plus the amount of any accrued penalty. If the Government is holding a mortgage other than a first mortgage on the farm, Standard Form 1034 will not be prepared until the County Supervisor has also determined that (1) the prior lien holder will not pay the delinquent tax, (2) the Government's security will be jeopardized if the delinquent tax is not paid, and (3) the value of the security is sufficient to justify the advance.

(b) The County Supervisor will obtain the signature of the appropriate taxing official, as "Payee," on the original.

(c) After the voucher has been processed in the Finance Office, the U.S. Treasury check will be issued directly to the taxing body. The purpose of the payment will be stated on each check. Any amount advanced for taxes will be entered as a recoverable cost charge on the borrower's account in the Finance Office. The advance will bear interest at the rate specified in the most recent note secured by a lien on the property to which the taxes apply.

PART 1864—DEBT SETTLEMENT

Sec.
1864.1 Purpose and scope.
1864.2 General policies.
1864.3 Compromise and adjustment.
1864.4 Cancellation upon application.
1864.5 Cancellation of debts of deceased, disappeared, and bankrupt debtors without application.
1864.6 Cancellation of small claims with principal of $150 or less.
1864.7 Compromise or cancellation of debts through the use of Form FHA 456–1, "Application for Settlement of Indebtedness," when signature of debtor cannot be obtained.
1864.8 Joint debtors.
1864.9 Cases in the hands of the Office of the General Counsel.
1864.10 Cases referred to the Department of Justice.
1864.11 Approval of settlement and submission to Farmers Home Administration National Office.
1864.12 Processing of Form FHA 456–1.
1864.13 Processing of Form FHA 456–2.
1864.14 Disposition of promissory notes.
1864.15 Delinquent adjustment agreements.
1864.16 Finance Office handling.

AUTHORITY: The provisions of this Part 1864 issued under secs. 331, 339, 75 Stat. 312, 318, secs. 2, 4, 64 Stat. 98, 100; 7 U.S.C. 1981, 1989, 40 U.S.C. 440, 442; Order of Sec. of Agr., 19 F.R. 74, 26 F.R. 8403, 27 F.R. 5005, 9957.

§ 1864.1 Purpose and scope.

This part sets forth the policies and procedures for settlement of debts owed the United States and administered by the Farmers Home Administration (referred to in this part as debts owed to the Farmers Home Administration or to the Government) under any of its programs, including State Rural Rehabilitation Corporation accounts being administered under agreements entered into pursuant to section 2(f) of Public Law 499, 81st Congress provided that:

(a) Settlement of Arkansas, Missouri, North Carolina, and Wisconsin corporation accounts requires prior approval of the corporations or State officials having responsibility for the assets.

(b) Settlement of New Hampshire Rural Rehabilitation Corporation accounts requires post approval of the Corporation.

§ 1864.2 General policies.

(a) *Definitions.* For the purpose of this part, the following definitions are applicable:

(1) "Compromise" is the satisfaction of a debt by acceptance of a lump-sum payment less than the total amount due.

(2) "Adjustment" is the reduction in a debt conditioned upon completion of payment of the adjusted amount at some specified future time or times, with or without the payment of any consideration when the adjustment offer is approved. An adjustment is not a final settlement until all payments under the adjustment agreement have been made.

(3) "Cancellation" is the final discharge of a debt without any payment thereon.

(4) "Settlement" is the compromise, adjustment, or cancellation of a debt owed the Farmers Home Administration. The term "settlement" is used for convenience in referring to compromise, adjustment, or cancellation actions, individually or collectively.

(b) *Collection efforts.* The authorities contained in this Part 1864 for the settlement of debts will neither serve as justification for, nor permit prior to initiation of any debt settlement action, any relaxation of the efforts to collect in full the debts owed the Farmers Home Administration in accordance with applicable policies and procedures.

(c) *Settlement of debts created recently.* Debts will not be compromised or adjusted within a period of five years following the date on which they were created, except when it is obvious from the facts submitted in support of the debtor's application for settlement that conditions of a very unusual nature, which were beyond his control, developed after the debt was created and resulted directly in his inability to repay his indebtedness.

(d) *Review by County Committee.* The County Committee is not required to consider the cancellation of claims under § 1864.6. All other proposed settlement actions will be reviewed by the County Committee, which will recommend approval or rejection, and no settlement will be approved if it would be more favorable to the debtor than that recommended by the County Committee.

(e) *Determination that debtor has acted in good faith.* (1) When a debtor applies for the settlement of his indebtedness, consideration will be given to whether he has acted in good faith in an effort to pay his debts to the Government. Some of the factors to consider in making this determination are:

(i) Whether the debtor has made any material misrepresentation or concealed any material facts in obtaining the loans.

(ii) Whether the debtor used substantial amounts of loan funds for unauthorized purposes which were detrimental to his operations.

(iii) Whether the debtor has attempted through the transfer or sale of security property or other assets, or by other means, to defeat efforts to collect the debt.

(2) If it is determined that a debtor has not acted in good faith the settlement will not be approved unless or until the debtor has made appropriate compensation therefor.

(f) *Settlement when legal action has been recommended or is contemplated.* Debts will not be settled if the debtor has committed any acts which might still subject him to criminal prosecution in connection therewith, civil action to protect the interests of the Government is contemplated or pending, or the case is in the hands of the United States Attorney.

(g) *Negotiating the settlement.* In negotiating a settlement the repayment ability and other circumstances of debtors will be discussed with them in order to assist in determining the proper type and terms of settlement offers. The present and future repayment ability of debtors, and any other pertinent factors will be the basis for determining whether the debts should be compromised, adjusted, or canceled. The period of time during which payments on adjustment offers are to be made should not, except in unusual cases, exceed three years. Farmers Home Administration personnel will not negotiate compromise or adjustment offers from debtors who have no present or prospective future repayment ability; also, debtors will be discouraged from making mere token offers. Debtors have the right, however, to make voluntary compromise or adjustment offers in any amount should they elect to do so. In such event their offers should be considered and processed, but an adjustment offer will not be approved in any case unless there is reasonable assurance that the debtor will be able to make the payments as they become due.

(h) *Proceeds from the sale of security property.* Proceeds derived from the sale of security property, including crop security, will not be used in making a compromise or adjustment offer. Such proceeds are subject to application on the debtor's account, irrespective of an application for debt settlement. When a debtor has sold security property and wishes to use the proceeds therefrom as part or all of the offer, the County Supervisor will explain to him that such funds are to be credited on his debt. After such funds are received for credit to the debtor's account, he then may apply for settlement of his remaining indebtedness.

(i) *Settlement where debtor owes more than one type of Farmers Home Administration loan.* As a general rule, it will not be the policy to settle any loan indebtedness of a debtor who is also indebted on another Farmers Home Administration loan, and who will continue as an active borrower.

(j) *Claims against estates.* Settlement of a claim against an estate under the provisions of this Part 364 will be based on the recovery that may reasonably be expected, taking into consideration such items as the security, costs of administration, allowances of minor children and surviving spouse, allowable funeral expenses, and dower and curtesy rights, and specific encumbrances on the property having priority over claims of the Government.

§ 1864.3 Compromise and adjustment.

Debts owed to the Farmers Home Administration may be compromised or adjusted, upon the application of the debtor, or if a debtor is unable to act for himself, upon the application of his guardian, executor, administrator, or any other person directly interested in his estate, subject to the policies and procedures contained in this Part 1864 and subject to the following:

(a) The debt or any extension thereof on which compromise or adjustment is requested is due and payable, or the debt has been accelerated by written notice prior to the date of application.

(b) The debtor has offered an amount at least equal to the fair market value of the existing security for the debt, including crop security.

(c) The debtor is unable to pay his indebtdness in full and has offered an amount, in addition to the value of the security, which represents a reasonable determination of his ability to pay. The debtor's income, expenses, assets, age, and health are critical factors in determining whether he is eligible for any settlement and, if so, the type of settlement and the amount which he can reasonably be expected to offer.

§ 1864.4 Cancellation upon application.

Debts owed to the Farmers Home Administration may be canceled upon application of a debtor, or if a debtor is unable to act for himself, upon the application of his guardian, executor, administrator, or any other person directly interested in his estate, subject to the policies and procedures contained in this Part 1864 and subject to the following:

(a) The employee of the Farmers Home Administration having charge of the account furnishes a report and favorable recommendation concerning the cancellation.

(b) There is no known security for the debt.

(c) The debt or any extension thereof, on which cancellation is requested, has been due and payable, or the debt has been accelerated by written notice, five years or more prior to the date of application.

(d) The debtor is unable to pay any part of his debt and has no reasonable prospect of being able to do so.

§ 1864.5 Cancellation of debts of deceased, disappeared, and bankrupt debtors without application.

Debts due the Farmers Home Administration may be canceled by use of Form FHA 456–2, "Cancellation or Charge-Off of FHA Indebtedness," upon a report and the favorable recommendation of the employee having charge of the account in the following instances:

(a) *Deceased debtors.* The debtor is deceased and the following conditions exist:

(1) There is no known security for the debt.

(2) If an administrator or executor has not been appointed to settle the estate of the debtor, the financial condition of the estate has been investigated and it has been established that there is no reasonable prospect of recovery.

(3) If an administrator or executor has been appointed to settle the estate of a debtor and (i) a final settlement has been made and confirmed by the probate court and the Government's claim was recognized properly and the Government has received all funds it was entitled to, or (ii) a final settlement has not been made and confirmed by the probate court but there are no assets in the estate from which there is any reasonable prospect of recovery, or (iii) regardless of whether a final settlement has been made, there were assets in the estate from which recovery might have been effected but such assets have been disposed of or lost in a manner which precludes any reasonable prospect of recovery by the Government.

(b) *Disappeared debtors.* The debtor has been absent from his last known address for a period of at least five years, he has no known assets, his whereabouts cannot be ascertained without undue expenses, and there is no existing security for the debt.

(c) *Cancellation of debts that have been discharged in bankruptcy.* Debts discharged in bankruptcy, except judgments obtained by United States Attorneys, may be canceled by the use of Form FHA 456–2, when an opinion has been obtained from the Office of the General Counsel showing that the discharge may be pleaded to bar legal action by the Government against the debtor to enforce collection of the debt.

§ 1864.6 Cancellation of small claims with principal of $150 or less.

Debts with a principal balance of $150 or less may be canceled without application by use of Form FHA 456–2 upon a report and the favorable recommendation of the employee having charge of the account when the indebtedness has all been due and payable for five years or more, efforts to collect the account have been unsuccessful, and it is apparent that further collection efforts would be ineffectual or likely to prove uneconomical.

§ 1864.7 Compromise or cancellation of debts through the use of Form FHA 456–1, "Application for Settlement of Indebtedness," when signature of debtor cannot be obtained.

Debts of a living debtor whose whereabouts is known may be compromised or canceled if it is impossible or impracticable to obtain his signed application and all requirements of this Part 364 applicable to compromise or cancellation have been met.

§ 1864.8 Joint debtors.

Settlements may not be approved as to one joint debtor unless approved as to all debtors. The term "joint debtors" includes all persons who are legally liable for payment of the debt.

(a) Separate and individual adjustment offers from joint debtors should be accepted and processed only as a joint adjustment offer. Joint debtors should be advised, and Form FHA 456–1 should contain a statement, that neither debtor will be released from liability for the full amount of the debt until all payments due under the joint offer have been made.

(b) In those States in which the wife is not legally liable for payment of the debt even though she signed notes or other loan or security instruments with respect thereto, the State Director will prescribe the basis for determining whether the wife is a joint debtor and, consequently, whether she will be required to make application for settlement.

(c) A separate application will be completed by each debtor, unless the debtors are members of the same family, such as husband and wife, or mother and son, and their situation is such that all necessary information can be shown clearly in a single application. In the latter cases, the application will contain the required financial information for each debtor and will be signed by each.

(d) If one debtor applies for compromise, adjustment, or cancellation, and the other debtor is deceased, or has received a discharge of the debt in bankruptcy, or his whereabouts is unknown, or it is impossible or impracticable to obtain his signature, Form FHA 456–1 will be prepared by showing at the top of the Form the name of the debtor requesting settlement, followed by the name of the other debtor. In addition to the information concerning settlement of the debt as to the debtor making application, information also will be shown which justifies settlement of the debt as to the debtor not joining in the application.

(e) If the total indebtedness is not in excess of $150 (principal) and the proposed action is cancellation, Form FHA 456–2 may be used and the names of all the debtors will be shown. Sufficient information also will be given to justify cancellation of the debt against each debtor.

(f) If all debtors are either deceased or have received a discharge of a debt in bankruptcy or their whereabouts are unknown, or if a combination of these situations exists, Form FHA 456–2 will be used and will be completed in the manner required in paragraph (e) of this § 1864.8.

§ 1864.9 Cases in the hands of the Office of the General Counsel.

When a case is in the hands of the Office of the General Counsel, and the debtor makes an offer of settlement before the case has been referred to the United States Attorney, immediately upon receipt of such offer, the County Supervisor will notify the State Director who will obtain the advice of the Office of the General Counsel concerning the proposal and further handling of the case.

§ 1864.10 Cases referred to the Department of Justice.

(a) *Claims and judgments on which United States Attorney's File has not been closed.* When a claim is pending before, or a judgment has been obtained by, the United States Attorney, and the debtor requests settlement of his indebtedness, the County Supervisor will explain to him (1) that the United States Attorney has exclusive jurisdiction over the claim or judgment and that, therefore, the Farmers Home Administration has no authority to consider a settlement offer, and (2) that if he wishes to make a compromise or adjustment offer, he may submit it with any related payment direct to the United States Attorney. The County Supervisor, upon request by the debtor, may assist him in preparing the offer for submission to the United States Attorney, but the offer will be under the signature of the debtor. The offer may be made on Form FHA 456–1, if acceptable to the United States Attorney, or in such other manner as the debtor desires. The County Supervisor will not make any recommendations to the United States Attorney, or any statement or commitment to the debtor which might in any way prejudice the United States Attorney's handling of the case. The County Supervisor will advise the debtor that any payment submitted in connection with the offer should be in the form of a money order or cashier's check payable to the Treasurer of the United States. The County Supervisor will not issue a receipt for the payment.

(b) *Claims on which United States Attorney's file has been closed.* When a claim has been referred to the United States Attorney and his file has been closed without taking judgment, the debt may be compromised, adjusted or canceled under this Part 1864.

§ 1864.11 Approval of settlement and submission to Farmers Home Administration National Office.

(a) *Approval of settlement.* Subject to the policies, procedures, and limitations set forth in this Part 1864, the compromise, adjustment or cancellation of debts may be approved:

(1) By the Administrator where the indebtedness involved in the settlement is $15,000 or more (including principal, interest, and other charges).

(2) By the State Director where the indebtedness involved in the settlement is less than $15,000 (including principal, interest, and other charges). The State Director may redelegate all or part of his authority to State Office loan approval officials upon authorization from the Administrator when justified by the volume of debt settlement actions.

(b) *Submission to National Office.* The following types of proposed settlements, if recommended by the State Director, will be submitted to the National Office for consideration before approval or rejection by the authorized official:

(1) Settlements falling within the Administrator's authority.

(2) Compromise or adjustment offers where the indebtedness is not two years past due.

(3) The debts on which settlement is proposed include rent accounts, D–1 and other leases, Lease and Purchase Contracts that have been canceled or any other debts which have been reported to the General Accounting Office as uncollectible, if the file contains no evidence that the General Accounting Office has closed its file and agreed that Farmers Home Administration resume collection efforts, or if the account is known to be in the hands of the Department of Justice or United States Attorney.

(4) A debt settlement is proposed and a further loan is contemplated.

(5) The proposed debt settlement is for an active borrower.

(6) The debtor's account is involved in a fiscal irregularity investigation case upon which final action has not been taken, or it shows evidence that a shortage may exist and that an inquiry should be made into the matter.

§ 1864.12 Processing of Form FHA 456–1.

Form FHA 456–1 will be used by debtors in making application for compromise, adjustment, or cancellation of their debts.

(a) *Settlement payments and receipts.* An application with which the debtor offers a lump-sum payment in compromise, or with which he offers an initial payment on an adjustment offer, will be supported by payments required therein at the time such application is filed in the County Office. An adequate explanation should be given to the debtors that payments made in connection with offers will be refunded in the form of Treasury checks if the offers are rejected. Payments may be in any form that is acceptable to the Farmers Home Administration as payments on accounts and will be receipted for, by officials of the Farmers Home Administration who are authorized to accept collections, in the usual manner on Form FHA 451–1, "Receipt for Payment," except that receipts covering payments made in compromise cases will contain the following legend: "Compromise Offer—FHA"; receipts covering payments in adjustment cases, made either simultaneously with the offer or prior to receipt of notice of approval, will contain the legend: "Adjustment Offer—FHA"; and receipts covering subsequent payments by debtors under approved adjustments will contain the legend: "Payment under FHA adjustment approved ----------."

(b) *Approval or rejection of offer.* The final action taken on an application for settlement will be indicated by the approving official who will sign and date the original Form FHA 456–1. When a compromise offer or payments under an adjustment offer are involved and the debtor's offer is rejected, any payments made on the offer will be refunded to the

debtor in care of the appropriate County Supervisor. State Directors will notify debtors by letter of the final action taken on their applications for settlement. For rejected applications, the letter will set forth the reasons therefor.

§ 1864.13 Processing of Form FHA 456–2.

Form FHA 456–2 will be used to cancel debts without application of the debtor.

(a) *Approval or rejection.* The final action taken with respect to the cancellation of debts without application will be indicated by the approving official who will sign and date the original of Form FHA 456–2.

§ 1864.14 Disposition of promissory notes.

Notes evidencing debts settled upon application or compromise through use of Form FHA 456–1 without signature will be returned to the debtor or to his legal representative and the security instruments satisfied. Notes evidencing debts canceled without application will not be delivered to the debtor but will be placed in his case folder and disposed of three years after the settlement is completed.

§ 1864.15 Delinquent adjustment agreements.

The State Director may void the agreement when the debtor becomes delinquent in his payments. When an adjustment agreement is voided, the State Director will notify the debtor giving the reasons therefor. Any payments made under the voided agreement will be retained as payments on the debt owed at the time of the application. Such payments may not be used as any part of a subsequent compromise or adjustment offer.

§ 1864.16 Finance Office handling.

In cases of approved offers, remittances will be applied in accordance with established policies, beginning with the oldest loan included in the settlement, except that when the request for settlement includes loans made from different funds, the Finance Office will prorate the amount received on the basis of the total principal balance due the respective funds. When a debtor's adjustment offer is approved, the accounts involved will not be adjusted in the records of the Finance Office until all payments have been made. In such cases, Form FHA 456–1 will be held in a suspense file pending payment of the full amount of the approved offer. All copies of Form FHA 450–1, "Statement of Account," or other forms used for the same purpose, issued in cases of approved adjustments, will be stamped by the Finance Office with the following legend: "Subject to approved adjustment."

PART 1865—REFINANCING OF LOAN ACCOUNTS

Sec.
1865.1 Scope.
1865.2 Policy.
1865.3 Credit counseling.
1865.4 Graduation of Farmers Home Administration borrowers to other sources of credit by voluntary means.
1865.5 Action when borrower fails to graduate by refinancing.

AUTHORITY: The provisions of this Part 1865 issued under R.S. 161, secs. 41, 6, 50 Stat. 528, as amended, 870, sec. 510, 63 Stat. 437, sec. 10, 68 Stat. 735, sec. 4, 64 Stat. 100; 5 U.S.C. 22, 7 U.S.C. 1015, 16 U.S.C. 590w, 42 U.S.C. 1480, 16 U.S.C. 590x–3. Interpret or apply secs. 1, 3, 21, 44, 2, 50 Stat. 522, as amended, 523, as amended, 524, as amended, 530, as amended, 869, as amended, sec. 5, 54 Stat. 1122, as amended, secs. 2, 12, 14, 60 Stat. 1062, as amended, 1076, as amended, 1078, as amended, secs. 1, 2, 1, 501, 502, 503, 504, 509, 1, 63 Stat. 43, as amended, 44, as amended, 82, 432, 433, 434, 436, 883, 1038, sec. 2, 64 Stat. 98, secs. 9, 10, 1, 2, 68 Stat. 735, 999, as amended, sec. 16, 69 Stat. 553 as amended, secs. 1, 8, 70 Stat. 525, 1090, secs. 18, 11, 72 Stat. 840, 841; 7 U.S.C. 1001, 1003, 1007, 1018, 16 U.S.C. 590s, 590z–3, 7 U.S.C. 1001 Note, 1005b, 1005d, 12 U.S.C. 1148a–1 and Note, 1148a–2, 42 U.S.C. 1471, 1472, 1473, 1474, 1479, 7 U.S.C. 1006a, 40 U.S.C. 440, 16 U.S.C. 590x–2, 590x–3, 12 U.S.C. 1148a–1 Note, 7 U.S.C. 1006c, 16 U.S.C. 1006a, 7 U.S.C. 1006e, 16 U.S.C. 590x–4. Other statutory provisions interpreted or applied are cited to text in parentheses.

§ 1865.1 Scope.

This part prescribes the policies to be followed (a) when counseling with applicants and other persons making inquiry at Farmers Home Administration offices concerning agricultural credit assistance, (b) when counseling with Farmers Home Administration borrowers concerning the use of Farmers Home Administration and other credit, and (c) in the graduation of such borrowers to other sources of suitable credit, as soon as they have progressed to the point where such credit is available to them.

§ 1865.2 Policy.

The Farmers Home Administration credit programs will be administered in a manner to assure that they will not supplant or compete with suitable credit available to farmers from other reliable sources.

§ 1865.3 Credit counseling.

(a) *Responsibilities of the County Supervisor.* The County Supervisor is responsible for counseling with applicants and borrowers concerning (1) the manner in which credit should be used to make sound and profitable adjustments and improvements in their farming operations, (2) the other credit sources available to farmers in the area and the general conditions under which credit from such sources is available, and (3) how farmers and ranchers should present their requests for credit services to other lenders.

(b) *Credit counseling with farmers and ranchers inquiring about Farmers Home Administration credit sources.* Inquiries and applications are received in County Offices periodically from individuals who either (1) should be able to obtain suitable credit from other sources because of the resources available to them or (2) are unable to qualify for Farmers Home Administration credit assistance, due to lack of resources or for some other valid reason, but may be able to obtain some credit from another source to enable them to continue in business if their proposed farm and home operations and requests for credit can be properly adjusted. County Supervisors will provide credit counseling assistance to such individuals, as well as to applicants who appear to qualify for Farmers Home Administration credit service. They will also offer to assist such individuals in adjusting their plans of operations and their requests for credit if this appears to be needed to enable them to obtain credit from another source.

(c) *Credit counseling with Farmers Home Administration borrowers concerning use of Farmers Home Administration and other credit.* County Supervisors will assist borrowers in planning for a proper use of Farmers Home Administration and other credit when loans are being made. They will also advise with borrowers concerning the use of such credit at other appropriate times such as during farm and home visits, year-end analysis discussions, and office contacts. Effective credit counseling in the following situations will help assure the early graduation of successful borrowers to other sources of credit.

(1) Borrowers indebted for loans secured by chattels who have made reasonable progress and are in a financial position to obtain annual recurring operating credit from other sources on the basis of crop liens, unsecured notes or open accounts ordinarily should be encouraged to do so even though they cannot refinance the Farmers Home Administration indebtedness secured by liens on livestock or equipment. When necessary the County Supervisor will assist the borrower in discussing his proposed farming operations and credit needs with local lenders for this purpose. Mutual understanding must be reached in such cases concerning the amount of credit to be advanced during the year and the sources of income from which debt payments will be made.

(2) Borrowers indebted for loans secured by chattels who need to purchase additional major items of equipment such as tractors, trucks, and harvesting equipment or replace such items and who are able to make satisfactory arrangements for such purchases from other sources ordinarily should be encouraged to do so. County Supervisors should thoroughly analyze with these borrowers the need for such equipment and their ability to meet the additional debt payments required. The borrowers' plans of operation for the year should include the expenditures for such items and provide for meeting the payments due the Farmers Home Administration and other creditors.

§ 1865.4 Graduation of Farmers Home Administration borrowers to other sources of credit by voluntary means.

(a) *Reaching understandings with applicants and borrowers concerning graduation to other sources of credit.* To properly implement the policies set forth in this part, the conditions with

respect to graduation to other sources of credit under which Farmers Home Administration credit assistance is made available must be (1) thoroughly discussed with applicants for Farmers Home Administration loans at the outset, (2) re-emphasized periodically with borrowers during farm visits and office contacts, and (3) reviewed with borrowers during year-end analysis or contacts for collection purposes by relating their progress to the possibility of graduating to other sources of credit. Experience shows that where these three steps are properly carried out borrowers fully understand why they are expected to obtain other suitable credit as soon as possible, and there ordinarily is a continuous graduation of borrowers to other sources of credit on a voluntary basis.

(b) *When borrowers should be advised to refinance their Farmers Home Administration indebtedness.* Ordinarily borrowers indebted for loans other than for annual operating expenses only, will be advised to obtain credit from other sources to refinance their Farmers Home Administration indebtedness when they have acquired sufficient equity in their property to enable them to obtain credit for this purpose from other reliable sources at rates and terms generally available to other farmers in the same area. Borrowers indebted for both Farmers Home Administration chattel and real estate loans are expected to refinance their chattel indebtedness when they are able to do so even though they are unable at that time to refinance their real estate indebtedness. The converse of this situation also is true. No further loans of the type that a borrower has been advised to refinance will be made to such borrower unless it becomes clearly evident that he will be unable to obtain credit needed from other sources.

§ 1865.5 Action when borrower fails to graduate by refinancing.

(a) *Review by County Supervisor and County Committee.* At least once each year during the period designated by the State Director, each County Supervisor will review the status of those borrowers who have been advised to refinance their Farmers Home Administration indebtedness with other credit but have failed to do so within a reasonable period. The County Supervisor will submit the names of such borrowers to the County Committee along with sufficient information concerning their financial situation, progress, and availability of credit to enable the Committee to arrive at a recommendation as to what further action should be taken. The minutes of the committee meeting will include the names submitted by the County Supervisor and the recommendations in each case by the Committee. The County Supervisor, after considering the recommendations of the Committee, will determine the further action to be taken in each case.

(b) *Notice to borrowers who fail to graduate by refinancing.* Each borrower who the County Supervisor determines should seek refinancing will be reminded in writing of the previous discussions with respect to refinancing and that it appears he has progressed to the point where he can refinance the Farmers Home Administration debt involved. At the same time, the borrower will be asked to inform the County Supervisor within 60 days of the progress he is making in refinancing his indebtedness and if he is unsuccessful in refinancing his Farmers Home Administration debt, he should also be asked to inform the County Supervisor of the credit sources contacted.

(c) *Action when borrower fails to respond to advice and written notice regarding refinancing.* (1) Borrowers indebted for any Farm Ownership loans approved after October 31, 1946, or Operating loans, who appear to be able to obtain suitable credit to refinance their Farmers Home Administration indebtedness at rates not exceeding five percent per annum and borrowers indebted for Farm Housing loans and Soil and Water Conservation loans (not coded J) who appear to be able to obtain suitable credit at rates and terms they could reasonably be expected to fulfill:

(i) *Action by County Supervisor.* At the expiration of the 60-day period, the County Supervisor will determine what action should be taken with respect to those borrowers who have not made arrangements to refinance their Farmers Home Administration indebtedness. In order to determine in individual cases whether credit is available, it may be necessary for the County Supervisor to contact the sources of credit approached by the borrower and any other suitable sources of agricultural credit available in the area.

(*a*) If the investigation by the County Supervisor establishes the fact that suitable credit as described in this subparagraph is not available to the borrower to refinance his indebtedness, such borrower will be considered as falling within either of the categories referred to in subparagraph (2) or (3) of this paragraph, depending upon the individual's situation.

(*b*) For each borrower who the County Supervisor determines could have refinanced his indebtedness at the rates and terms described in this subparagraph but failed to do so, the County Supervisor will prepare a report on Form FHA–133, "Request for Legal Action."

(ii) *Action by State Director.* The State Director will review each case submitted to him and determine, on the basis of the facts and recommendations and other information available to him, what action should be taken.

(*a*) The State Director will advise the County Supervisor of the names of those borrowers he has determined have not defaulted in their refinancing agreements. These cases will then be handled in accordance with either of the categories referred to in subparagraph (2) or (3) of this paragraph, depending upon the individual's situation.

(*b*) Each of the remaining borrowers will be informed in writing by the State Director that, on the basis of available information, it appears that credit is available to refinance his Farmers Home Administration indebtedness and that he will be expected to make arrangements to obtain credit for that purpose or to submit additional facts regarding his failure to do so within 30 days.

(*c*) If the borrower fails to comply with the request or fails to furnish satisfactory evidence within 30 days of his inability to obtain the necessary credit, the State Director will refer the case to the Attorney in Charge with his recommendations for foreclosure.

(2) Borrowers who are indebted for Farm Ownership loans approved after October 31, 1946, or Operating loans, who can obtain suitable credit to refinance their Farmers Home Administration indebtedness but only at rates exceeding five percent per annum and borrowers indebted for other types of Farmers Home Administration loans (except Farm Housing loans and Soil and Water Conservation loans (not coded J)), who can obtain suitable credit to refinance their Farmers Home Administration loans: County Supervisors will continue to encourage borrowers during farm and home visits, office contacts, year-end analysis discussions, or collection contacts to refinance their Farmers Home Administration indebtedness.

(3) Borrowers who were requested to refinance their Farmers Home Administration indebtedness but were in fact unable to do so: County Supervisors will notify these borrowers in writing that the Farmers Home Administration will not require them to make further efforts toward refinancing for at least the remainder of that year.

(Sec. 42, 50 Stat. 529, as amended, sec. 508, 63 Stat. 426; 7 U.S.C. 1016, 42 U.S.C. 1478)

PART 1866—PAYMENT-IN-FULL

Subpart A—Direct Farm Ownership, Other Real Estate and Farm Housing Accounts; and Insured Farm Ownership Accounts Held by the Insurance Fund

Sec.

1866.1 General.
1866.2 Authorization.
1866.3 Determining balance to be collected.
1866.4 Delivery of satisfactions, notes, and other documents.
1866.5 Property insurance.

Subpart B—Soil and Water Conservation Accounts

1866.21 General.
1866.22 Payment in full of insured Soil and Water Conservation loan with borrower funds including refinancing by new lender and sale of farm.
1866.23 Payment in full of insured Soil and Water Conservation loan by refinancing with holder of insured note on a noninsured basis.
1866.24 Payment in full of all direct Soil and Water Conservation loans except loans coded J.

Subpart C—Insured Farm Ownership Loans

1866.41 General.
1866.42 Payment in full from borrower's funds, refinancing by a new lender on a noninsured basis, and sale of farm outside program except when holder finances purchaser.

Sec.
1866.43 Payment in full by refinancing with holder on a noninsured basis, or by sale of farm outside the program to person obtaining a noninsured loan from holder.

Subpart A—Direct Farm Ownership, Other Real Estate and Farm Housing Accounts; and Insured Farm Ownership Accounts Held by the Insurance Fund

AUTHORITY: The provisions of this Subpart A issued under secs. 3, 41, 50 Stat. 523, as amended, 528, as amended, sec. 12, 60 Stat. 1076, as amended, sec. 510, 63 Stat. 437, sec. 18, 72 Stat. 840; 7 U.S.C. 1003, 1015, 1005b, 42 U.S.C. 1480, 7 U.S.C. 1006e; Order of Acting Sec. of Agr., 19 F.R. 74, 22 F.R. 8188.

§ 1866.1 General.

Sections 1866.1 to 1866.5 set forth the authorizations, policies, and procedures for processing final payments on direct Farm Ownership accounts, Other Real Estate accounts, and Farm Housing accounts which are paid in full at any time after loan closing. Final payment on an insured Farm Ownership account which is held by the insurance fund will be processed generally in the same manner as a direct Farm Ownership account, except that the borrower will be required to pay any loan insurance charges, any other amounts owed the loan insurance account, and any annual charge, as shown on the statement of account prepared in accordance with the applicable provisions of Subpart C of this part. In every case where a loan has been closed, including those where the entire principal of the loan is refunded before any of it has been previously disbursed from the supervised bank account, the borrower will be required to pay interest from the date of the note to the date final payment is received by the County Supervisor.

§ 1866.2 Authorization.

(a) The County Supervisor is authorized to accept final payment on a direct Farm Ownership account, insured Farm Ownership account held by the insurance fund, Other Real Estate account, or Farm Housing account (except a Farm Ownership account repaid in less than five years by sale of the farm when profit making seems to be the only significant motive for the sale) and to execute the necessary releases and satisfactions in connection with the indebtedness. When a borrower who has not had his loan five years proposes to sell his farm and pay the Farm Ownership loan in full, and profit making seems to be the only significant motive for the sale, the County Supervisor will advise the State Director of the circumstances. The State Director is authorized to approve or disapprove the transaction and will inform the County Supervisor of the action to be taken.

(b) The State Director will issue a State Instruction which will instruct County Supervisors regarding the release or satisfaction of Farm Ownership, Other Real Estate, and Farm Housing mortgages when the loan is paid in full. A form of release or satisfaction prepared or approved by the Attorney in Charge will be used.

(c) Escrow arrangements may be used provided the escrow agent is properly bonded. No escrow arrangements will be initiated by the Farmers Home Administration and no part of the expense for an escrow arrangement will be paid by the Government.

§ 1866.3 Determining balance to be collected.

(a) When a borrower has indicated his desire to pay his account in full, the County Supervisor will prepare and forward to the Finance Office Form FHA–995, "Request for Certified Statement of Account," in order to obtain the unpaid balance of principal and interest on the borrower's account and the daily rate of accrual of interest.

(b) Upon receipt of Form FHA–835, "Certified Statement of Account," from the Finance Office, the County Supervisor will notify the borrower that he is prepared to accept final payment.

§ 1866.4 Delivery of satisfactions, notes, and other documents.

Usually, the County Supervisor will transmit the final payment to the Finance Office with a request for the return of the promissory note for delivery to the borrower; however, if circumstances require delivery of the note at the time final payment is received by the County Supervisor, he will request the Finance Office to forward the note along with the statement of account on Form FHA–835.

(a) *Delivery of documents after note stamped "paid in full" is received from the Finance Office.* The Finance Office, upon receipt of Form FHA–144, "Summary of Remittances," covering the remittance which paid the account in full, will forward to the County Office the note with a "paid-in-full" legend. The note will be returned to the borrower immediately, except that when final payment is made in a form other than currency and coin, U.S. Treasury check, cashier's check or certified check, postal or bank money order, bank draft or a check issued by a responsible lending institution or a responsible title insurance or title and trust company, the note will not be surrendered until fifteen days after the date of final payment, or when the note is needed in making marginal release or satisfaction of the security instrument, the note will be held until the instrument is satisfied. Upon receipt of the note, except as provided above, the County Supervisor will deliver the stamped note, any property insurance policies, and the original mortgage to the borrower. The satisfaction will be executed and delivered in accordance with instructions from the State Director. Any water stock certificates held by the Farmers Home Administration that are the property of the borrower will be transferred to the borrower. Also, any assignment to the Farmers Home Administration of income from the property being released will be terminated as provided in the assignment agreement.

(b) *Delivery of documents at the time final payment is made.* If the circumstances require the delivery of the promissory note and the satisfaction of the mortgage at the time final payment is made, the County Supervisor will prepare the satisfaction, mark the original note with a paid-in-full legend, and will deliver the original note, the original satisfaction, any property insurance policies, and the original mortgage to the borrower only upon receipt of full payment of the unpaid balance of principal and interest, computed as of the date final payment is received, and in case of an insured loan held by the fund upon full payment of all other unpaid amounts shown on the statement of account, and only when such payment is made in the form of currency and coin, U.S. Treasury check, cashier's or certified check, bank draft, postal or bank money order or a check issued by a responsible lending institution or a responsible title insurance or title and trust company. Any water stock certificates held by the Farmers Home Administration that are the property of the borrower will be transferred to him. Also, any assignment to the Farmers Home Administration of income from the property being released will be terminated as provided in the assignment form.

(c) *Cost of recording or filing of satisfaction.* If State law requires recording or filing of the satisfaction by the mortgagee, any recording cost required to be paid by the Government will be paid by voucher.

§ 1866.5 Property insurance.

The County Supervisor will advise the borrower regarding the manner in which property insurance will be canceled or release of mortgage interest executed.

Subpart B—Soil and Water Conservation Accounts

AUTHORITY: The provisions of this Subpart B issued under secs. 2, 5, 6, 50 Stat. 869, as amended, 870, secs. 9, 10, 68 Stat. 735; 16 U.S.C. 590s, 590v, 590w, 590x–2, 590x–3; Order of Acting Sec. of Agr., 19 F.R. 74, 22 F.R. 8188; §§ 366.21 to 366.23 also issued under sec. 11, 72 Stat. 841; 16 U.S.C. 590x–4.

§ 1866.21 General.

This subpart prescribes the authorities, policies, and procedures for processing final payment on insured and direct Soil and Water Conservation loans except that payments on Soil and Water Conservation loans coded J will be handled in accordance wih §§ 1861.6(d), 1871.12 (a), (b), (c), and 1871.14 (b) and (c) of this chapter.

(a) *Authority.* The County Supervisor is authorized to accept final payment on a Soil and Water Conservation loan and to execute the necessary satisfaction or release in connection with the indebtedness.

(1) Form FHA–77, "Satisfaction," may be used to execute satisfactions or releases when permitted by State law. If Form FHA–77 is not satisfactory, the State Director may authorize the use of another form.

(2) If State law requires recording or filing of the satisfaction or release by the mortgagee, any recording cost required to be paid by the Government will be paid by voucher.

(b) *Escrow arrangements.* Escrow arrangements may be used provided the escrow agent is properly bonded. No escrow arrangements will be initiated by the Farmers Home Administration and no part of the expense for an escrow arrangement will be paid by the Government.

(c) *Loan insurance charges for loans evidenced by promissory note forms in the FHA–520 series or FHA–965 series.* In all cases of final payment of an insured loan evidenced by Forms FHA–520, FHA–520A, FHA–965, FHA–965A, FHA–965B, or FHA–965C, when the borrower has had use of all or any part of the loan funds, he will be required to pay the entire annual loan insurance charge computed for the year then current if not already paid. This charge will be one percent of the unpaid principal amount due on the promissory note as of January 1 preceding the date final payment is made on the note account. For the purpose of computing this charge, the date final payment is made on the note account will be the date the funds for final payment of the note account are received by the County Supervisor for transmittal to the Finance Office. In transactions where final payment of the note account is accomplished by the lender's exchanging the insured note for a noninsured note without funds being paid to the Farmers Home Administration, the date the insured loan is refinanced will be considered to be the date final payment is made on the note account.

(d) *Loan funds refunded in full after loan closing.* If an insured loan borrower decides to refund in full his Soil and Water Conservation loan, he will be required to pay interest on the note account from the date of loan closing to the date the U.S. Treasury check is remitted to the lender. However, for a loan held by the insurance fund, the borrower will be required to pay interest on the note account from the date of loan closing to the date of the receipt for the refund. In case the loan is evidenced by a Form FHA–520 or FHA–965 series note, the borrower will be required to pay a loan insurance charge from the date of loan closing to the date the U.S. Treasury check is remitted to the lender. In the event the borrower has prepaid the loan insurance charge, any overpayment will be refunded to the borrower by the Finance Office unless the borrower is indebted on another account, in which case the overpayment will be applied to the unpaid account.

(e) *Return of funds in supervised bank account.* Prior to final payment, any Soil and Water Conservation funds remaining in the borrower's supervised bank account will be withdrawn and remitted to the Finance Office for application on the borrower's note account as a refund.

§ 1866.22 Payment in full of insured Soil and Water Conservation loan with borrower funds including refinancing by new lender and sale of farm.

This section applies to all cases where final payment of the insured loan indebtedness is to be derived from the borrower's funds, refinancing with a new lender, and the sale of the farm. The County Supervisor will collect from the borrower any amount owed the loan insurance account, the annual charge for notes on Form FHA–218 or FHA–252, and the balance of the principal and interest owed on the note account and remit the collection to the Finance Office. Since the Farmers Home Administration is the collection agent for the holder, the County Supervisor will advise the borrower, purchaser, or new lender, as the case may be, that the remittance for final payment should be made payable to, or endorsed to, the order of the Farmers Home Administration.

(a) *Finance Office action*—(1) *Adjustment of records.* Upon receipt of the collection in the Finance Office, if the collection pays the account in full, the Director, Finance Office, will take the appropriate action to close the account.

(2) *Notice to holder.* The Finance Office will forward an original and one copy of Form FHA–993A, "Notice and Acknowledgment of Final Payment," to the holder for execution and return of the original to the appropriate County Supervisor.

(b) *County Office action.* Upon receipt from the holder of the canceled promissory note and the original of the completed Form FHA–993A, an instrument of satisfaction or release prepared by the County Supervisor, if needed, will be delivered to the borrower, new mortgagee, purchaser, or the recorder of deeds and mortgages, as the case may require. The canceled promissory note and the satisfied mortgage will be delivered to the borrower. Any water stock certificates held by the Farmers Home Administration which are the property of the borrower also will be transferred to the borrower. Any assignments to the Farmers Home Administration of income from the property being released will be terminated as provided in the assignment agreement. The County Supervisor will make proper disposition of any property insurance as prescribed in Part 1806 of this chapter. The County Office records will be adjusted to show a paid-in-full account.

§ 1866.23 Payment in full of insured Soil and Water Conservation loan by refinancing with holder of insured note on a noninsured basis.

This section applies when final payment of an insured Soil and Water Conservation loan is to be made by refinancing by the holder of the insured note on a noninsured basis. Final payment of the note account may be accomplished by exchanging a noninsured note of the insured promissory note.

(a) *Collection of loan insurance account and annual charge.* The County Supervisor will collect from the borrower any amount owed the loan insurance account and the annual charge, if any. If Form FHA–835, "Certified Statement of Account," shows an unpaid balance of any amount advanced from the insurance fund, the County Supervisor will compute the interest on such amount to the date he receives payment. Also, if the loan is evidenced by Form FHA–218 or FHA–252, the County Supervisor will compute the annual charge to the date he receives payment. He will remit the funds collected to the Finance Office.

(b) *Preparation of Form FHA–993, "Notice of Receipt of Final Payment of Insured Loan."* The County Supervisor will complete Form FHA–993 with respect to the borrower, the amount of loan, and the date of the note or bond and will forward the original and two copies to the holder. The County Supervisor will inform the holder of the outstanding balance of principal and interest due him on the insured note account and the daily rate of accrual of such interest. The County Supervisor will request that, if such amount is in agreement with the holder's records, the holder should insert the date the final payment is received (date insured loan is refinanced), execute the original and one copy of Form FHA–993, and return to the County Supervisor the executed original and copy of Form FHA–993, together with the canceled promissory note.

(c) *Finance Office action.* Upon receipt of the executed original and copy of Form FHA–993 from the County Office, the Finance Office will determine if the full amount owed the loan insurance account, and the annual charge for notes on Form FHA–218 or FHA–252 have been paid, and, if paid, the Director, Finance Office, will sign Form FHA–993 and forward an executed copy to the County Supervisor. Finance Office records will be satisfied as a paid-in-full account.

(d) *County Office action.* Upon receipt of the completed copy of Form FHA–993 from the Finance Office, an instrument of satisfaction or release prepared by the County Supervisor, unless otherwise provided by instructions of the State Director, will be delivered to the lender or the recorder of deeds and mortgages, as the case may require. The canceled promissory note and the satisfied real estate mortgage will be delivered to the borrower. Any water stock certificates held by the Farmers Home Administration which are the property of the borrower will be transferred to the borrower. Any assignment to the Farmers Home Administration of income from the property being released will be terminated as provided in the assignment form. Property insurance will be canceled in accordance with Part 1806 of this chapter. The County Office records will be adjusted to show a paid-in-full account.

§ 1866.24 Payment in full of all direct Soil and Water Conservation loans except loans coded J.

Upon receipt of final payment on such loans, the County Supervisor will transmit the final payment to the Finance Office with a request for the return of the promissory note for delivery to the borrower; however, if circumstances require delivery of the note at the time final payment is received by the County Supervisor, he will request the Finance Office to forward the note prior to the time of final payment.

(a) *Delivery of documents after note stamped "paid in full" is received from the Finance Office.* The Finance Office will forward to the County Office the note stamped with a "paid-in-full" legend. The note will be returned to the borrower immediately, except that when final payment is made in a form other than currency and coin, U.S. Treasury check, cashier's or certified check, postal or bank money order, bank draft or a check issued by a responsible lending institution or a responsible title insurance or title and trust company, the note will not be surrendered until fifteen days after the date of final payment, or when the note is needed in making marginal release or satisfaction of the security instrument, the note will be held until the instrument is satisfied. Upon receipt of the note, except as provided above, the County Supervisor will deliver the stamped note, any property insurance policies, and the original mortgage to the borrower. Any water stock certificates held by the Farmers Home Administration that are the property of the borrower will be transferred to the borrower. Also, any assignment to the Farmers Home Administration of income from the property being released will be terminated as provided in the assignment form. For all real estate loans, and when required for notes secured by chattel property, the satisfaction or release will be executed and delivered in accordance with the instructions of the State Director.

(b) *Delivery of documents at the time final payment is made.* If the circumstances require delivery of the promissory note and the satisfaction of the mortgage at the time final payment is made, upon receipt of the note from the Finance Office, the County Supervisor will prepare the satisfaction or release unless otherwise provided by instructions of the State Director. The County Supervisor will mark the original note with a paid-in-full legend and deliver the original note, the original satisfaction or release, any property insurance policies, and the original mortgage to the borrower only upon receipt of full payment of the unpaid balance of principal and interest computed as of the date final payment is received, and only when such payment is made in the form of currency and coin, U.S. Treasury check, cashier's or certified check, bank draft, postal or bank money order, or a check issued by a responsible lending institution, or a responsible title insurance or title and trust company. Any water stock certificates held by the Farmers Home Administration which are the property of the borrower will be transferred to him. Also any assignment to the Farmers Home Administration of income from the property being released will be terminated as provided in the assignment form. If full payment is not received, or any other requirements prerequisite to the delivery of the note, the satisfaction, and other instruments are not met, the County Supervisor will return the original note to the Finance Office with the proper explanation and will destroy all copies of the satisfaction or release.

Subpart C—Insured Farm Ownership Loans

AUTHORITY: The provisions of this Subpart C issued under sec. 41, 50 Stat. 528, as amended, sec. 12, 60 Stat. 1076, as amended, sec. 18, 72 Stat. 840; 7 U.S.C. 1015, 1005b, 1006e; Order of Acting Sec. of Agr., 19 F.R. 74, 22 F.R. 8188, except as otherwise noted.

§ 1866.41 General.

Sections 1866.41 to 1866.43 prescribe the authorities, policies, and procedures for processing final payment of insured Farm Ownership loans except those loans which are paid in full by making a subsequent insured Farm Ownership loan and insured loans held by the insurance fund. Payment in full of an insured Farm Ownership loan by refinancing with a subsequent Farm Ownership loan will be accomplished in accordance with Part 1833 of this chapter. Payment in full of an insured Farm Ownership loan held by the insurance fund other than with a subsequent Farm Ownership loan will be accomplished in accordance with §§ 1866.1 to 1866.5. For the purposes of this subpart, the terms "lender" and "holder" mean the current holder of the insured note and, when applicable, also the insured mortgage and related instruments.

(a) *Escrow arrangements.* Escrow arrangements may be used provided the escrow agent is properly bonded. No escrow arrangement will be initiated by the Farmers Home Administration and no part of the expense for an escrow arrangement will be paid by the Government.

(b) *Special restrictions.* The Bankhead-Jones Farm Tenant Act, as amended, and the security instrument or note taken in connection with each insured Farm Ownership loan provide that, without the consent of the Government, no final payment of an insured Farm Ownership loan will be accepted, nor release of mortgagee's interest made, in less than five years from the date of the mortgage relating to the loan. It is further provided that the farm or any interest therein may not be sold without consent of the Government and, when applicable, the consent of the holder. Subject to the policies and procedures prescribed in this Subpart, the County Supervisor is authorized, on behalf of the Government, to execute instruments of satisfaction, release, or consent in connection with the payment in full of an insured Farm Ownership loan or sale of the farm of an insured Farm Ownership borrower.

(c) *Loan insurance charge for loans evidenced by Form FHA–240, "Promissory Note," or Form FHA–360, "Promissory Note."* In all cases of final payment of an insured loan evidenced by Form FHA–240 or Form FHA–360, when the borrower has had use of all or any part of the loan funds, he will be required to pay the entire annual loan insurance charge computed for the year then current, if not already paid. This charge will be 1 percent of the unpaid principal amount due on the promissory note as of the installment due date preceding the date final payment is made on the note account. For the purpose of computing this charge, the date final payment is made on the note account will be the date the funds for final payment of the note account are received by the County Supervisor for transmittal to the Finance Office. In transactions where final payment of the note account is accomplished by the exchange of promissory notes without funds being paid to the Farmers Home Administration, the date final payment is made on the note account will be considered to be the date the insured loan is refinanced. This will be the date entered in the space entitled "Final Payment Received" on Form FHA–993, "Notice of Receipt of Final Payment on Insured Loan."

(d) *Loan funds refunded in full after loan closing.* If a borrower decides to refund in full his loan, he will be required to pay interest on the note account from the date of loan closing to the date the U.S. Treasury check is remitted to the lender. However, for a loan held by the insurance fund or under a 2(f) agreement, the borrower will be required to pay interest on the note account from the date of loan closing to the date of the receipt for the refund. In case the loan is evidenced by Form FHA–240 or Form FHA–360, the borrower also will be required to pay a loan insurance charge from the date of loan closing to the date the U.S. Treasury check is remitted to the lender.

(e) *Actions to effect final payment—*(1) *Return of funds in supervised bank account.* Any Farm Ownership funds remaining in the borrower's supervised bank account will be withdrawn and remitted to the Finance Office for application on the borrower's note account as a refund prior to the request for a statement of account.

(2) *Determining balance to be collected.* The County Supervisor will request the Finance Office to send him Form FHA–835, "Certified Statement of Account," to show all amounts owed on the borrower's Farm Ownership account.

(f) *Actions subsequent to final payment—*(1) *Satisfaction of mortgage—*(i) *By lender.* The holder of an insured mortgage (which is not held by the Government under a trust assignment or declaration of trust), upon receiving full payment of the note account, will execute the customary form of satisfaction or release of the real estate mortgage, unless otherwise provided by instructions from the State Director in

certain states using deeds of trust. Upon request of any holder of an insured mortgage, the County Supervisor will furnish an appropriate form of satisfaction or release previously approved for this purpose by the Farmers Home Administration.

(ii) *By Government.* In case of payment in full of an insured loan for which the lender holds only the note, or an insured loan for which the Government holds the mortgage under a trust assignment or declaration of trust, the County Supervisor will execute a satisfaction or release of the real estate mortgage on a form previously approved for this purpose by the Farmers Home Administration, unless otherwise provided by the Farmers Home Administration in certain States using deeds of trust. Whenever the Government holds the mortgage under a trust assignment or declaration of trust, the satisfaction will show that the Government is satisfying the mortgage for itself and as trustee.

(2) *Form FHA–366, "Consent and Release of Interest of United States (Insured Farm Ownership Loans)."* In case of payment in full of an insured loan for which the lender holds the mortgage, the County Supervisor will execute Form FHA–366. The original will be delivered only after the note account and all amounts due the loan insurance account have been paid and a satisfaction or release of the real estate mortgage is ready to be delivered.

(3) *Recordation of satisfaction and Form FHA–366.* The satisfaction or release of the real estate mortgage will be recorded, and the cost of such recording will be borne by the borrower, except when State law requires the mortgagee to record or file satisfactions or releases and to pay the cost of recording. When used, Form FHA–366 will be recorded normally along with the satisfaction or release. The cost of recording Form FHA–366 will not be borne by the Government, except when State law requires the mortgagee to pay such cost. Any recording costs required to be paid by the Government will be paid by voucher.

(4) *Special instructions.* If State law or custom provides for any special method or requirement for processing or executing the satisfaction or release or Form FHA–366, or if any problems arise as to satisfactions or releases to be executed by out-of-state lenders, the State Director will issue instructions covering such special method or requirement.

(Sec. 3, 50 Stat. 523, as amended; 7 U.S.C. 1003)

§ 1866.42 Payment in full from borrower's funds, refinancing by a new lender on a noninsured basis, and sale of farm outside program except when holder finances purchaser.

This section applies to all cases where final payment of the insured loan indebtedness is to be derived from the borrower's funds, the proceeds from refinancing with a new lender on a noninsured basis, and the proceeds from the sale of a farm outside the program when a new lender furnishes the funds. The funds for final payment in such cases will be processed through the Finance Office.

(a) *Determining balance of indebtedness and collection.* When the borrower is ready to make his final payment, the County Supervisor will, upon receipt of Form FHA–835 from the Finance Office, compute the amount necessary to repay in full the amount owed the holder on the note account, any amount owed the loan insurance account, and the annual charge for notes on Form FHA–251.

(1) The County Supervisor will collect from the borrower any amount owed the loan insurance account, the annual charge, if any, and the balance of the principal and interest owed the holder on the note account. He will remit the collection to the Finance Office with Form FHA–37, "Receipt for Payment."

(2) Since the Farmers Home Administration is the collection agent for the holder, the County Supervisor will advise the borrower, purchaser, or new lender, as the case may be, that the remittance for final payment should be made payable to, or endorsed to, the order of the Farmers Home Administration.

(b) *Finance Office action—(1) Adjustment of records.* Upon receipt of the collection in the Finance Office, if the collection pays the account in full, the Director, Finance Office, will take the appropriate action to close the account.

(2) *Notice to holder.* The Finance Office will send an original and one copy of Form FHA–993A, "Notice and Acknowledgment of Final Payment," to the holder for execution and return of the original, together with the canceled promissory note and any other papers indicated on Form FHA–993A, to the County Supervisor.

(c) *County Office action.* Upon receipt from the holder of the canceled promissory note and the original of the completed Form FHA–993A, and in the case of an insured loan for which the lender holds the mortgage, also receipt of the real estate mortgage and an instrument of satisfaction or release, the County Supervisor will proceed as follows:

(1) In the case of an insured loan for which the lender holds the mortgage, the instrument of satisfaction or release (furnished by the lender in accordance with § 1866.41(f)) and Form FHA–366 will be delivered to the borrower, mortgagee, purchaser, or the recorder of deeds and mortgages, as the case may require. The canceled promissory note and the satisfied real estate mortgage will be delivered to the borrower. Any abstracts of title held by the Farmers Home Administration which are the property of the borrower also will be delivered to the borrower. The County Supervisor will make proper disposition of any property insurance as prescribed in Part 1806 of this chapter. The executed original of Form FHA–993A will be retained in the borrower's case folder. The County Office records will be adjusted to show a paid-in-full account.

(2) In the case of an insured loan for which the Government is named as mortgagee in the mortgage or an insured loan for which the Government holds the mortgage under a trust assignment or a declaration of trust, an instrument of satisfaction or release (furnished by the County Supervisor in accordance with § 1866.41(f)) will be delivered to the borrower, mortgagee, purchaser, or the recorder of deeds and mortgages, as the case may require. The canceled promissory note, the satisfied real estate mortgage, and any abstracts of title held by the Farmers Home Administration which are the property of the borrower will be delivered to the borrower. The County Supervisor will make proper disposition of any property insurance as prescribed in Part 1806 of this chapter. The executed original of Form FHA–993A will be retained in the borrower's case folder. The County Office records will be adjusted to show a paid-in-full account.

§ 1866.43 Payment in full by refinancing with holder on a noninsured basis, or by sale of farm outside the program to person obtaining a noninsured loan from holder.

This section applies when final payment of the insured loan indebtedness is to be made by refinancing by the holder on a noninsured basis, or by sale of the farm outside the program to a person obtaining a noninsured loan from the holder in an amount not less than the outstanding balance owed on the insured note account. In either case, final payment of the note account may be accomplished by exchanging a noninsured note for the insured promissory note and, when applicable, by exchanging a noninsured mortgage for the insured mortgage. Since no funds are involved in making the final payment to the holder, only any amount owed the loan insurance account and the annual charge, if any, will be transmitted to the Finance Office.

(a) *Collection of loan insurance account and annual charge.* When final payment of the account of the insured borrower is to be accomplished by either of the above methods, the County Supervisor, upon receipt of Form FHA–835 from the Finance Office, will collect from the borrower any amount owed the loan insurance account and the annual charge, if any. If Form FHA–835 shows an unpaid balance of any amount advanced from the insurance fund, the County Supervisor will compute the interest on such amount to the date he receives payment. Also, if the loan is evidenced by Form FHA–251, the County Supervisor will compute the annual charge to the date he receives payment. He will remit the funds collected to the Finance Office with Form FHA–37.

(b) *Preparation of Form FHA–993.* The County Supervisor will complete the information in Section I of Form FHA–993 with respect to the borrower, the amount of loan, and the date of note or bond. The original and two copies of the partially completed Form FHA–993 will be delivered to the holder. The County Supervisor will inform the holder of the outstanding balance of principal and interest due him on the insured note account as of the date of Form FHA–835 and the daily rate of accrual

of such interest. The County Supervisor will request that, if such amount is in agreement with the holder's records, the holder should insert the date the final payment is received (date insured loan is refinanced), execute the original and one copy of Form FHA–993, and return to the County Supervisor the executed original and copy of Form FHA–993, together with the canceled promissory note. If the lender holds the mortgage, the County Supervisor also will request the holder to return the satisfied mortgage. If requested by the holder, the County Supervisor will file for recordation any instrument of satisfaction or release of the mortgage furnished by the holder.

(c) *Finance Office action.* Upon receipt of Form FHA–993 from the County Supervisor, the Finance Office will determine if the full amount owed the loan insurance account and the annual charge for notes on Form FHA–251 have been paid. If paid, the Director, Finance Office, will sign Section II of Form FHA–993. The original of Form FHA–993 will be retained in the Finance Office. Finance Office records will be satisfied as a paid-in-full account.

(d) *County Office action*—(1) *Insured mortgage held by the lender.* For an insured loan for which the lender holds the mortgage, the County Supervisor will, upon receipt of the completed copy of Form FHA–993 from the Finance Office, sign and acknowledge Form FHA–366. Form FHA–366 will be delivered to the lender or to the recorder of deeds and mortgages, as the case may require. The canceled promissory note, the satisfied real estate mortgage, and any abstracts of title held by the FHA which are the property of the borrower will be delivered to the borrower. The completed copy of Form FHA–993 will be placed in the borrower's case folder. Property insurance will be canceled in accordance with Part 1806 of this chapter. The County Office records will be adjusted to show a paid-in-full account.

(2) *Insured note or insured mortgage held by the Government under a trust assignment or declaration of trust.* For an insured Farm Ownership loan for which the Government is named as mortgagee in the mortgage or holds the mortgage under a trust assignment or declaration of trust, the instrument of satisfaction or release (furnished by the County Supervisor in accordance with § 1866.41(f)) will, upon receipt of the completed copy of Form FHA–993 from the Finance Office, be delivered to the lender or the recorder of deeds and mortgages, as the case may require. The canceled promissory note, the satisfied real estate mortgage, and any abstracts of title held by the Farmers Home Administration which are the property of the borrower will be delivered to the borrower. The completed copy of Form FHA–993 will be placed in the borrower's case folder. Property insurance will be canceled in accordance with Part 1806 of this chapter. The County Office records will be adjusted to show a paid-in-full account.

SUBCHAPTER F—SECURITY SERCIVING AND LIQUIDATIONS

PART 1871—CHATTEL SECURITY

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1871.43 Termination of nondisturbance agreements.

Subpart A—Servicing

AUTHORITY: The provisions of this Subpart A issued under R.S. 161, sec. 41, 50 Stat. 528, as amended; sec. 6, 50 Stat. 870, sec. 4, 64 Stat. 100, sec. 10, 68 Stat. 735; 5 U.S.C. 22, 7 U.S.C. 1015, 16 U.S.C. 590w, 590x–3, 40 U.S.C. 442. Interpret or apply secs. 21, 44, 51, 50 Stat. 524, as amended, 530, as amended, 531, as amended, secs. 1–7, 50 Stat. 869, as amended, 870, secs. 1–12, 54 Stat. 1119–1125, as amended, sec. 2, 60 Stat. 1062, as amended, sec. 2, 63 Stat. 44, as amended, sec. 2, 64 Stat. 98, sec. 2, 67 Stat. 150, sec. 8, 68 Stat. 668, as amended, secs. 8–10, 68 Stat. 735, secs. 1–3, 68 Stat. 999, as amended, secs. 8, 9, 70 Stat. 1090; 7 U. S. C. 1001 Note, 1007, 1018, 1025, 12 U. S. C. 1148a–1 Note, 1148a–2, 1148a–4, 16 U. S. C. 590r—590x, 590x–1, 590x–2, 590x–3, 590y, 590z, 590z–1—590z–10, 1006a, 1006b, 1007, 40 U. S. C. 440.

§ 1871.1 General.

This subpart covers the servicing of crop and chattel security for Farmers Home Administration loans, except as otherwise provided in Subpart C of this part with respect to Special Livestock loans. Sections 1871.12 (a), (b), and (c) and 1871.14 also apply to real estate security instruments securing Operating, Emergency, Special Livestock, and other production type loans and direct Water Facilities loans coded J. This subpart does not apply to the servicing of Soil and Water Conservation loans made to associations or loans made to other cooperative associations. After accounts have been approved for liquidation, security property will be disposed of and the proceeds will be used and accounted for in accordance with the provisions of Subpart B of this part. Borrowers must account to the Government for all property mortgaged to secure Farmers Home Administration loans.

§ 1871.2 Taking additional security and keeping security instruments current.

County Supervisors are responsible for maintaining security instruments which will properly identify all security property, including replacements and increases, and for obtaining additional security, as needed, including crop liens.

(a) *Chattels, crops, and assignments.* When additional chattel and crop security not presently covered by a Farmers Home Administration lien is available and needed to protect the Government's interest, County Supervisors will obtain liens on such property and will obtain assignments of the proceeds from the sale of agricultural products or of other income, including, Agricultural Conservation Program payments, to be received by the borrower except that crop liens will not be taken as additional security for Soil and Water Conservation loans. When a new security instrument is taken, all existing security items will be described thereon except small equipment, tools, and so forth, on which a lien would not be required under current loan making instructions. This, however, will not relieve the borrower of the responsibility for accounting for these items of security which are omitted from the latest mortgage. Ordinarily, when taking additional chattel or crop security for one type of

Farmers Home Administration loan, the security instrument also will describe the notes for other Farmers Home Administration loans which are secured by liens on chattels or crops. However, notes for Soil and Water Conservation loans having final due dates which extend substantially beyond that of other Farmers Home Administration loans being secured will not be described on mortgages covering the borrower's crops, livestock, and farm machinery unless such notes are presently secured by substantially the same items of security property.

(b) *Real estate.* In servicing Operating loan cases, liens on real estate including real estate serving as security for any Farmers Home Administration loan may be taken upon approval of the State Director when (1) the borrower has a substantial equity in the real estate to be mortgaged, (2) the taking of such security is necessary to protect the interest of the Government, (3) chattel security is not adequate, and (4) the financial condition of the borrower is unfavorable, considering the amounts owed the Farmers Home Administration and other creditors. Form FHA–127.—, "Real Estate Mortgage," or other form approved by the National Office, will be used for this purpose. Borrowers will be encouraged to insure improvements on real property taken as security for Farmers Home Administration chattel indebtedness in reasonable amounts and against such hazards as are customary in the area. When insurance is necessary, it should be obtained in accordance with the provisions of Part 1806 of this chapter.

(c) *Securing unpaid balances on unsecured loans.* (1) When operating, emergency, or special livestock loans are being made to borrowers owing unsecured balances on prior loans of these types, the notes evidencing such unsecured loans will be described on the mortgage taken to secure the new loans.

(2) When operating, emergency, or special livestock loans are being made to borrowers owing unsecured balances on other Farmers Home Administration loans, the County Supervisor must determine in individual cases whether to request borrowers to give security covering such unsecured balances owed the Farmers Home Administration.

(d) *Extension or renewal of crop and chattel security instruments.* County Supervisors are responsible for seeing that security instruments are extended or renewed as necessary to protect the Government's security interests. This may be accomplished either by (1) obtaining new security instruments as provided in paragraph (a) of this section, or (2) the use of Form FHA–126, "Affidavit of Extension and Renewal," or similar form approved by the Attorney in Charge for this purpose. County Office employees in bonded positions are authorized to execute Form FHA–126 or similar approved form. Form FHA–126 will be recorded or filed in accordance with State Instructions.

§ 1871.3 Furnishing lists of borrowers to purchasers.

County Supervisors may furnish buyers within a trade area with lists of borrowers whose chattels or crops are subject to liens held by the Farmers Home Administration. State Directors may prescribe the use of such lists in specific areas of the State or throughout the entire State. The list will contain the statement: "The chattel mortgages and crop liens held by the Farmers Home Administration are recorded or filed as required by law. This list is furnished only as a convenience to buyers and is not necessarily complete." Lists will be transmitted by letter, Form FHA–852, "List of Farmers Home Administration Borrowers." When the County Supervisor considers it advisable, he should personally deliver the letter and list to the buyers and explain the purpose thereof. The furnishing of these lists will not constitute a substitute for constructive or other notice.

§ 1871.4 Using Form FHA–14 and Form FHA–197A as a basis for exercising authority to release chattel security.

The exercise of release authority in connection with both basic and normal farm income security referred to in § 1871.5 will be based upon information concerning the borrower's farm and home operations as reflected in Form FHA–14, "Farm and Home Plan," or Form FHA–197A, "Operating Budget and Financial Statement," or revisions thereof.

(a) In cases where either a loan has been made for the current year or a Form FHA–14 is required for the year, the exercise of release authority will be based upon the information contained in Form FHA–14 or Form FHA–197A prepared for that year.

(b) In cases other than those referred to in paragraph (a) of this section, the exercise of release authority will be based upon the information contained in the most recent Form FHA–14 or Form FHA–197A available, provided no substantial change has occurred in the borrower's farm and home operations or financial status since such form was prepared. If a substantial change has occurred in the borrower's operations or financial status, the necessary revisions will be made in the existing Form FHA–14 or Form FHA–197A or a new form will be prepared and used in exercising the release authority.

§ 1871.5 Releasing security property.

Property mortgaged to the Farmers Home Administration may be released as provided in this subpart only when it clearly appears from the facts that such release will not be to the financial detriment of the Government. Borrowers will be held strictly accountable to the Government for the proper use of proceeds from the sale of security property. Insurance proceeds derived from the loss of security property will be treated the same as proceeds derived from the sale of security property. The authority to release security for Farmers Home Administration loans is different for basic security and normal farm income security. The release authorities in this subpart will be applicable to all Farmers Home Administration loans secured by chattels except when a borrower is indebted on a Special Livestock loan only, or on both a Special Livestock loan and a Soil and Water Conservation loan. In such cases, Subpart C of this part will be followed.

(a) Basic security consists of all equipment serving as security for Farmers Home Administration loans. It also consists of all foundation herds and flocks, including replacements, which serve as a basis for the farming operation outlined in the Farm and Home Plan or yearly budget which serve as security for Farmers Home Administration loans. With respect to livestock herds and flocks, animals that are sold as a result of the normal culling process are basic security unless the borrower has replacements that will keep numbers and production up to planned levels. However, if a borrower plans to make a significant reduction in his basic livestock herd or flocks, the animals or birds that are sold in making this reduction will be considered basic security. County Supervisors are authorized hereby to release basic security when the property has been sold or exchanged for its fair market value, and the proceeds are used for one or more of the following purposes:

(1) To pay on the debts owed to the Farmers Home Administration which are secured by liens on the property sold.

(2) To purchase from the proceeds of the sale, or to acquire through exchange, property more suitable to the borrower's needs, subject to the following conditions: The new property, together with any proceeds applied to the indebtedness, will have security value to the Farmers Home Administration at least equal to that of the lien formerly held by the Farmers Home Administration on the old property. The new property must be made subject to a lien in favor of the Farmers Home Administration by the execution of a new security instrument or by operation of the "replacement" or "after acquired property" clauses in lien instruments.

(3) To make payments to other creditors having liens on the property sold which are superior to the liens of the Farmers Home Administration provided any amount remaining after payments are made to the other creditors is used in accordance with the provisions of subparagraphs (1) and (2) of this paragraph.

(4) To pay costs required to preserve or realize on security property because of an emergency or catastrophe when the need for funds cannot be met through a Farmers Home Administration loan in sufficient time to prevent the borrower and the Farmers Home Administration from suffering a substantial loss.

(b) Normal farm income security consists of all security property not considered as basic security. This will include crops, livestock, livestock products, and poultry covered by Farmers Home Administration liens which are sold in the usual course of operating the farm

business. County Supervisors are authorized to release normal farm income security when the property has been sold for not less than its fair market value and the proceeds are used in accordance with the requirements in this paragraph, or the property is disposed of without sale under one or more of the following conditions in this paragraph:

(1) To pay on debts owed to the Farmers Home Administration.

(2) To pay farm and home expenses provided for in the appropriate tables of Form FHA–14 or Form FHA–197A, including approved revisions thereof.

(3) To pay necessary farm and home expenses which are shown as debts in the financial statement on Form FHA–14 or Form FHA–197A and which are to be paid during the year as shown by the debt payment table, provided these debts were incurred in the production, harvesting, or marketing of crops, livestock, livestock products, poultry, or poultry products sold during the year covered by such forms, or were for family subsistence for that year.

(4) To pay income taxes and Social Security taxes not to exceed the amount of one year's such taxes.

(5) To make payments on debts secured by liens on the property sold which are superior to the liens of the Farmers Home Administration.

(6) To pay annual installments on farm real estate debts owed to creditors other than the Farmers Home Administration provided (i) amounts of such installments are reasonable when related to the normal rental charge for similar farms in the area, and (ii) there is assurance that the borrower will retain possession of the farm for the next crop year.

(7) To make reasonable payments on debts owed to other creditors for essential home equipment and essential passenger automobiles provided for in the debt payment tables of Form FHA–14 or Form FHA–197A or approved revision thereof. Such debts ordinarily will not be paid before the full amount agreed upon for the year has been paid to the Farmers Home Administration. However, reasonable amounts may be paid on such debts to other creditors before the amount agreed upon for the year has been paid to the Farmers Home Administration provided failure to make such payments to other creditors when due would result in the borrower's losing possession of essential home equipment or an essential passenger automobile, and such loss of possession would make it necessary for the borrower to replace the property or to go to substantial additional expense in order to continue his farming operations.

(8) To make payments on debts owed to other creditors and to make purchases or to meet expenses which are not otherwise provided for in this paragraph, including the payment of income taxes and Social Security taxes not included in subparagraph (4) of this paragraph, provided (i) such debt payments, purchases, or expenses are included in the Form FHA–14 or Form FHA–197A, (ii) it appears clear that sufficient income will be available to pay on the Farmers liens on chattel property the amount Home Administration debts secured by scheduled on the notes to fall due during the year, plus the amount agreed to be paid on any delinquencies on such debts, and (iii) such debt payments, purchases, or expenses are essential to permit the borrower to obtain or retain necessary equipment, or to continue operation of the farm on a sound basis.

(9) To pay costs required to preserve or realize on security property because of an emergency or catastrophe when the need for funds cannot be met through a Farmers Home Administration loan in sufficient time to prevent the borrower and the Farmers Home Administration from suffering a substantial loss.

(10) To permit mortgaged crops to be fed to livestock when it is determined by the County Supervisor that such disposal of the mortgaged crops is preferable to direct marketing of the crops provided a lien or assignment is obtained in accordance with § 1831.10(a)(6) of this chapter, depending upon the type of loan.

(11) When livestock is consumed by the borrower family for necessary subsistence purposes.

(12) When the Farmers Home Administration holds a mortgage on crops in which neither the borrower nor the Farmers Home Administration has an interest, due to the fact that the borrower is no longer occupying or farming the premises described in the mortgage.

(c) The County Supervisor is authorized to redelegate the authority to release security property, as provided in this section, to Assistant County Supervisors, Emergency Loan Supervisors, and Assistant Emergency Loan Supervisors, provided it is determined that the individual to whom such authority is being redelegated has had sufficient training and experience to exercise the authority properly. The County Supervisor also may redelegate such authority to any other employees in bonded positions in his office under the same conditions except that basic security may be released only in the event the use to be made of the proceeds therefrom has been agreed to by the County Supervisor, or Assistant County Supervisor if he has been redelegated release authority, and such agreement has been documented in the borrower's running case record.

§ 1871.6 Accounting for security property.

County Supervisors are responsible for maintaining currently a record of each borrower's security property.

(a) *Accounting by the borrower*—(1) *Basic security.* Borrowers are required to discuss all proposed dispositions of basic security with supervisory officials prior to the time such dispositions are made. If the proposed dispositions appear proper, Form FHA–851, "Statement of Conditions on Which Lien will be Released," covering such property will be executed by the County Supervisor or his delegate and delivered to the borrower.

(2) *Normal farm income security.* When borrowers make prior inquiries concerning the sale or exchange of normal farm income security, they will be informed that if the property is sold, it must be sold subject to the Farmers Home Administration's lien and that the lien will be released only if the proceeds are used and accounted for as provided in this subpart. Purchasers of mortgaged property who make inquiry will be informed that they should deliver any proceeds in cash to the County Supervisor or make checks payable jointly to the borrower and the Farmers Home Administration.

(b) *Use of Form FHA–99, "Release."* County Supervisors or their delegates are authorized to execute Form FHA–99 or other approved form covering specific items of property when the requirements of § 1871.5 have been met. Such form need not be prepared in any case unless requested by a borrower or by an interested third party.

§ 1871.7 Releases and suspensions of assignments.

(a) *Authority.* (1) County Supervisors are authorized hereby to release or temporarily suspend assignments of proceeds from the sale of agricultural products, including Agricultural Conservation Program payments and crop insurance assignments received in the form of checks made payable jointly to the borrower and the Farmers Home Administration. This authority may be exercised in emergency situations and in other justifiable circumstances provided its exercise will not be to the financial detriment of the Government and the funds will be used for the purposes enumerated in § 1871.5. County Supervisors will take action to see that suspended or released assignments are reinstated or new assignments are obtained when needed.

(2) State Directors are authorized hereby in justifiable cases to approve requests for suspension or release of assignments other than those specified in subparagraph (1) of this paragraph, provided such action will not be detrimental to the Government's interest.

(b) *Method.* All suspensions or releases of assignments will be made on forms approved by the Office of the General Counsel.

(R.S. 161, secs. 41, 6, 50 Stat. 528, as amended, 870, sec. 4, 64 Stat. 100, sec. 10, 68 Stat. 735; 5 U.S.C. 22, 7 U.S.C. 1015, 16 U.S.C. 590w, 40 U.S.C. 442, 16 U.S.C. 590x–3; Order of Acting Sec. of Agr., 19 F.R. 74, 22 F.R. 8188, 26 F.R. 8403)

§ 1871.8 Waivers and subordinations of crop liens for borrowers receiving loans or selling commodities under Commodity Credit Corporation programs, other than on wool and mohair.

The authorities and procedures outlined in this paragraph for waiver of Farmers Home Administration liens apply to Commodity Credit Corporation cotton loan and cotton purchase programs and for subordination of Farmers Home Administration liens apply to Commodity Credit Corporation loan pro-

grams on other commodities, except release of liens on wool and mohair. The authorities and procedures contained herein apply whether Commodity Credit Corporation loans or purchases are made directly by Commodity Credit Corporation or through a lending or purchasing agency authorized by Commodity Credit Corporation.

(a) *Commodity Credit Corporation loan programs*—(1) *Authority.* County Supervisors are authorized to execute waivers or subordinations of Farmers Home Administration liens on crops in favor of Commodity Credit Corporation or its approved lending agencies, to enable Farmers Home Administration borrowers to obtain Commodity Credit Corporation loans, provided (i) the loan funds are to be used for the purposes set forth in § 1871.5(b) of this subpart, (ii) the loan is for the full amount of the Commodity Credit Corporation loan value of the total quantity of the commodity described in the Commodity Credit Corporation loan forms, and (iii) the producer's note contains a request for disbursement of loan funds, as set forth in subparagraph (2) of this paragraph, and provided further that when the amount of the commodity loan is less than the market value of the crop pledged at the time such loan is made, the borrower has paid or will pay from the Commodity Credit Corporation loan the amount due on debts owed to the Farmers Home Administration for the crop year, including any delinquencies.

(2) *Routines for handling lien waivers or subordinations.* For borrowers to obtain Commodity Credit Corporation loans, County Supervisors will be required to execute waivers or subordinations of Farmers Home Administration liens on Forms CL–AA and CL–B, CCC Rice–B, CCC Dry Bean–B, and CCC Cotton A and G 2, which will be furnished by the Commodity Credit Corporation or its approved lending agencies. If any other type of lien waiver or subordination form is being used locally for Commodity Credit Corporation loans, such form may be used to waive or subordinate the lien of the Farmers Home Administration if approved by the State Director upon the advice of the Attorney in Charge. The borrower will be required by Commodity Credit Corporation to sign a producer's note to evidence the commodity loan. Space is provided in the note for the insertion of the names and addresses of lienholders and the amounts which the producer requests the payee (Commodity Credit Corporation or its associate lending agency involved) to pay to them or to other parties who may have an interest in the proceeds. Before signing the "Lienholder's Waivers," the County Supervisor is responsible for seeing that such space in the producer's note is filled in properly so as to provide for the proper distribution of the Commodity Credit Corporation loan funds. The producer's note should provide for the issuance of a check payable to the Farmers Home Administration for the total amount to be paid to this agency, or a statement will be inserted requiring the issuance of a joint check for the net proceeds of the loan payable to Farmers Home Administration, the borrower, and any other lienors or designees. Either method of disbursement will be acceptable.

(b) *Commodity Credit Corporation cotton purchase program*—(1) *Authority.* County Supervisors are authorized to execute waivers of Farmers Home Administration liens on cotton in favor of the Commodity Credit Corporation or its approved purchasing agencies to enable borrowers indebted to the Farmers Home Administration to sell cotton being purchased by Commodity Credit Corporation or such agencies, provided the cotton is sold for its present market value, the sales proceeds are to be used for the purposes set forth in § 1871.5(b), and the producer's sales agreement contains a request for payment of the purchase price as set forth in subparagraph (2) of this paragraph.

(2) *Routines for handling lien waivers.* For borrowers to sell the cotton being purchased by Commodity Credit Corporation or its approved purchasing agencies, County Supervisors will be required to execute waivers of Farmers Home Administration liens. Waiver forms on Form CCC Cotton SA will be furnished by Commodity Credit Corporation or its approved purchasing agencies. The borrower will be required by Commodity Credit Corporation to sign Form CCC Cotton SA. Space is provided in this form under "Producer's Sales Agreement" for insertion of the names and addresses of lienholders and the amounts which the producer request the payee (Commodity Credit Corporation or its approved purchasing agency involved) to pay to them or to other parties who may have an interest in the proceeds. Before signing the "Lienholder's Waiver" on this Form, the County Supervisor is responsible for seeing that such space in Form CCC Cotton SA is filled in properly so as to provide for the proper distribution of the purchase price. Form CCC Cotton SA should provide for the issuance of a check payable to the Farmers Home Administration covering the total amounts to be paid to this agency or a statement will be inserted requiring the issuance of a joint check for the net proceeds of the cotton payable to the Farmers Home Administration, the borrower, and any other lienors or designees. Either method of disbursement will be acceptable.

(3) *Special authority.* Because of market locations or other unusual marketing condition, the Administrator may grant special authorization to County Supervisors, other than those serving the area in which the borrower resides, to execute lien waivers for Farmers Home Administration on Form CCC Cotton SA.

(c) *Redelegating authority.* The County Supervisor is authorized hereby to redelegate the authority to execute waivers or subordinations of Farmers Home Administration liens in favor of Commodity Credit Corporation or its approved lending and purchasing agencies as provided in this § 1871.8 to any employees in bonded positions in his office.

[25 F.R. 4158, May 11, 1960]

§ 1871.9 Executing releases of liens on wool and mohair marketed by consignment.

(a) *General.* This section provides the procedure and authority for releases by County Supervisors of liens on wool or mohair when producers, who are borrowers from the Farmers Home Administration, market their wool or mohair by consignment through a company, corporation, or marketing association acting as a broker.

(b) *Policy.* Liens on wool and mohair may be released in instances when the security property is marketed by consignment, provided all of the following conditions are met:

(1) The producer assigns to the Farmers Home Administration the proceeds of any advances made, or to be made, on the wool or mohair by the broker, less necessary costs involved in shipping, handling, processing and marketing.

(2) The producer assigns to the Farmers Home Administration the proceeds of the sale of the wool or mohair, less any remaining costs involved in shipping, handling, processing, and marketing, and less the amount of any advance made by the broker against the wool or mohair, including interest.

(3) The producer and broker agree that the net proceeds of any advances on, or from the sale of, the wool or mohair will be paid by checks made payable jointly to the producer and the Farmers Home Administration.

(c) *Authority.* Pursuant to the policy set forth in paragraph (b) of this section, County Supervisors are authorized to execute releases of the Government's lien on wool and mohair on Form FHA–911, "Assignment, Acceptance, and Release." Since Form FHA–911 does not constitute a binding agreement until executed by all parties in interest, including the producer and the broker as well as the Government, the County Supervisor may execute it before it is signed by the other parties. Form FHA–911 will be executed in an original and two copies. The original will be given to the broker and a copy will be delivered to the borrower.

§ 1871.10 Subordination of security.

(a) *Policy.* Farmers Home Administration employees may not guarantee, personally or on behalf of the Government, repayment of advances from other credit sources. However, to assist borrowers to obtain credit from other sources, liens in favor of the Farmers Home Administration may be subordinated when all the following conditions exist:

(1) Such action will assist the Government in preserving or realizing on its security.

(2) The best interest of the borrower will be served by such action.

(3) The Government will suffer no financial detriment by reason of such subordination.

(4) There are no liens junior to the Farmers Home Administration lien, or if there are any such junior liens, the holders thereof consent in writing to the subordination.

(b) *Authorizations and purposes.* State Directors are authorized hereby to execute subordinations of Farmers Home Administration liens on property subject to the above-stated policy and in the following instances:

(1) When an obligation secured by a lien prior to that of the Farmers Home Administration is about to mature or has matured and the prior lien holder desires to extend or renew the obligation, or the obligation can be refinanced, provided the relative lien position of the Farmers Home Administration is maintained.

(2) When the Farmers Home Administration has not and will not advance any funds for the year's operating expenses, provided (i) the subordination covers only livestock increases which are considered normal farm income security or crops, and (ii) the subordination is limited to a specific amount determined to be necessary to meet the year's operating expenses.

(3) When the Farmers Home Administration has not and will not advance funds for the crop year for the expenses directly related to particular crops or particular livestock enterprises provided the subordination covers only such crops, livestock increase, feeder livestock, or other livestock on which the Farmers Home Administration holds a junior lien, and provided the subordination is limited to a specific amount determined to be necessary for annual operating expenses in connection with the particular crops or livestock enterprises involved.

(4) When the Farmers Home Administration has advanced funds for the production of crops and additional funds are needed for harvesting or marketing such crops, provided the subordination of the lien on crops is limited to a specific amount that has been found to be reasonable and necessary for such purposes.

(5) When funds are needed to preserve or realize on security property because of an emergency or catastrophe and such need for funds cannot be met through a Farmers Home Administration loan in sufficient time to prevent the borrower and the Farmers Home Administration from suffering a substantial loss.

(6) When such action is necessary to enable the borrower to obtain insurance on crops mortgaged to the Government, provided the borrower assigns the proceeds of such insurance to the Farmers Home Administration.

(7) When another creditor has made or will make advances to produce, harvest, process, or market a particular crop(s) provided the crop(s) is under written contract with the creditor, and the contract limits advances to production, harvesting, processing, or marketing costs in connection with the contract crop(s) or to purposes related thereto. Under this authority, waivers of Farmers Home Administration lien priority in favor of such creditors may be executed in lieu of subordinations where this is necessary, provided the policy conditions of paragraph (a) of this section, under which subordinations by the Government may be executed, are met.

(c) *Authority to redelegate.* State Directors are authorized to redelegate to County Supervisors the authority to subordinate the Government's lien in accordance with the requirements contained in this section.

(d) *Method.* Subordinations or lien waivers authorized herein will be made on Form FHA–286, "Subordination by the Government," or on other suitable forms approved by the Farmers Home Administration.

§ 1871.11 Correcting errors in security instruments.

When security instruments unintentionally have been taken to secure Farmers Home Administration loans covering chattels or crops which the mortgagor did not own, or in which he had no mortgageable interest, County Supervisors are authorized to correct such errors by releasing the lien on the property, except when it is determined that there was bad faith on the part of the borrower in giving the security instrument. This authority will be exercised through the use of Form FHA–99, or other form approved by the Office of the General Counsel.

§ 1871.12 Satisfaction of instruments securing Operating, Emergency, Special Livestock, and other production-type loans secured by crops and chattels, and Soil and Water Conservation loans, including Water Facilities loans coded J, secured by chattels.

County Supervisors are authorized to satisfy mortgages, deeds of trust, assignments, severance agreements, and other security instruments upon receipt of payment in full of all notes secured by such instruments and in debt settlement cases when the notes are returned to the borrower.

(a) *Form of payment.* When payment is received in the form of currency and coin, U.S. Treasury check, cashier's or certified check, bank draft, postal or bank money order, or a check issued by a responsible lending institution or a responsible title insurance or title and trust company, the security instruments may be satisfied upon receipt of final payment. When the final payment is made in a form other than the forms mentioned above, the security instruments will not be satisfied until 15 days after the date of final payment.

(b) *Recording or filing satisfactions.* Satisfactions will be made on Form FHA–77, "Satisfaction," or other approved form in an original and one copy. The original of the satisfaction form will be delivered to the borrower for recording or filing and the copy will be retained in the County Office. However, if state laws require recording or filing by the mortgagee, a second copy will be prepared for the borrower and the original will be recorded or filed by the County Supervisor.

(c) *Marginal entry or other form of satisfaction.* When state statutes provide that satisfactions may be accomplished by marginal entry on the records of the recording office, or when Form FHA–77 is not legally sufficient because special circumstances require some other form of satisfaction, County Supervisors are authorized to make such satisfactions in the appropriate manner.

(d) *Satisfaction in debt settlement cases.* In debt settlement cases, the security instruments will be satisfied only when the notes are to be returned to the borrower in accordance with Part 1864 of this chapter.

(e) *Release of Government's interest in insurance policies.* When liens on property covered by insurance have been released, the County Supervisor is authorized hereby to notify the insurance company that the Government has released its lien on the property covered by the insurance.

(f) *Redelegation of authority to satisfy security instruments.* County Supervisors are authorized hereby to redelegate to employees in bonded positions the authority to satisfy security instruments in accordance with the provisions of this § 1871.12.

§ 1871.13 Assignment of notes and security instruments.

State Directors are authorized to accept from third parties payment in full of a borrower's notes held by the Farmers Home Administration and to assign such notes to such third parties without recourse against the Government, and to assign related security instruments without warranty by the Government in the situations set forth below. The Attorney in Charge will review each proposed assignment, as to the legal matters involved, and will approve the form of assignment.

(a) When borrowers request or give written consent to such an assignment.

(b) When borrowers have not requested or given written consent to such an assignment and have demonstrated an unwillingness to cooperate voluntarily with the Farmers Home Administration in the servicing and orderly retirement of their accounts which would otherwise be liquidated.

§ 1871.14 Fees.

(a) *Security instruments.* Borrowers will be required to pay statutory fees for filing or recording mortgages and other security instruments (including renewal mortgages or statements, or Form FHA–126) and notary fees in connection with the execution of such instruments. They will also be required to pay costs of obtaining lien search reports that are necessary in properly servicing security as outlined in this subpart. When possible, borrowers should pay these fees directly to the officials rendering the service. When cash is accepted by personnel of the Farmers Home Administration to be used to pay the above-mentioned fees, Form FHA–385, "Acknowledgment of Payment for Recording and Lien Search Fees," will be executed. If the borrower is unable to pay the necessary fees, the County Supervisor may pay such fees and charge them to the borrower's account.

(b) *Satisfactions.* Fees for filing or recording satisfactions of security instruments must be paid by the borrower unless otherwise required by law. When State law requires the mortgagee to file or record satisfactions and to pay the necessary fees therefor, the fees will be paid by the Farmers Home Administration in accordance with instructions of the State Director.

(c) *Notary fees.* Fees for notary service necessary in connection with releases, subordinations, and other documents executed for and on behalf of the Farmers Home Administration, and which cannot be secured without cost, will be paid by the Farmers Home Administration.

Subpart B—Liquidations

AUTHORITY: The provisions of this Subpart B issued under secs. 41, 51, 50 Stat. 528, as amended, 531, as amended, secs. 2, 6, 50 Stat. 869, as amended, 870; 7 U.S.C. 1015, 1025, 16 U.S.C. 590s, 590w; Order of Acting Sec. of Agr., 19 F.R. 74, 22 F.R. 8188, except as otherwise noted.

§ 1871.21 General.

This subpart establishes the policies, procedures, and authorities for liquidating chattel security and disposing of chattel property acquired by the Government through liquidation, and for handling civil actions, bankruptcy and similar proceedings, and probate or administration proceedings, and alleged criminal violations.

(a) *Insured loans.* When liquidation involving an insured loan is approved, the State Director will take immediate steps to obtain an assignment of the loan to the Government.

(b) *Definitions.* (1) "Government" means the United States of America, Farmers Home Administration and its predecessor agencies, including the Regional Agricultural Credit Corporation, and the United States operating under "2(f) agreements" with State Rural Rehabilitation Corporations or other State agencies or officials pursuant to 40 U.S.C. 440(f).

(2) "Default" is the failure on the part of the borrower to observe his agreements with the Government as contained in notes, mortgages, and other similar instruments.

(3) "Liquidation" is the act of (i) selling chattel security property in line with the policies expressed in § 1871.22 for the purpose of closing out the loan in those cases in which it has been determined that no further assistance will be given, or (ii) instituting civil suit against a borrower or a third party to recover chattel security property or the value thereof, or to recover amounts owed the Government, or (iii) filing claims in bankruptcy or similar proceedings or in probate or administration proceedings for the purpose of closing out the loan. Cases which become paid up from the normal farm income or income resulting from the planned reduction in the size of the enterprise or by refinancing will not be considered as liquidations.

(4) "Civil action" refers to court proceedings to protect the Government's financial interests such as by obtaining possession of property from borrowers or third parties, judgments on indebtedness evidenced by notes or other contracts or judgments for the value of converted property, or judicial foreclosure of security instruments. "Bankruptcy" and similar proceedings to impound and distribute the bankrupt's assets to his creditors, and "probate" and similar proceedings to settle and distribute estates of incompetents or of decedents under a will, or otherwise, and pay claims of creditors are treated separately in this subpart and are not included in the term "civil action."

(5) "Criminal action" refers to court prosecution by the Government to exact punishment in the form of fines or imprisonment for alleged violations of criminal statutes including, but not limited to, (i) unauthorized sale of mortgaged property with intent to defraud, (ii) purchase of mortgaged property with intent to defraud and without payment of the purchase price to the Government, (iii) falsification of assets or liabilities in loan applications, (iv) application for a loan for an authorized purpose with intent to use and use of loan funds for an unauthorized purpose, (v) decision, after obtaining a loan, to use and using the funds for an unauthorized purpose and then making false statements regarding their use, or (vi) by scheme, trick, or other device, covering up or concealing misuse of loan funds or unauthorized disposition of mortgaged property or other illegal acts, or (vii) any other false statements or representations in any matter relating to Farmers Home Administration matters.

(6) "Abandonment" is the voluntary relinquishment of control by the borrower of security property without providing for its care.

(7) "Security property" is chattel property, including growing crops, which is under lien to the Farmers Home Administration.

(8) "Repossessed security property" is security property of which the Government has custody, but which is still owned by the borrower.

(9) "Foreclosure sale" is the act of selling security property by the Government either under the "Power of Sale" in the mortgage or through court proceedings.

(10) "Acquired security property" is security property of which the Government has become the owner through liquidation action authorized by this subpart and chattel property acquired by the Government by execution or other sales.

§ 1871.22 Policy.

(a) *Liquidation.* It is the policy of the Farmers Home Administration to continue with borrowers until they are able to graduate to other sources of credit so long as they have reasonable prospects of eventual success, and provided they continue to make payments in accordance with their ability, account properly for the security property and otherwise meet their obligations under all loans owed the Farmers Home Administration. However, liquidation action will be undertaken when, under the above policy, it is determined that no further assistance will be given to a borrower and when one or more of the conditions set forth below exist. Ordinarily, before a decision is made to initiate liquidation action, the facts in the case will be presented to the County Committee for consideration and recommendations. When liquidation action is taken, it is the policy to liquidate all security property or so much thereof as is necessary to pay the Farmers Home Administration indebtedness in full.

(1) A borrower is delinquent and his refusal or inability to pay on schedule, or as agreed upon, is due to lack of diligence, lack of sound farming operations, or other circumstances within his control.

(2) A borrower whose loan was made with the expectation that he would operate a farm, ceases to farm and voluntary liquidation can be accomplished.

(3) A borrower is in default by unauthorized disposal of security property, or by not properly caring for security property to such an extent that the security interests of the Government are or may be impaired, or by not accounting properly for security property, or by some other action which resulted in bad faith in connection with his loan.

(b) *Civil action.* Court action or other judicial process will be recommended when all other reasonable and proper efforts and methods to obtain payment, to remove other defaults, and to protect the Government's security interests have been exhausted and when one or more of the following conditions exist: There is a need to repossess mortgaged property or foreclose a lien when such action cannot be accomplished by other means authorized in this subpart; there is a need for filing claims against third parties arising out of conversion or other action; the borrower fails to make payments due on his debt in accordance with his reasonable ability to pay and has assets or income from which collection can be made; the Farmers Home Administration or its security property becomes involved in court action through foreclosure by a third party lienholder or through some other action; or other conditions exist which indicate that court action may be necessary to protect the Government's interests. The County Supervisor is not authorized to commit the Government to institute court action to effect collections.

(c) *Criminal action.* When factual information has been obtained indicating that criminal statutes of the United States may have been violated, such facts will be reported promptly.

§ 1871.23 Approval of liquidations.

County Supervisors are authorized to approve liquidation of security property which can be accomplished by the use of Form FHA–217, "Agreement for Public Sale," Form FHA–851, "Statement of Conditions on Which Lien Will Be Released," Form FHA–209, "Agreement for Voluntary Liquidation of Mortgaged Chattels," or under the "Power of Sale" in the lien instrument.

§ 1871.24 Acceleration of unmatured installments.

When a case has been approved for liquidation, the unmatured installments will be accelerated.

§ 1871.25 Advances to protect the Government's interest in security property pending liquidation.

(a) When liquidation has been approved and property serving as security is in imminent danger of loss or deterioration, State Directors are authorized to protect the Government's interest and approve advances in payment of delinquent taxes or assessments which constitute a lien prior to the lien of the Farmers Home Administration in accordance with § 1871.32, premiums on insurance essential to the protection of the Government's interest, and other costs necessary to protect or preserve property serving as security, including necessary transportation costs. However, such advances may not be made unless the amount advanced becomes a part of the debt secured by the Government's lien, or for expenses of administration of estates or for litigation costs. Such advances may not be made in any case after the United States Marshal or other similar official has taken possession of property to be sold by him, but if he seizes the property and delivers it to the Farmers Home Administration for sale by it, costs incurred by Farmers Home Administration after delivery to Farmers Home Administration will be paid by it.

(b) Any such costs incurred by the Government in protecting its security interest may be paid by means of Standard Form 1034, "Public Voucher for Purchases and Services Other Than Personal," and will be charged to the borrower's loan account, or may be paid out of the proceeds of the sale of mortgaged property.

§ 1871.26 Sale of security property by borrowers.

(a) *Public sale.* When security property is to be sold by the borrower in his own name, Form FHA–217 will be executed by the borrower, all lienholders, the clerk of the sale or other person who will receive the sale proceeds, and then by the County Supervisor on behalf of the Government. No official of the Farmers Home Administration is authorized to bid at such sales. The County Supervisor or Assistant County Supervisor will arrange to receive promptly the proceeds of the sale which are due the Government for application on the borrower's indebtedness.

(b) *Private sale.* If the borrower has ready purchasers and can effect an immediate private sale of all of the security property for its present market value or the remaining security property consists of items of small value or a limited number of items which do not justify public sale, Form FHA–851 may be used to liquidate the security property. If the security property is not sold within 30 days after the execution of Form FHA–851, it will be disposed of in accordance with paragraph (a) of this section or § 1871.31.

§ 1871.27 Repossession of security property.

(a) *Taking possession.* County Supervisors and Assistant County Supervisors will take possession of security property for the Government in the situations and under the conditions indicated below:

(1) When security property has been abandoned by a borrower.

(2) When Form FHA–209 has been signed by the borrower, the County Supervisor and by all other lienholders authorizing the sale and distribution of proceeds in accordance with the priority of liens. In all cases where Form FHA–209 is executed, minimum prices will be set forth for all items except farm commodities for which there is a locally established market, and perishable property.

(3) When possession of the property can be obtained peaceably even though the borrower has not signed Form FHA–209.

(4) When security property is delivered to the Farmers Home Administration as a result of court action.

(5) In addition, when the Farmers Home Administration holds a junior lien on items of security property, such items will be repossessed and sold only when the prior lienholder(s) does not intend to enforce his lien and then only when the following are met:

(i) With respect to subparagraphs (1) through (3) of this paragraph, the value of such security property, based on a conservative appraisal, is substantially greater than the amount of the prior lien(s).

(ii) With respect to subparagraphs (1) through (3) of this paragraph, agreement is reached with the prior lienholder(s) that the property may be sold and that such lienholders will release their liens on the property after sale. This agreement will be obtained on Form FHA–845, "Agreement of Lienholders to Sale of Mortgaged Chattels."

(iii) With respect to subparagraphs (1) through (3) of this paragraph, in the event the prior lienholders will not agree to the liquidation of the property, the amount of their liens may be paid off if the circumstances justify, based upon a consideration of the factors indicated in subparagraph (5)(i) of this paragraph and provided their notes and liens are assigned to the Government on forms prepared or approved by the Attorney in Charge. Payment of prior liens not in excess of $2,500 in any one case may be approved by the State Director. Such payments will be made by means of Standard Forms 1034 and charged to the borrower's account in accordance with the provisions of § 1871.31(c). Prior liens in excess of $2,500 in any one case will not be paid off without prior authorization by the National Office.

§ 1871.28 Care of repossessed property pending sale.

When possession has been taken of security property as provided in § 1871.27 (a), County Supervisors, Assistant County Supervisors, Emergency Loan Supervisors, or Assistant Emergency Loan Supervisors will arrange for the custody and care of such property for the period specified in § 1871.31 and are authorized to execute the necessary agreements as follows:

(a) *Livestock.* Livestock will be delivered to a person who is capable of, and has adequate facilities for, caring for and feeding the livestock. Reasonable compensation will be agreed upon in advance. Whenever practicable, animal products will be computed as a part or all of the caretaker's compensation. Delivery, however, will be made pursuant only to a written agreement on Form FHA–210, and the number of days covered by the agreement will be entered in the blank space in paragraph 2 of the form. When an approved extension of time is secured in accordance with § 1871.31, Form FHA–210 will be amended as appropriate and initialed by the parties thereto, or a new agreement executed covering such extension. If a more favorable arrangement cannot be obtained, custody agreements may provide that the Farmers Home Administration will make advances to supply feed necessary to maintain the livestock.

(b) *Machinery, equipment, tools, harvested crops, and other chattels.* This type of property will be properly stored and cared for pending its sale. Space may be leased for this purpose, if necessary, upon prior approval of the State Director, or such property may be stored and cared for by agreement on Form FHA–210 as prescribed above in the case of livestock. This type of property will not be put to use by the caretaker but will be held in storage only.

(c) *Crops.* Arrangements will be made for the custody, care, and disposition of growing crops and for unharvested matured crops. Form FHA–211 will be used for this purpose unless the crops are to be sold in place. When Form FHA–211 is used, it will be executed by the caretaker and by the landlord unless he gives his consent otherwise in writing.

§ 1871.29 Tests and inspections of livestock.

If required by State law as a condition of sale, livestock being sold will be tested or inspected prior to the sale.

§ 1871.30 Authority to bid at execution or foreclosure sales conducted by U.S. Marshals or at liquidation sales by prior lienholders.

(a) *Execution sales.* State Directors are authorized hereby to bid on behalf of the Government at execution sales when personal property which is not covered by the Farmers Home Administration crop and chattel lien is being sold to satisfy a Farmers Home Administration judgment lien, and at Farmers Home Administration foreclosure sales conducted by U.S. Marshals. Such bidding will be subject to the provisions of § 1871.31(a)(2). This authority may be redelegated on an individual case basis to County Supervisors, Assistant County Supervi-

sors, Emergency Loan Supervisors, or Assistant Emergency Loan Supervisors.

(b) *Liquidation sales by prior lienholders.* County Supervisors, Assistant County Supervisors, Emergency Loan Supervisors, and Assistant Emergency Loan Supervisors are authorized hereby to bid on property on which the Government holds a junior lien subject to the provisions of § 1871.31(a)(2).

§ 1871.31 Sale of repossessed property by the Government.

All repossessed property will be sold as soon as practicable and legally permissible after repossession. Livestock, equipment, tools, and other chattels (except irrigation equipment which, together with real estate, serves as security for Soil and Water Conservation loans and is to be sold or transferred with the farm) must be sold within 60 days from the date of the repossession; except in those states where the maximum period of time for which costs of custody, care, and storage legally may be charged to the borrower's account is less than 60 days, the period of time provided by law will be the maximum period for which repossessed property may be held for sale. Crops will be sold within any time limit prescribed by State law. Such sales will be made as soon as the maximum net return can be realized but not later than 60 days after harvesting or the normal marketing time for such crops unless an extension of time is granted by the State Director.

(a) *Public sale.* Repossessed property may be sold at public sale either pursuant to agreement on Form FHA–209, or, when authorized by the State Director, pursuant to the "Power of Sale" in the lien instrument. If requested, Form FHA–213C, "Bill of Sale 'C' (Sale Through Government as Liquidating Agent)," or other necessary instrument to convey all of the right, title, and interest of the Government and the borrowers will be executed and delivered to the purchaser. The method of conducting such public sales will be prescribed by the State Director subject to the following requirements:

(1) *Advertising*—(i) *Pursuant to "Power of Sale" in the lien instrument.* Public sales held pursuant to the "Power of Sale" in the lien instrument will be advertised as provided in the lien instrument or as otherwise required by state law.

(ii) *Pursuant to agreement on Form FHA–209.* Public sales may be advertised by posting handbills.

(2) *Bidding at sales.* The property will be sold to the highest bidder and where the successful bidder is other than the Government, it will be sold for cash (as opposed to credit sales). The County Supervisor, Assistant County Supervisor, Emergency Loan Supervisor, or Assistant Emergency Loan Supervisor will attend all public sales of repossessed property held pursuant to this paragraph and will bid on behalf of the Government where necessary to protect its interests.

(b) *Private sale.* (1) Repossessed property may be sold at private sale for cash under the conditions agreed to by the borrower through the execution of Form FHA–209, provided the sale price for each item is at least equal to the minimum price established by the agreement. If requested by the purchaser, County Supervisors, Assistant County Supervisors, Emergency Loan Supervisors, or Assistant Emergency Loan Supervisors will execute and deliver to the purchaser Form FHA–213C or other necessary instrument to convey all of the right, title, and interest of the Government and the borrower.

(2) Repossessed property may be sold at private sale for cash for its present market value if agreed to by the borrower by the execution and delivery of Form FHA–213B, "Bill of Sale 'B' (Sale by Private Party)."

(3) Repossessed perishable property, such as certain fresh fruits and vegetables, in immediate danger of deterioration or spoilage will be sold at private sale for the best cash price obtainable. If requested by the purchaser, Form FHA–213C will be executed and delivered to him.

(4) Repossessed property such as wheat, rye, oats, corn, cotton, and tobacco (but not livestock and machinery) may be sold at private sale for cash, provided such sales are authorized by the State Director. The price received must be in line with current market quotations for products of similar grade, type, or other recognized classification. If requested by the purchaser, Form FHA–213C will be executed and delivered to him.

(5) Repossessed property in instances other than those outlined in subparagraphs (1), (2), (3), and (4) of this paragraph may be sold for its present market value at private sale in those states where such method is authorized by the security instrument and is permissible legally. State Directors are authorized hereby to approve, or to delegate to County Supervisors authority to approve, the sale of such repossessed property at private sale under such circumstances.

(c) *Payment of costs and prior lienholders by voucher.* When expenses must be paid before the sale or if cash proceeds are not available from the sale of the property with which to pay costs referred to in § 1871.32(a) or to pay prior lienholders, such costs or prior liens will be paid by invoice or Standard Form 1034 (Standard Form 1144, "Public Voucher for Advertising," for newspaper advertising), and the amount of such voucher will be charged to the respective borrower's account, except as limited by state law. No costs incident to the repossession and sale of security property should be incurred unless they can be charged to the borrower's account, and in no event will any such costs be borne by the Government. Each invoice or voucher will be approved by the County Supervisor, signed by the payee or supported by signed invoices, and submitted to the Finance Office for payment. Invoices or vouchers in payment of such costs as custody, care, storage, harvesting, and marketing will be supported by the original and one copy of Form FHA–210 or Form FHA–211, "Agreement for Cultivating, Harvesting, and Delivering Crops."

§ 1871.32 Accounting for proceeds of liquidation sales.

This section applies to distributing and receipting for proceeds of nonjudicial liquidation sales; that is, liquidation sales conducted under the power of sale in lien instruments or under Form FHA–209, Form FHA–217, or Form FHA–851.

(a) *Order of priorities.* The proceeds of such sales will be distributed in the following order of priority except that if other Federal agencies hold liens on the security property, the case will be referred to the Attorney in Charge for advice as to the order of distribution.

(1) To pay expenses of sale and costs of tests and inspections of livestock and costs of the transportation, custody, care, storage, harvesting, marketing, and other costs and expenses chargeable to the borrower, including amounts already paid by the Government and charged to the borrower's account.

(2) To pay liens which under state law are prior to those of the Farmers Home Administration, in accordance with their state law priorities, except that non-Federal tax liens on security property will be paid only when demand is made by tax collecting officials before distribution of the sale proceeds, and the sale proceeds will not be used to pay real estate taxes or substantial amounts of taxes against nonsecurity personal property.

NOTE: This authority for payment of non-Federal tax liens applies to pending cases in which final distribution of the sale proceeds has not yet been made as well as to future cases. If action is threatened or taken by the sheriff or other official to collect taxes not authorized above to be paid out of the security property or the sale proceeds, the sale will be postponed unless an arrangement can be made to deposit in escrow with a responsible disinterested party an amount equal to the tax claim, pending determination of the priority rights thereto. When such action is taken, or such an escrow arrangement is made, the matter will be reported promptly to the State Director for referral to the Attorney in Charge.

(3) To pay rent for the current crop year out of the proceeds from the sale of other than basic security property provided there are no liens junior to the Farmers Home Administration's other than the landlord's lien, if any, and the borrower consents in writing to such payment. However, if an Emergency loan was made for the current year pursuant to Part 1832 of this chapter, cash or standing rent for cropland used for the production of cash crops will be paid only after the amount due or falling due on that loan has been paid.

(4) To pay debts owed the Farmers Home Administration which are secured by liens on the property sold.

(5) To pay liens junior to those of the Farmers Home Administration in accordance with their priorities on the property sold, including any landlord's liens for rent unless such liens have already been paid under subparagraph (2) or (3) of this paragraph.

(6) To pay rent for the current crop year, if the borrower consents in writing to such payment and if such rent has not already been paid as provided in subparagraph (2), (3), or (5) of this paragraph.

(7) To pay on any other debts owed to the Farmers Home Administration which are unsecured or are secured by liens on property which is not being sold. However, in justifiable circumstances, the State Director may approve the use of a part or all of the remainder of such funds by the borrower for other necessary purposes, provided the other Farmers Home Administration debts are adequately secured or the borrower makes satisfactory arrangements to pay the other debts from income or other sources, which payments likely can be depended upon.

(8) To pay the remainder to the borrower.

(b) *Receipts.* Receipts will be obtained for all amounts paid out of the sale proceeds. Form FHA–37, "Receipt for Payment," will be issued only for the total amount remitted to Farmers Home Administration for credit to the borrower's indebtedness. Such amount will be scheduled to the Finance Office in accordance with Part 1862 of this chapter.

§ 1871.33 Handling civil and criminal cases.

All cases in which court actions to effect collection or to enforce the rights of the Government under any of the security instruments are recommended, as well as actions relating to apparent violations of Federal criminal statutes, will be forwarded to the Attorney in Charge for submission to the appropriate United States Attorney.

(a) *Actions on cases referred to the Attorney in Charge.* When a case is referred to the Attorney in Charge, the State Director will notify the County Supervisor and the Finance Office of the referral. After notice of the referral is received by the County Supervisor, no collection or security servicing action will be taken except upon specific instructions from the State Director or the Attorney in Charge. However, when the borrower voluntarily proposes to make a payment on his account, the County Supervisor will receive the collection in accordance with established procedure unless he has received notice that the debt has been accelerated or that the case has been referred to the United States Attorney. The County Supervisor will immediately notify the State Director by memorandum, with a copy sent to the Attorney in Charge, of any such collections received.

(b) *Actions on cases referred to the United States Attorney and on judgment cases (including third-party judgments).* The Attorney in Charge will notify the State Director, the Finance Office, and the County Supervisor when a case is referred to the United States Attorney, a judgment (including third-party) is obtained, or a case is otherwise disposed of. After notice has been received that a case has been referred to the United States Attorney or that a judgment has been obtained, no action will be taken by the County Supervisor except upon specific instructions from the State Director, the Attorney in Charge, or the United States Attorney.

(1) If such a debtor proposes to make a payment, the payment will not be accepted, but an offer will be made to assist in preparing a letter for the debtor's signature to be used in transmitting the payment to the appropriate United States Attorney. In such a case the debtor will be advised to make payment by check or money order payable to the Treasurer of the United States.

(2) Collection items received through the mail from such a debtor or from other sources to be applied to such accounts will be forwarded through the Attorney in Charge to the appropriate United States Attorney. Form FHA–37 will not be issued in any case in which payment is made on a judgment account, or on an account which is in the hands of the United States Attorney. The debtor will be informed in writing by the County Supervisor of the disposition of the amount received and that payments in the future should be made to the United States Attorney at a given address.

(R.S. 367, 34 Stat. 816; 5 U.S.C. 310, 316)

§ 1871.34 Care and disposition of acquired security property.

The County Supervisor or the Assistant County Supervisor will make immediate arrangements for the care and storage of acquired security property in the same manner as for repossessed property. Acquired security property may not be left with a custodian under a custody agreement executed prior to its acquisition by the Government. A new custody agreement will be executed on Form FHA–210 for the care of such property. Acquired security property will be disposed of as expeditiously as possible, but may not be held more than 120 days, except upon the approval of the State Director in individual situations. Form FHA–210 will contain a statement as to the number of days during which the property will be cared for. Charges for the care, custody, transportation, and sale of such property, including any necessary tests and inspections of livestock, will be paid by the Government by means of Standard Form 1034 or certified invoice approved by the County Supervisor.

(a) *Disposition.* The County Supervisor is authorized to sell acquired security property for the best cash price obtainable at public auction or by privately negotiated sale after giving public notice of such sale in accordance with the provisions of § 1871.31(a)(1)(ii), except that public notice must always be given and Form FHA–212A, "Notice of Sale," will be used for private sales. Determination of the type of sale to be held will be based on the prospects of obtaining the highest net return to the Government. Loans may be used in accordance with Farmers Home Administration regulations to purchase such property.

(1) *Transferring title to purchaser.* Title to acquired security property will be transferred to the purchaser, at the time the cash purchase price is paid, by execution and delivery of Form FHA–213A, "Bill of Sale 'A' (Sale of Government Property)."

(2) *Reporting sales of acquired security property.* Form FHA–655, "Invoice," will be prepared at the time of sale.

(3) *Transmitting payments received from sale of acquired security property.* Any form of payment that is acceptable as a payment on indebtedness due the Farmers Home Administration may be accepted in payment for acquired security property. Such payments will be scheduled in accordance with Part 1862 of this chapter. Form FHA–37 will not be issued for funds received from the sale of acquired security property.

(Sec. 43, 50 Stat. 530, as amended; 7 U.S.C. 1017)

§ 1871.35 Reports of inventory transactions; acquired security property.

County Supervisors will prepare inventory reports of acquired Government and Corporation security property and reports of acquisitions and dispositions pertaining thereto on Form FHA–658, "Report of Inventory Transactions." Property lost through death, spoilage, depreciation, or otherwise, will be reported on Form FHA–708, "Statement of Loss of Property." If the property was in the hands of a custodian at the time of loss, the custodian should sign Form FHA–708. Form FHA–708 will show the item number and book value of each item.

§ 1871.36 Bankruptcy and insolvency.

If a borrower becomes involved as a debtor in proceedings under any State or Federal bankruptcy or insolvency law, the County Supervisor will promptly report the facts and forward the borrower's case files and other pertinent information and documents to the State Director for preparation of a proof of claim, if necessary. The County Supervisor will keep the State Director informed of further developments in the case, but will take no other action unless directed to do so by the State Director or the Attorney in Charge.

(a) *Proof of claim.* If the debtor has any assets out of which a collection could be made, the State Director will prepare and execute a proof of claim covering all indebtedness to the Farmers Home Administration except any judgments obtained by a United States Attorney. The State Director will send to the Attorney in Charge the executed proof of claim on Form FHA–280, "Proof of Claim of the United States of America Entitled to Priority of Payment," or other form approved by the Attorney in Charge, together with attachments required by the Attorney in Charge, for filing with the proper official. A proof of claim on an insured loan will not be executed or filed until the note has been assigned to the Government. The State Director, upon advice from the Attorney in Charge will instruct the County Supervisor concerning any actions to be taken by him with respect to meetings of creditors.

(b) *Unsecured claims—Government's priority.* Under the National Bankrupt-

cy Act, after payment of fees and costs, unsecured claims of the United States (including State Rural Rehabilitation Corporation claims under 2(f) agreements and the amount of any claim in excess of any security therefor), with interest to the date of filing the petition in bankruptcy, are entitled to priority of payment over unsecured claims of other creditors.

(c) *Security released to Farmers Home Administration—liquidation—continuation with borrowers.* Ordinarily, when the value of security does not exceed the Farmers Home Administration liens and any prior liens against it, an effort will be made to get the security released to Farmers Home Administration. When security is released to Farmers Home Administration, it will be liquidated in accordance with this subpart if chattel security, or in accordance with Subpart A of Part 1872 of this chapter if real estate security, unless the State Director, upon recommendation of the County Supervisor, approves continuation with the borrower. If the property is liquidated, the proceeds will be applied first to the interest accrued to the date of the filing of the petition in bankruptcy and then to the principal of the debt, and if there are additional proceeds, to the interest accrued from the date of the filing of the petition in bankruptcy to the date of the payment. The State Director may permit the borrower to continue with the loan and retain the security if he determines that the security property should not be liquidated under the liquidation policy applicable to the type of loan involved.

(1) When continuation with a borrower is approved, he will be required to execute a new promise to pay (on a form prepared by the Attorney in Charge) all his Farmers Home Administration indebtedness which is secured by the property released to Farmers Home Administration in accordance with the terms of the existing instrument(s) evidencing such indebtedness. The new promise to pay will be executed by the borrower and a copy will be given to him. The borrower also will be required to execute any security or other instruments deemed necessary by the Attorney in Charge. A new promise to pay and other required instruments will be executed as soon as possible after release of the security to the Farmers Home Administration and the borrower's adjudication in bankruptcy, unless, under State law the new promise to be effective must be made after discharge in bankruptcy.

(R.S. 3466, secs. 57, 64, 50 Stat. 866, as amended, 874, as amended; 11 U.S.C. 93, 104, 31 U.S.C. 191)

§ 1871.37 Deceased borrowers.

If a survivor will not continue with the loan, it may be necessary to make immediate arrangements with a survivor, executor, or administrator, if any, or other interested parties to complete the year's operations or to otherwise protect or preserve the security.

(a) *Probate or administration proceedings*—(1) *Institution of probate or administration proceedings.* Generally, probate or administration proceedings are instituted by relatives or heirs of the deceased or creditors other than Farmers Home Administration. Ordinarily, Farmers Home Administration will not institute probate or administration proceedings because of the problems of designation of an administrator or other similar official, posting his bond, and payment of costs. If probate or administration proceedings are instituted by other parties, or by the United States Attorney at the request of Farmers Home Administration, and any security is to be thereafter liquidated by Farmers Home Administration instead of by the administrator or executor or other similar official, the liquidation will be accomplished in accordance with the advice of the Attorney in Charge.

(2) *Filing a proof of claim.* When a proof of claim is to be filed, it will be prepared by the State Director and transmitted for filing in the manner directed by the Attorney in Charge. If an insured loan is involved, the proof of claim will not be prepared until the note has been assigned to the Government. A proof of claim will be filed in any case in which probate or administration proceedings are instituted, unless:

(i) After considering liens and priority rights of Farmers Home Administration and other parties, costs of administration and charges against the estate, there are no assets in the estate which could be reached by Farmers Home Administration except its security and Farmers Home Administration will liquidate the security, if necessary to collect the Farmers Home Administration claim, by foreclosure or otherwise, or

(ii) Continuation with a survivor or transfer to and assumption by another party is approved, and either the Farmers Home Administration debt is fully secured or the amount of the debt in excess of the value of the security which could be collected by filing a claim is obtained in cash or additional security.

(3) *Priority of claims*—(i) *Secured claims.* Each secured claim will take its relative lien priority to the extent of the value of the property serving as security for it. Secured claims include those secured by mortgages, deeds of trust, landlord's contractual liens, and other contractual liens or security instruments executed by the borrower on real or personal property. However, tax, judgment, attachment, garnishment, laborer's, mechanic's, materialmen's, landlord's statutory liens, and other noncontractual lien claims may or may not constitute secured claims. Therefore, if any claims referred to in the preceding sentence are allowed as secured claims and the Farmers Home Administration claim is not paid in full, the advice of the Attorney in Charge will be obtained as to whether they constitute secured claims and as to their relative priority.

(ii) *Unsecured claims.* The remaining assets of the estate, including any value of security property in excess of the amount of the secured claims against it, are to be applied first to payment of costs of administration and charges against the estate, and second to unsecured debts of the deceased. If the total of such remaining assets in the estate being administered is insufficient to pay all costs of administration charges against the estate, and unsecured debts of the deceased, unsecured claims are payable out of such remaining assets in the following order of priority:

First. Costs of administration and charges against the estate, unless under state law they are payable after the Government's unsecured claims. (Such costs and charges include costs of administration of the estate, allowable funeral expenses, allowances of minor children and surviving spouse, and dower and curtesy rights.)

Second. Government's unsecured claims.

(b) *Withdrawal of claim.* When necessary to permit closing of an estate in which a Farmers Home Administration claim has been filed, the United States Attorney may be requested to withdraw the claim upon receipt of cash payment or additional security of a value comparable to the amount of the debt in excess of the value of existing security which it is estimated could be recovered from the estate, provided that withdrawal of the claim will not affect the Government's rights under existing notes or security instruments.

(c) *Liquidation when no probate or administration proceedings and no continuation with survivor or transfer and assumption.* When probate or administration proceedings have not been instituted and continuation with a survivor or transfer to, and assumption by, another party will not be approved as provided in § 1871.38, any chattel security will be liquidated in accordance with this subpart and any real estate security will be liquidated in accordance with Subpart A of Part 1872 of this chapter as expeditiously as possible. In such liquidation cases if the proceeds from the sale of security are insufficient to pay in full the indebtedness owed to the Farmers Home Administration, and other assets are available in the estate from which collection can be made, the State Director will request the Attorney in Charge to take appropriate action to effect collection.

(d) *Continuation with survivor.* When a surviving member of deceased borrower's family desires to continue with the farming operations, continuation may be approved subject to the following:

(1) *Survivor who is liable.* Any survivor who is liable for the indebtedness of the deceased borrower may continue with the loan provided he can comply with the obligations of the notes, other evidence of debt and chattel or real estate security instruments, and so long as liquidation is not necessary to protect the interest of the Farmers Home Administration. When a survivor who is liable for the indebtedness is to continue with the account, the account will be changed to the continuing survivor's name. Form FHA–97, "Assumption Agreement," will be executed and sent to the Finance Office when under state law the wife of a borrower who has

signed the note cannot be held personally liable for the debt without assumption of liability after the borrower's death. In such a case, the account will not be reamortized and the terms of the note will remain the same unless the State Director determines otherwise.

(2) *Survivor who is not liable.* When a surviving member of the deceased borrower's family, not liable for the indebtedness, desires to continue with the farming operations and the loan, the State Director may approve the transfer of chattel security or real estate security, or both, to him and his assumption of the obligations secured by such property without regard to the personal eligibility of the transferee, subject to the following conditions:

(i) The transferee will continue the farming operations for the benefit of all or a part of the deceased borrower's family.

(ii) The transferee will assume the full amount of the unpaid balance of the secured Farmers Home Administration debts unless the market value of the property is less than such Farmers Home Administration debt plus any prior liens in which case he will assume that portion of such Farmers Home Administration debts which, when added to any prior liens, equals the present market value of the security as determined by the current market value appraisal and the recommendation of the County Committee.

(iii) The assumption agreement meets the repayment terms specified in § 1872.13(c)(2)(iii) of this chapter.

(iv) The State Director determines that the continuation with a survivor will not adversely affect the repayment of the loan and will accomplish the objectives for which the loan was made.

(3) *Considerations in continuing with survivor.* In determining whether to continue with a survivor, whether he is already liable or assumes the indebtedness, all pertinent factors will be taken into consideration including the following:

(i) Whether probate or administration proceedings have been or will be instituted and whether the filing of a claim on the Farmers Home Administration debt in such proceedings is necessary to protect the interests of the Farmers Home Administration.

(ii) Whether the survivor can continue with the loan on a sound basis.

(iii) Whether it is possible to make the necessary arrangements with the heirs, creditors, executors, administrators, and other interested parties to transfer title to the security property to the transferee and to avoid forced liquidation of the assets of the estate to the extent of making it impossible for the survivor to continue with the loan on a sound basis.

(4) *Vesting title in survivor.* If the continuation with a survivor, whether already liable or not, is approved, all steps necessary, short of foreclosure or litigation, will be taken to vest in the survivor full title to the security.

(5) *Release of liability.* Ordinarily, the deceased borrower's estate will not be released from liability for the indebtedness and the deceased borrower's notes and security instruments will not be satisfied or released until the debt has been paid in full, or settled under Part 1864 of this chapter. Other obligors on the notes or other evidence of indebtedness will not be released from liability in connection with transfer to, or assumption by, a survivor without the prior concurrence of the National Office.

(6) *Docket preparation.* Transfers under subparagraph (2) of this paragraph shall be documented and processed in the same manner as transfers and assumptions under § 1871.38.

(e) *Transfers to ineligibles.* No transfers or assumptions of deceased borrower's real estate or chattels, or both, shall be approved to a person ineligible under the requirements of § 1872.13(c)(2)(ii) of this chapter, except as provided in paragraph (d)(2) of this section, and except that the State Director may approve transfers of real estate or chattels, or both, of deceased borrowers to eligible or ineligible transferees other than such survivors only upon prior approval of the National Office.

(R.S. 3466; 31 U.S.C. 191)

§ 1871.38 Transfer and assumption of chattel security and debts.

Transfers and assumptions involving chattel security only may be made as provided in this section. Transfer of one or more accounts, all of which are secured by both chattels and real estate, will be accomplished in accordance with § 1872.13 of this chapter. Continuation of loans with survivors of deceased borrowers, including assumption of indebtedness, is covered by § 1871.37.

(a) *Transfers to eligibles.* The State Director may approve a transfer of chattel security to, and the assumption of, the chattel debt by a transferee who meets the eligibility requirements for transferees as set out in § 1872.13(c)(2)(ii) of this chapter. In such cases the transferee will assume the full amount of the unpaid balance of the Farmers Home Administration debts secured by the chattels unless the present market value of the chattels is less than such debt(s) plus any prior lien(s), in which event he will assume that portion of such Farmers Home Administration debt(s), which, when added to the prior lien(s), equals the present market value of the chattels as determined by the County Supervisor.

(1) Ordinarily, the debt assumed will be repaid in accordance with the rates and terms of the existing note(s) or assumption agreements and any delinquency will be paid on or before the date the transfer is closed. However, if the County Supervisor determines that the transferee cannot pay the delinquency at the time the transfer is closed or cannot repay the loan within the remaining repayment period of the note, he may recommend and the State Director may approve the reamortization of the account for such period as may be necessary but not to exceed seven years from the date of closing of the transfer. The account(s) also will be reamortized whenever the transferor is ahead of schedule or prepaid.

(2) When the total amount of the Farmers Home Administration indebtedness is assumed by the transferee, it will be the policy to release the transferor from personal liability to the Government upon the County Committee's making the following memorandum certification: "The value of the security property of (names of all transferors) is not less than the indebtedness against it and in our opinion the transferors do not have any assets from which the Farmers Home Administration could make a substantial recovery. Therefore, we recommend that the transferors be released from personal liability upon assumption of the full indebtedness by the transferee." The transferor will not be released from liability if the full amount of the debt is not assumed.

(b) *Transfers to ineligibles.* The State Director may not approve a transfer to, or assumption by, a transferee who does not meet the eligibility standards described in § 1872.13(c)(2)(ii) of this chapter without the prior concurrence of the National Office.

(1) An ineligible transferee generally will be required to assume all of the indebtedness secured by chattels or an amount substantially in excess of the present market value of the security less any prior liens if the security is worth less than the entire secured debt.

(2) An ineligible transferee will be required to make a minimum payment at the time of execution of the assumption agreement of at least 20 percent of the debt to be assumed, calculated before such payment. The balance of the Farmers Home Administration debt(s) will be scheduled for repayment in equal annual installments with interest at 5 percent per annum, within the shortest period consistent with the transferee's ability to pay, but not to exceed five years from the date of closing the transfer.

(3) The transferor will not be released from personal liability.

(c) *Release of liability.* When the transfer by assumption is being made to an eligible transferee in accordance with paragraph (a) of this section and the total amount of the Farmers Home Administration debt is assumed by the transferee, it will be the policy to release the transferor from personal liability to the Government upon the certification by the County Committee as contained in § 1872.13(f)(5)(i) of this chapter with respect to a transferee who is assuming the full amount of the indebtedness. The transferor will not be released from liability if the full amount of the debt is not assumed or if the transferee is ineligible.

(d) *County Committee certification and recommendation.* No transfer or assumption under this paragraph will be approved unless the County Committee makes a certification on the memorandum statement form provided in § 1872.13 of this chapter. The certification will be signed by at least two members of the Committee, dated, and made a part of the transferee's County Office file.

(e) *Docket submission.* The County Supervisor will submit to the State Office the County Office file and the following:

(1) Statement of amount of indebtedness involved, description and statement of value of security, and statement of justification, including a plan of repayment.

(2) Form FHA–197, "Application for FHA Services."

(3) Transferee's plan of operation reflected on Form FHA–14, "Farm and Home Plan," or Form FHA–197A, "Operating Budget and Financial Statement," as appropriate.

(4) County Committee's certification regarding transfer.

(f) *Processing assumption agreements.* The assumption agreement will be executed on Form FHA–97. Additional security instruments will be obtained if required by the Attorney in Charge. Upon receipt of Form FHA–97, the Finance Office will establish an account in the name of the assuming transferee. If a collection is received from the assuming transferee after the assumption agreement is approved but prior to Finance's notification to the County Office, Form FHA–37 will be prepared in accordance with § 1872.13(f)(3) of this chapter.

§ 1871.39 Agricultural Stabilization and Conservation Service set-offs.

The Secretary's Order on set-offs authorizes the collection of debts owed to the Farmers Home Administration by set-off against amounts approved for payment to the debtor by Agricultural Stabilization and Conservation Committees.

(a) Recommendations for set-offs will be forwarded by the County Supervisor to the State Director. If the recommendation for set-off is approved, a letter will be written to the borrower stating that a request for a set-off has been made, together with the reasons for such action.

(b) The State Director may withdraw a request for set-off by giving notice to the Agricultural Stabilization and Conservation State Office at any time prior to the processing of set-off voucher. However, set-offs may be withdrawn only if the borrower pays his indebtedness in full, makes substantial payment on his debt, the debt is settled, or it is determined that future collections can be made through ordinary methods.

(c) If the account of the borrower for whom a request for set-off has been submitted is transferred to another Farmers Home Administration County Office jurisdiction, either within or outside the state, the State Director will notify the Agricultural Stabilization and Conservation State Office of the address of the Farmers Home Administration County Office to which the account has been transferred in order that any payments may be sent to such office. If the transfer is to another state, the transferring State Director will notify the receiving State Director that a request for set-off has been made and that he should give consideration to this fact in the servicing of the case, including the advisability of requesting a set-off in the state to which the borrower has moved.

(d) *Check delivery.* Set-offs will be made by means of checks or sight drafts drawn payable to the Farmers Home Administration and delivered to the County Supervisor. Such remittances will be receipted for and scheduled in accordance with Part 1862 of this chapter, except that if the claim has been forwarded to the Attorney in Charge, the remittance will be sent to the Attorney in Charge and his instructions as to application will be followed.

(R.S. 161; 5 U.S.C. 22; Order of Acting Sec. of Agr., 23 F.R. 3757, 7 CFR Part 13)

§ 1871.40 Releases and satisfactions.

Release and satisfaction necessary in connection with liquidation action will be executed in accordance with authorities contained in Subpart A of Part 1871 of this chapter.

Subpart C—Security Servicing for Special Livestock Loans

AUTHORITY: The provisions of this Subpart C issued under R.S. 161; 5 U.S.C. 22. Interpret or apply sec. 2, 63 Stat. 44, as amended; 12 U.S.C. 1148a–2.

§ 1871.41 General.

(a) Accounts and security for Special Livestock loans will be serviced in accordance with all regulations of the Farmers Home Administration which cover the servicing of accounts and security for operating loans insofar as such regulations are applicable and except as expressly provided in this subpart.

[19 F.R. 4105, July 7, 1954, as amended at 23 F.R. 635, Jan. 31, 1958]

§ 1871.42 Disposition of normal farm income security property.

For Special Livestock loans, § 1871.4 (b) is replaced by the following material.

(b) "Normal farm income security" consists of all security property not considered as basic security.

(1) *With income division agreements.* In connection with normal sales of livestock and livestock products which are covered by an income division agreement executed by the prior lienholder, County Supervisors are authorized to release livestock or livestock products from the Government's junior lien, and proceeds from the sale thereof, when they have been sold for their fair market value, provided the proceeds are used as follows:

(i) To pay on the Special Livestock loan account amounts which the Government is entitled to receive under the income division agreement.

(ii) To pay on the indebtedness owed prior lienholders amounts not in excess of those which such creditors are entitled to receive under the income division agreement.

(iii) To pay other debts as agreed upon when the loan was made, provided the amount which the Government is entitled to receive under the income division agreement has been paid, and prior lienholders permit amounts from the income they are entitled to receive to be used for this purpose.

(2) *Without income division agreements.* In connection with sales of normal farm income security property not covered by an income division agreement, County Supervisors are authorized to release the property from the Government's lien, and proceeds derived from the sale thereof, when it has been sold for its fair market value, provided the proceeds are used for one or more of the following purposes:

(i) To pay necessary harvesting and marketing expenses not provided for in the loan, or which cannot otherwise be provided by the borrower from his own resources.

(ii) To make payments on the Special Livestock loan account.

(iii) To make payments to other creditors having liens on the property sold which are superior to the liens of the Farmers Home Administration, provided any amount remaining after payments are made to such other creditors is applied on the borrower's Special Livestock loan, or is released under the conditions and for one or more of the purposes specified in § 1871.42(b)(2).

(iv) To make payments on debts owed to creditors other than those mentioned in subdivision (iii) of this subparagraph, and to make capital purchases as agreed upon when the loan was made, provided:

(*a*) Creditors having liens superior to those of the Farmers Home Administration have been paid the amounts agreed with them to be paid for the year;

(*b*) The Farmers Home Administration has been paid the amounts agreed to be paid for the year.

The amounts shown by Table H of Form FHA–197A, "Operating Budget and Financial Statement," will serve as a guide in releasing income for these purposes; and if the amount available is not sufficient to make all the payments to other creditors as anticipated when the loan was made, priority will be given to the debts which must be paid to enable the borrower to continue in business and the remaining income will be prorated in an equitable manner between the other creditors.

(3) *With or without income division agreements.* In connection with sales of normal farm income security property either covered or not covered by an income division agreement, County Supervisors are authorized to release the property from the Government's lien, and proceeds derived from the sale thereof, when it has been sold for its fair market value, provided the proceeds are used for one or more of the following purposes:

(i) To pay necessary farm and home expenses in those instances in which a loan has not been made for the current year, provided:

(*a*) Such expenses have been included in a budget developed for the year and approved by the State Director (the authority to approve annual budgets for this purpose may be delegated to State Field Representatives or County Supervisors, in the discretion of the State Director);

(*b*) Other lienholders have agreed for releases to be made for this purpose; and

(*c*) If there is an income division agreement, the Government has received the amount it is entitled to thereunder.

(ii) To purchase or acquire through exchange property more suitable to the borrower's needs, subject to the following conditions:

(*a*) The new property must be made subject to a lien in favor of the Farmers Home Administration;

(*b*) The new property, together with the additional proceeds which may be applied on the Special Livestock loan, must have security value to the Farmers Home Administration at least equal to that of the lien formerly held by the Farmers Home Administration on the old property; and

(*c*) When a new security instrument is necessary, ordinarily it will be taken at the time of acquisition of the new property; however, in individual cases the County Supervisor may delay the taking of a new security instrument not to exceed one year,

or until a new security instrument is necessary for other reasons, whichever is earlier, when adequate security will continue to exist, and the borrower's Special Livestock loan account is current during such period of delay.

(iii) To pay not normally recurring costs that are necessary for the preservation of the remaining security property.

§ 1871.43 Termination of nondisturbance agreements.

(a) County Supervisors, with the concurrence of the County Special Livestock Loan Committee or the State Director if a County Special Livestock Loan Committee has not been appointed, are authorized to approve the termination of nondisturbance agreements executed on Form FHA–916, "Agreement—Special Livestock Loans," in individual cases when it is determined that the borrower does not have reasonable prospects of working out of his financial difficulties.

(b) County Supervisors are authorized to approve the termination of nondisturbance agreements in cases in which borrowers have abandoned security property.

PART 1872—REAL ESTATE SECURITY

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Subpart A—Servicing and Liquidations

AUTHORITY: The provisions of this Subpart A issued under R.S. 161, secs. 41, 6, 50 Stat. 528, as amended, 870, sec. 510, 63 Stat. 437, sec. 4, 64 Stat. 100, sec. 10, 68 Stat. 735; 5 U.S.C. 22, 7 U.S.C. 1015, 16 U.S.C. 590w, 42 U.S.C. 1480, 40 U.S.C. 442, 16 U.S.C. 590x–3. Interprets or applies secs. 41, 51, 2, 50 Stat. 528, as amended, 531, as amended, 869, as amended, sec. 2, 60 Stat. 1062, as amended, secs. 1, 2, 510, 1, 63 Stat. 43, as amended, 44, as amended, 437, 883, sec. 2, 64 Stat. 98, secs. 9, 10, 1, 68 Stat. 735, 999, as amended; 7 U.S.C. 1015, 1025, 16 U.S.C. 590s, 7 U.S.C. 1001 note, 12 U.S.C. 1148a–1 and note, 1148a–2, 42 U.S.C. 1480, 7 U.S.C. 1006a, 40 U.S.C. 440, 16 U.S.C. 590x–2, 590x–3, 12 U.S.C. 1148a–1 note. Other statutory provisions interpreted or applied are cited to text in parentheses.

§ 1872.1 General.

(a) *Definitions.* For the purposes of this part, where appropriate, the following definitions shall apply unless otherwise indicated. The term FHA means the Farmers Home Administration, or the United States of America acting through the Farmers Home Administration. The terms FHA loans, FHA accounts, FHA liens, FHA interests, FHA security, FHA debts, and similar terms apply to indebtedness owed to or insured by FHA, related security instruments, and security covered thereby. The term "borrower" includes all persons who are liable for FHA debts or who executed the related security instruments. The term "note" includes any note, bond, assumption agreement, or other evidence of indebtedness. The term "mortgage" includes any deed of trust or other real estate security instrument. The terms FO, FH, OL, SW, EM, SE, SL, WF, and ORE as applied to loans, mortgages, or accounts mean, respectively, Farm Ownership, Farm Housing, Operating, Soil and Water Conservation, Emergency, Special Emergency, Special Livestock, Water Facilities, and Other Real Estate. The term "Attorney in Charge" refers to the attorney in charge of the local field office of the Office of the General Counsel, U.S. Department of Agriculture.

(b) *Scope.* This part delegates authority and prescribes policy and procedure for servicing and liquidating real estate security for all FHA loans except Watershed loans and SW loans to associations.

(c) *General policy.* Real estate security will be serviced, in accordance with the provisions of the mortgages, to accomplish the loan purposes and protect the Government's financial interest. It will be the policy of FHA to continue to service real estate security in any case where (1) the borrowers have reasonable prospects of accomplishing the purpose of the loan, continue to make payments in accordance with their ability, properly account for and maintain the security, and otherwise meet their loan obligations under the loan, and (2) protection of FHA's financial interest does not require immediate liquidation. If a borrower fails to maintain, protect, or account for security so as to jeopardize FHA's financial interest or makes unauthorized disposition of any security, remedial action will be instituted promptly.

(d) *County Supervisor's responsibility.* The County Supervisor is responsible for seeing that security is being properly maintained, protected, and accounted for by the borrower and for servicing the security in accordance with this part. He will visit the farm at least annually.

(e) *Insured loans; style of execution of documents by FHA.* In insured loan cases servicing documents executed by FHA will be executed in the name of "United States of America, for Itself and as Trustee" when the mortgage is held by FHA under a trust assignment or declaration, in the name of "United States of America, Trustee of the Assets of the _____ Rural Rehabilitation Corporation" when the note and mortgage run to and are held by the United States as Trustee for a State Rural Rehabilitation Corporation (SRRC), and in the name of "United States of America" when the mortgage runs to the United States or when a mortgage running to the insured lender is not held by FHA under a trust assignment or declaration and the note is held by FHA.

(f) *Consent of lienholders.* When this part requires the consent of other lienholders before FHA consents to a transaction which affects its security or its lien, such consent will be obtained and furnished to FHA by the borrower and will include agreement as to the disposition of any funds involved in the transaction. When an insured FO mortgage is held by the lender, his consent will be obtained only if a written partial release, subordination, or other servicing document is required, and on a form approved by FHA.

(g) *Authority of State Directors and County Supervisors to execute instruments.* County Supervisors are authorized to execute on behalf of FHA all appropriate documents and instruments in connection with transactions which they are authorized by any provisions of this part to approve. State Directors are authorized to execute on behalf of FHA all appropriate documents and instruments in connection with transactions which they or County Supervisors are authorized by any provisions of this part to approve. This authorization to State Directors and County Supervisors is in addition to, and not in lieu of, any express authorization to execute documents set forth elsewhere.

§ 1872.2 Subordination of FHA mortgage to permit refinancing, extension, reamortization, or increase in amount of prior lien.

(a) *General.* When a borrower requests FHA to subordinate a mortgage taken in connection with a direct or insured loan so that he can refinance, extend, reamortize, or increase the amount of the prior lien, Form FHA–696, "Application for Partial Release, Subordination, or Consent," will be executed by the borrower. In case of an insured FO mortgage held by the lender, the lender's consent will be obtained by having the lender execute the written subordination, partial release, or other servicing document requested on a form approved by FHA. Subject to the provisions of paragraphs (b) and (c) of this section, a subordination may be granted if (1) the borrower is unable to refinance the FHA mortgage on terms which he can reasonably be expected to meet, (2) the terms and conditions of the prior lien will be such that the borrower can reasonably be expected to meet them, and (3) the priority of FHA's lien position is maintained or advanced. In connection with obtaining a loan from a Federal Land Bank, the subordination may permit the Federal Land Bank loan to include funds for the purchase of National Farm Loan Association stock in an amount not more than 5 percent of the prior lien if the borrower is unable to pay for the stock with personal funds. Whenever possible, an assignment of the beneficial interest in such stock will be obtained as collateral security.

(b) *County Supervisor's authority.* Subject to the provisions of paragraph (a) of this section, the County Supervisor is authorized to approve and execute a subordination which involves refinancing, extending, or reamortizing a prior lien provided the amount of the indebtedness secured by the prior lien is not increased by more than nominal cost incident to loan closing plus funds for the purchase of National Farm Loan Association stock where applicable.

(c) *State Director's Authority.* Subject to the provisions of paragraph (a) of this section, the State Director is authorized to approve and execute a subordination which involves increasing the prior lien by an amount to be used for farm development or farm enlargement purposes, as well as the payment of nominal cost incident to loan closing and for National Farm Loan Association stock where applicable, subject to all the following requirements:

(1) The proposed farm development or enlargement will improve the borrower's ability to repay the FHA loan(s).

(2) The proposed farm development or enlargement will increase the present market value of the security by an amount at least equal to the increase in the amount of the prior lien. In the case of an FO loan, the sum of any prior lien and the FO lien must not exceed the fair and reasonable value of the farm unless (i) the subordination is for the purpose of land development necessitated by flood, windstorm, or other casualty, or is for repair or replacement of essential farm buildings, (ii) such development or enlargement will not result in making an FO farm greater than a family-type unit, and (iii) such enlargement will not cause the fair and reasonable value of an FO farm to exceed the county average value.

(3) Any proposed farm development will be planned and performed in accordance with Subparts B and C of Part 1804 of this chapter or in a manner directed by the creditor and acceptable to FHA.

(4) Funds to be used for farm development or enlargement will be handled in the manner prescribed for loan funds in Part 1803 of this chapter, except that if the creditor will not permit the use of the supervised bank account procedure, arrangements satisfactory to FHA which will assure that the funds will be spent for the planned purposes will be substituted.

(5) In case of land purchase, FHA will obtain a mortgage on such purchased land. In the case of an FO loan, the mortgage on the purchased land will be either a first or second mortgage.

(d) *Processing.* A subordination will be completed in accordance with closing instructions issued by the Attorney in Charge.

§ 1872.3 Consent, by partial release, subordination, or otherwise, to sale or other disposition of portion of or interest in security, except leases.

(a) *Provisions of FHA mortgages.* In all FHA mortgages except FH loan mortgages prepared before October 1, 1950, and a few OL loan, EM loan, SL loan, and WF loan mortgages, the borrower has agreed not to sell, transfer, assign, mortgage, or otherwise encumber the security, or any portion of or interest in it, without the prior written consent of the mortgagee. In all FHA mortgages the borrower expressly agrees not to engage, without prior consent, in certain specified transactions including the cutting or removal of timber, or gravel, oil, gas, coal, or other minerals, aside from small amounts used by the borrower for ordinary domestic purposes. Furthermore, even in the case of the few FH, OL, EM, SL, and WF mortgages mentioned above in the exception, any property, or any part thereof or interest therein, which is subject to the FHA mortgage and which is disposed of by the borrower without consent, remains subject to the mortgage lien. The required consent may be in the form of a partial release, subordination, or other form of written consent, depending on the circumstances.

(b) *Consent and partial release and subordination forms.* When FHA consent is required by the mortgage, it will be given by approving a completed Form FHA–696. When requested, the FHA also will give a written partial release or subordination on Form FHA–99, "Release," Form FHA–286, "Subordination by the Government," or other form approved by the Attorney in Charge.

(c) *Conditions of FHA consent.* Ordinarily FHA consent will be granted and a partial release or subordination executed if (1) the net consideration for the transaction is adequate to fully compensate for the security being disposed of or rights granted, (2) the orderly repayment of the FHA indebtedness will not be impaired, (3) the transaction will not interfere with the successful operation of the farming enterprise, (4) in the case of an FO unit which before the transaction is an adequate family-type farm, the transaction will not reduce the farm to less than a family-type farm as defined in Part 1831 of this chapter, and (5) the provisions of paragraphs (d) and (e) of this section are complied with, except that the State Director and County Supervisor are severally authorized to permit the borrower to use a part of the proceeds to pay nominal costs incident to closing the transaction which the borrower has agreed to pay but is unable to pay from personal funds, such as title examination, abstracts, or title insurance (but not taxes other than past-due real estate taxes on the land being sold). When the approval official is uncertain as to whether the proposed payment is adequate to compensate fully for the loss of security or considers it necessary for other reasons, a current appraisal report will be obtained. In the sale of timber which appears to be worth more than $1,000 or of any minerals other than small amounts of sand and gravel, the borrower will be encouraged to obtain the assistance of a qualified technician other than an FHA employee to advise him as to the quantity or value of the timber or mineral and the manner in which it should be sold. Usually, such assistance can be obtained from State or Federal employees in the area.

(d) *County Supervisor's authority.* Subject to the requirements of paragraph (c) of this section, the County Supervisor, unless foreclosure or voluntary conveyance is pending, is authorized to approve transactions where the entire net proceeds will be applied on prior liens, or to FHA liens in the order of the priority of such FHA liens, provided that when the transaction involves $500 or more or the sale of land, the County Supervisor will obtain either (1) a statement by the County Committee that the consideration is adequate to fully compensate for the property or rights being disposed of, or (2) a current appraisal report showing that the amount to be received is at least equal to the present market value of such property or rights.

(e) *State Director's authority.* Subject to the requirements of paragraph (c) of this section and subparagraphs (1), (2), (3), and (4) of this paragraph, the State Director is authorized to approve transactions involving exchange of all or part of the security for other farm real estate; use of all or part of the proceeds for farm development, farm enlargement, or application on prior liens or any FHA accounts; release to the borrower of proceeds which are regular income as defined in § 1872.7 when the loan is not in process of forced liquidation through foreclosure or voluntary conveyance; or an easement or right-of-way granted without monetary compensation or for a token consideration. In any case in which the proceeds would be considered as extra payments under § 1872.7

and such proceeds will not be applied on prior liens or FHA accounts secured by real estate liens, the following requirements must be complied with:

(1) Use of any proceeds for farm development or enlargement will create a more favorable outlook for collection of the FHA debt, will not result in making an FO loan farm greater than a family-type farm, and will be carried out in the manner prescribed for real estate loan funds in Part 1803 of this chapter.

(2) Any proposed farm development work is planned and performed in accordance with Subparts B and C of Part 1804 of this chapter.

(3) When other FHA loans not secured by a real estate lien are inadequately secured, proceeds in excess of the normal market value of real estate security being released may be applied to such other FHA accounts with the consent of the borrower and any prior or junior lienholders provided that the FHA loans secured by a lien on real estate will be adequately secured after the transaction. Such payments will be applied as extra payments unless the State Director approves a specific request in writing by the borrower that they be applied as regular payments. That part of the proceeds which represents the normal market value of the security released must be applied to a prior lien or the FHA lien of highest priority.

(4) The present market value of the security for the real estate lien after the transaction plus any amount applied as payments on any prior real estate lien or any FHA account will not be less than the present market value of the security prior to the transaction.

(f) *Processing.* Consent to a transaction will be obtained from any prior lienholders, from junior lienholders in case any proceeds will be used for any purpose other than application to the FHA mortgage or prior liens, and from the holder of an insured mortgage held by the lender when required in § 1872.1(f). If a written release or subordination is requested, the transaction will be completed in accordance with closing instructions issued by the Attorney in Charge.

§ 1872.4 Consent to junior liens.

As a general policy, FHA borrowers will be discouraged from giving junior liens on their farms. When consent is required by the FHA mortgage and the making of the junior lien is justified, the State Director may consent by executing Form FHA–696 provided (a) the loan is necessary for successful operation of the borrower's farm, (b) the terms of the junior lien debt will not likely jeopardize payment of the FHA loan, (c) any operating plans made with the junior mortgage holder are consistent with any farm plans made by FHA with the borrower, and (d) the junior creditor agrees in writing that he will not foreclose his mortgage before a discussion with the County Supervisor and giving a specified period of notice to FHA.

§ 1872.5 Consent to borrower's granting lease of security.

When a borrower requests FHA consent to lease and consent is required by the mortgage and this section, Form FHA–696 will be completed. When a prior lienholder is involved and his mortgage requires consent to lease, such consent will be obtained in accordance with § 1872.1(f). For an insured mortgage held by the lender, the holder's consent will be obtained when required in § 1872.1(f). The approval of the County Supervisor will not be given until the document has been executed by the holder. The pertinent provisions of this section and § 1872.7 must be complied with. All leases should be on equitable terms and include full compensation for the rights and privileges granted.

(a) *Leases for agricultural and other purposes except minerals and naval stores.* All except FH, SW, and ORE borrowers will be required to obtain FHA consent to lease real estate security for the purposes covered by this paragraph. The County Supervisor may give such consent by approving Form FHA–696, subject to the following conditions:

(1) All or a portion of the security may be leased for agricultural purposes when foreclosure or voluntary conveyance is pending and leasing is more advantageous to the Government and the borrower, or circumstances beyond the borrower's control, such as death in the family, poor health, or extreme weather conditions, temporarily prevent personal operation of the farm and the following requirements are complied with:

(i) When the State Director has approved foreclosure or voluntary conveyance, Form FHA–435, "Lease of Security Property," will be used and the entire proceeds will be applied on the FHA lien and/or any prior mortgage.

(ii) Any lease entered into by the borrower will not be in effect for more than one year and consent to the lease will in no way affect the borrower's obligations or the FHA's rights under the note, mortgage, and any supplemental agreement.

(iii) The farm will not be leased for more than two consecutive one-year periods without prior consideration by the National Office.

(2) Small acreages of land or buildings not essential to the successful operation of the farm may be leased for agricultural or other purposes except minerals and naval stores. When foreclosure or voluntary conveyance has been approved by the State Director, Form FHA–435 will be used and the entire proceeds will be applied on the FHA lien and/or any prior mortgage.

(b) *Mineral leases.* All FHA borrowers will be required to obtain consent to any mineral lease of security. The County Supervisor, unless foreclosure or voluntary conveyance is pending, and the State Director are severally authorized to execute Form FHA–696 giving FHA's consent to mineral leases and to execute such other instruments on behalf of FHA as may be necessary, under the following conditions:

(1) The lessee agrees, in the lease or elsewhere, to pay adequate compensation for any damage to the real estate, and the borrower and the lessee execute Form FHA–253, "Assignment of Income from Real Estate Security," assigning such compensation to the FHA and agreeing to recognize the assignment.

(2) The bonus and rental are at least equal to the minimums, if any, established in the state. Delay rentals and bonus payments may be assigned on Form FHA–253.

(3) Royalty payments are assigned on Form FHA–253.

(4) The lease, subordination, or consent form is prepared by or is acceptable to the Attorney in Charge. If standard lease forms are acceptable, such forms may be prescribed for use.

(c) *Naval stores lease.* All FHA borrowers will be required to obtain consent to any naval stores lease of security. The County Supervisor, unless foreclosure or voluntary conveyance is pending, and the State Director are severally authorized to execute Form FHA–696 giving FHA consent to lease of naval stores and to execute such other instruments on behalf of FHA as may be necessary, if the lease requires operation consistent with approved naval stores practices in the community and FHA regulations, if any, in the state.

§ 1872.6 Severance agreements.

(a) When a borrower requests permission of FHA to obtain other financial assistance to construct or install farm facilities, such as grain storage, bulk milk tanks, and irrigation equipment, Form FHA–696 will be completed. The County Supervisor, if the transaction does not exceed $1,000, and the State Director are each authorized to give FHA consent by executing Form FHA–696 and any necessary severance agreements if it is determined that (1) the facility to be constructed or installed is not in excess of the borrower's needs based on the normal production or requirements of the farm, and (2) the financing arrangements are sound and proper and will not adversely affect the orderly payment of the FHA indebtedness or adversely affect the FHA's security position. The Attorney in Charge will be requested to prepare or review the severance agreement and, where necessary, issue closing instructions.

(b) The County Supervisor is authorized to execute severance agreements on behalf of the FHA as a real estate lienholder when such agreements are required by § 1841.8(a)(8) of this chapter and by the State Director pursuant to § 1842.2(n) of this chapter.

(Order of Acting Sec. of Agric., 19 F.R. 74, 22 F.R. 8188)

§ 1872.7 Disposition of proceeds of partial release, subordination, and consent transactions.

(a) *Payment on FHA account or prior lien or use for farm development or enlargement.* Proceeds from the sale of a portion of the farm, the granting of an easement or right-of-way, royalties and

damage compensation under mineral leases, the sale of timber managed on other than a sustained-yield basis, naval stores production not managed by or under the supervision of the borrower, and all similar transactions will be either paid on the prior lien, applied as an extra payment on the FHA loan as provided in Subpart A of Part 1861 of this chapter, used as provided in § 1872.3 (c), (d), or (e), or used for replacement or repair of damages for which compensation was paid.

(b) *Regular farm income.* Proceeds from leases for agricultural and other purposes except minerals and naval stores, bonuses and rentals under mineral leases, proceeds from the sale of timber managed on a sustained-yield basis or from naval stores production managed by or under the supervision of the borrower, compensation to the borrower for labor or services in cutting, loading, and hauling of security, and all similar transactions will be considered as regular farm income.

(c) *Assignment.* Any proceeds to be paid to FHA subsequent to the time of closing the transaction will be assigned to FHA by the use of Form FHA–253 or other assignment form approved by the Attorney in Charge.

§ 1872.8 Actions by FHA for account of borrower, including advances for preservation of security or protection of lien.

When necessary to protect the interest of FHA, action will be taken by FHA for the account of the borrower as provided in this section. Any other action necessary to protect the interest of FHA will be taken with the advice of the Attorney in Charge. Advances made for such purposes will be charged to the borrower's account.

(a) *Operation of security by lessee or caretaker.* When necessary to protect the security interest of FHA and approved by the State Director, the County Supervisor will enter into a lease or caretaker's agreement for the account of the borrower on the best terms obtainable for periods not to exceed one year each or, without prior consideration by the National Office, two consecutive one-year terms. Such agreements will not be used as an alternative for, or as a means of delaying, prompt liquidation of the loan. Lease agreements will be entered into on Form FHA–435. Caretaker's agreements will be entered into on Form FHA–529, "Caretaker's Agreement (Real Property Only)."

(b) *Taxes and assessments.* Real estate taxes and assessments will be handled in accordance with §§ 1863.1 through 1863.3 of this chapter.

(c) *Insurance.* For FO, SW, FH, and ORE loans, property insurance will be required and serviced in accordance with §§ 1806.1 through 1806.6 of this chapter. For other FHA loans secured by liens on real estate, property insurance will be obtained and serviced in accordance with requirements for the kind of loan involved.

(d) *Maintenance.* Where repairs are necessary to protect the security from damage or deterioration and to protect the financial interest of FHA, the State Director may authorize such repairs if they are fully justified and properly documented on Form FHA–643, "Farm Development Plan." Such repairs will be authorized only in emergency situations and usually will be authorized only in connection with liquidation which is pending or in process. If a prior lien is involved, such expenditures for maintenance will not be made unless the prior lienholders refuse to make them.

§ 1872.9 Actions by third parties which affect security.

(a) *Borrower's responsibility.* The borrower will be expected to protect his own interest in condemnation, trespass, and other cases affecting the security, and to report to the County Supervisor the complete facts concerning any action taken by third parties which may affect the security.

(b) *Sale under prior lien foreclosure.* When a prior lien foreclosure sale is to be held, the State Director may authorize a bid in accordance with § 1872.15(b)(7) provided the State Director determines that a substantial net recovery can be made upon resale of the security. An insured loan will be assigned to FHA in sufficient time before the foreclosure sale to enable FHA to protect its interest. If the amount of the prior lien(s) exceeds $25,000, the prior concurrence of the National Office will be obtained before a bid on behalf of FHA is authorized by the State Director.

(c) *Foreclosure sale subject to FHA mortgage.* If a lien junior to the FHA lien is foreclosed and the property is sold subject to the FHA mortgage, the account will be transferred under § 1872.13 or liquidated.

§ 1872.10 Deceased borrowers.

Deceased borrower cases will be handled in accordance with the policy outlined in Subpart B, Part 1871 of this chapter for such cases.

§ 1872.11 Bankruptcy and insolvency.

Bankruptcy and insolvency cases will be handled in accordance with the policy outlined in Subpart B, Part 1871 of this chapter for such cases, except that when real estate security is released from bankruptcy or insolvency action to FHA, the State Director will not approve continuation with the borrower until concurrence of the National Office is obtained.

§ 1872.12 Liquidation action.

(a) *Policy and methods.* When it is determined with the advice of the County Committee and the Area Supervisor that liquidation is necessary because further servicing action will not accomplish the objectives of the loan or for other reasons, liquidation of the account(s) will be accomplished as expeditiously as possible by one of the following methods: (1) Immediate payment of the loan in full by refinancing, sale of the property outside of the program, or otherwise; (2) transfer of the account; (3) voluntary conveyance of the security to the Government; or (4) foreclosure. If the Borrower is willing to convey the security to the Government or transfer the account in accordance with § 1872.13 and the County Supervisor and County Committee recommend such action, Forms FHA–411, "Offer to Convey Security," or FHA–922, "Transfer of Real Estate Security," as appropriate, will be completed. In all cases other than payment in full, voluntary conveyance, or transfer the County Supervisor will submit to the State Director Form FHA–506, "Report on Real Estate Problem Case," showing the County Committee's and County Supervisor's recommendations. When a borrower is indebted to FHA for more than one type of loan, a thorough study should be made of each loan involved and the effect liquidation of one or more of the loans would have on any other loans involved. When liquidation of one or more loans is necessary and it will jeopardize the accomplishment of the purpose of other loans involved, all the FHA loans should be liquidated if legally possible. Under such conditions, ordinarily the loans secured by real estate mortgages will be liquidated simultaneously and if chattel security is involved, the liquidation of the two types of security will be co-ordinated. However, the chattel security will be liquidated in accordance with Subpart B, Part 1871 of this chapter unless it is to be transferred in accordance with § 1872.13.

(b) *Failure to live on and personally operate farm.* Any FO borrower who, without consent, does not live on and personally operate his farm is violating his agreement with FHA. Such a borrower will be informed of this violation. If the borrower will not live on and operate the farm in accordance with his agreement or promptly pay the loan in full, the County Supervisor will report the case to the State Director on Form FHA–506. The State Director will either take further action to have the borrower comply with such agreements or will proceed to liquidate the loan.

(c) *Execution of instruments by County Supervisor.* If an account is to be liquidated by any method other than immediate payment of cash to pay the account in full, the State Director is authorized to approve such action. After such approval, the County Supervisor will take appropriate action and execute all necessary instruments for completion of the transaction except as otherwise provided in this part.

(d) *Release of lien.* When mortgaged real estate securing an EM, SL, or OL loan is sold for its present market value, all the proceeds are applied on the mortgage debts in accordance with their respective priorities, and the secured FHA account is paid in part but not in full, the lien(s) on the real estate in favor of FHA may be released by the State Director or the County Supervisor, upon prior approval of the National Office, on Form FHA–99 or on similar forms approved by FHA.

§ 1872.13 Transfer of loan accounts.

(a) *Sale of security.* Borrowers should be encouraged to discuss any proposed

sale of FHA real estate loan security before firm agreements have been reached with purchasers. If the terms of the proposed sale would not result in the FHA account being paid in full at the time of sale, the County Supervisor should explain thoroughly the requirements of this part regarding such transactions. If real estate security, including water rights, is sold and the mortgage requires FHA consent to the sale and the FHA debt is not transferred by assumption agreement, FHA consent will not be given and the account will be liquidated.

(b) *Authority.* The State Director is authorized to approve the transfer of FHA accounts by assumption agreement with or without release of personal liability, including FO cases which involve the sale of the farm within less than five years from the date of the initial FO loan. Proposed transfers by assumption agreement will be submitted to the National Office for review prior to approval whenever (1) the FHA debt being assumed and other liens against the security being transferred total more than $25,000, (2) the proposed transfer will result in the transferee being indebted to the FHA on all types of loans for more than $50,000, or (3) the proposed transfer will result in the transferee being indebted for more than $15,000 for OL loans, $25,000 for SW loans, or $25,000 for EM loans.

(c) *Transfer of loan accounts by Form FHA–97, "Assumption Agreement"*—(1) *General.* The following requirements will apply whenever an FHA borrower sells real estate which is security for an FHA loan(s) and the loan account(s) is transferred by assumption agreement.

(i) Title to all real estate security, including water rights, for the FHA account(s) must be conveyed to the transferee not later than the date of the assumption agreement. However, in case of EM, SL, FH, or SW security which involves a large tract of land or more than one farm, upon approval of the National Office, the security may be transferred in separate parcels to different transferees or only a portion of the real estate may be transferred.

(ii) When the account(s) is secured by both chattel and real estate, all the security must be transferred to the transferee, or the chattel security must be sold or liquidated prior to transfer of the account(s) except that in case of EM or SL loans, the real estate security may be transferred without transfer or liquidation of the chattel security upon prior approval of the National Office.

(iii) When the full amount of the FHA debt is assumed, there must be no liens, judgments, or other claims against the security which are junior to any FHA liens being assumed unless the State Director, with the advice of the Attorney in Charge, determines that such liens, judgments, or claims will not adversely affect the Government's security interest or impair the transferee's ability to pay the FHA debt.

(iv) When less than the full amount of the FHA debt is being assumed, there must be no liens, judgments, or other claims against the security junior to the FHA debt being assumed.

(v) The interest rate on each FHA debt being assumed will remain unchanged except as provided in subparagraph (4) of this paragraph.

(vi) An initial or subsequent loan for which the transferee is eligible may be made in connection with a transfer subject to the policies and procedures governing the kind of loan being made. Loan funds may not be used for the payment of equity, except that FO loan funds may be so used when the transfer will result in a family-type farm or is made to a qualified disabled veteran.

(vii) If any equity payment is involved in a case where the transfer would be made for less than the full amount of the FHA debt, such transfer may not be made unless all or a portion of the equity payment up to the amount of the FHA debt not to be assumed is first applied on the FHA lien or prior liens. Any balance of an equity payment in such a case and any equity payment in all other cases should, whenever possible, be applied to the FHA debt(s) secured by real estate except that, if the FHA real estate debt(s) is adequately secured, such equity payment should be applied to any other debts of the transferor that are not adequately secured.

(viii) If he is financially able, the transferee will make a down payment on the FHA secured debt and such down payment should be made prior to or at the time of closing the transaction.

(2) *Transfer of direct loans to eligible applicants*—(i) *FO loans on family-type farms.* In determining whether a direct FO loan should be classified as "family-type," the County Supervisor will consider the definition of a "family-type" farm in Part 1821 of this chapter and the manner in which the farm will be operated. In order for security for a direct FO loan to be transferred as or to create a family-type farm, it must be transferred either to an applicant eligible for an FO loan under Part 1821 of this chapter and subject to the policies thereof or to an ineligible transferee under the conditions prescribed in subparagraph (4) of this paragraph. Ordinarily, the transferee will be required to assume the full amount of the unpaid balance of the FHA secured debt unless the fair and reasonable value of the farm as certified by the County Committee is less than the FHA debt plus any prior lien. In the latter case, the transferee will assume that portion of the FHA secured debt which when added to any prior lien against the farm equals the fair and reasonable value of the farm, with the following exception. When the present market value of the farm is such that a transfer at its fair and reasonable value would result in a substantial loss to the Government, the loan will be transferred at the present market value of the farm as determined in subdivision (ii) of this subparagraph, unless the transferee does not have the necessary debt-paying ability or cannot accomplish essential farm development from his own resources and a loan is necessary. If in the latter event it appears to be to the best interest of the FHA to transfer the loan at less than the present market value of the farm, but not less than its fair and reasonable value, rather than foreclose, the State Director will send his recommendation and justification for such a transfer along with the transfer docket to the National Office for review prior to approval.

(ii) *Other loans.* For other type loans to be transferred, the transferee must meet the following eligibility requirements:

(*a*) Be a citizen of the United States, except in the case of an EM or SL loan, and have legal capacity to contract for the debt.

(*b*) Be without resources on his own account to purchase the real estate and pay the FHA loan in full and be unable to obtain the necessary credit from other sources upon terms and conditions which he could reasonably be expected to fulfill.

(*c*) Possess the character, ability, and experience necessary to carry out the undertakings and obligations required of him in connection with the transfer.

(*d*) Be a bona fide farmer, rancher, or stockman after the transfer is made, except that in FH and SW cases the transferee will not be required to be a bona fide farmer but preference will be given to applicants who will be primarily engaged in farming and will need the land and buildings in their farming operations.

(*e*) Not be indebted, after the transfer is made, on OL, SW, SE, or Orchard loans in excess of the applicable total principal indebtedness limitations for such loans.

The transferee will be required, under the assumption agreement, to comply with all the covenants of the mortgage securing the debt being assumed, including, in the case of an FO loan, the covenant to live on as well as operate the farm. In transfers to eligible applicants of loans which are not FO loans on family-type farms, the transferee will assume the full amount of the unpaid balance of the secured FHA debt(s) unless the present market value of the property is less than such FHA debt(s) plus any prior lien(s). In the latter case he will assume that portion of such FHA debt(s) which when added to any prior lien(s) equals the present market value of the security as determined by the State Director on the basis of a present market value appraisal and the recommendation of the County Committee.

(iii) *Payment terms.* The assumption agreement will provide for the transferee to pay the assumed FHA indebtedness in accordance with the payment schedule(s) of the existing note(s) unless the facts justify reamortization. The account, including all or part of any delinquencies to the extent necessary, may be reamortized by shortening or lengthening the remainder of the payment period to make it commensurate with the transferee's capacity to pay. The payment period after the date of the transfer may not be longer than the following for each kind of loan: OL, EM, and SL 7 years; FH 33 years; FO 40

years; SW 20 years. All delinquencies, except any included in a reamortization, will be paid by the time the transfer is closed.

(3) *Transfer of insured loans to eligible applicants.* Any insured loan account may be transferred by assumption agreement provided:

(i) The transferee is eligible for a family-type FO loan under Part 1821 of this chapter or, in case of less than family-type FO or any insured SW loan, meets the eligibility requirements of subdivision (ii) of this subparagraph.

(ii) When the note is not held by FHA or the United States as trustee of an SRRC, the holder's prior consent is obtained.

(iii) All obligations of the note (except any down payments made by the transferee) and the related mortage (including charges connected with the insurance of the loan) are assumed without change in the payment schedule of the note, except that the repayment schedule may be changed upon justification and prior approval of the National Office.

(iv) Unless otherwise authorized by the National Office, any delinquent amounts due the loan insurance account are paid at or prior to the transfer.

(v) If the farm also is security for a direct FHA loan, the transferee also will assume the direct loan.

(4) *Transfer of direct loans to ineligible applicants.* If a direct loan borrower sells the real estate security to a person(s) who is not eligible under subparagraph (2) (i) or (ii) of this paragraph and the mortgage securing the loan requires the consent of FHA to the transaction, it will be the policy not to give such consent but immediately liquidate the account unless the State Director determines that it is to the best financial interest of FHA to permit assumption of the account. In the latter event the State Director may consent to the transfer by assumption agreement provided:

(i) The transferee assumes the entire outstanding FHA real estate indebtedness less any amount he pays on the FHA secured debts in connection with the transfer or an amount of such FHA debt(s) which when added to any prior lien(s) equals the present market value of the security as determined by the State Director on the basis of a present market value appraisal and the recommendation of the County Committee. Whenever practicable, the payment made by the transferee will be at least 20 percent of the debt(s) assumed, calculated before such payment.

(ii) The balance of the FHA debt assumed is scheduled for repayment in equal annual principal installments with interest at 5 percent per annum within the shortest period consistent with the transferee's ability to pay but in no case more than 5 years.

(iii) The transferee has ability to pay the FHA debt in accordance with the assumption agreement and the legal capacity to assume the obligations of the note and mortgage by entering into the assumption agreements.

(iv) The County Committee finds that the transferee will honestly endeavor to make payments in accordance with the assumption agreement, maintain the security property, and carry out his other obligations in connection with the loan.

(v) The transfer will not adversely affect the FHA program in the area.

(5) *Insured loans and ineligible applicants.* Insured loans will not be transferred to ineligible applicants unless prior approval of the National Office is obtained.

(d) *Consent of FHA not required to transfer.* Where the FHA mortgage(s) does not require the Government's consent to the sale of the farm (this includes mortgages taken as security for some OL, EM, and WF loans, as well as FH mortgages prepared before October 1, 1950) and the borrower conveys or proposes to convey the farm to a person who is ineligible or unwilling to assume the FHA debt in accordance with paragraph (c) of this section, the Government will not consent to the sale. If the loan is not in default or the State Director determines that definite, satisfactory arrangements have been made for the purchaser to remove any default promptly, the borrower's billings, correspondence, and notices concerning the account will be sent to the purchaser at his address. If the loan is in default and the State Director finds that the default is not likely to be corrected, the account will be liquidated.

(e) *Release of transferor from liability.* When real estate security for an FHA loan is transferred to an applicant who is eligible under paragraph (c) (2) or (3) of this section, it will be the policy to release the borrower from personal liability to the Government provided:

(1) The County Committee makes the appropriate certification and recommendations prescribed in paragraph (f) of this section.

(2) The transferor does not have assets from which the FHA could make substantial recovery.

(f) *Processing transfer by assumption of indebtedness*—(1) *Transfer docket.* The docket will include transferor's financial statement and, when the transfer is being made to an eligible transferee, Form FHA–197, "Application for FHA Services," and, when applicable, Forms FHA–14, FHA–14A, FHA–404, "Supplementary Payment Agreement," and FHA–643. When an initial or subsequent loan is being made, the docket also will include any additional forms required by the applicable regulation.

(2) *Refund of unused funds.* Unexpended funds in the supervised bank account will be applied as a refund unless FO, FH, SW, or EM security is involved and the funds are needed for completing planned farm development.

(3) *Collections and receipts.* (i) After receipt by the County Supervisor of a statement of account from the Finance Office, collections on the indebtedness to be assumed by the transferee (not including any payments to be made to reduce the amount of the debt to be assumed) will be made in the names of the transferor and transferee and transmitted to the Finance Office to be held in suspense until the transfer is consummated. Form FHA–37, "Receipt for Payment," will be issued to: "Transfer in process of farm owned by (borrower's name and case number) to be transferred to (name of transferee and case number, if any)." In such a case the original receipt will be given to the party making the payment.

(ii) Payments made to FHA by the transferee or transferor as a prerequisite to the transfer will be collected on or before the date the transfer is closed and applied on the transferor's account, thereby reducing the amount to be assumed. The receipt will be completed in the same manner as any other receipt in connection with a transfer, the name of the one making payment will be inserted on the receipt as the source of the remittance, and the original receipt will be given to him.

(iii) When a payment is due on the assumption agreement shortly after the transfer is completed, such a payment should, if possible, be collected at the time of transfer and remitted in the name of the transferee.

(4) *Farm and home plans and financial statements.* When the transfer involves an ineligible transferee, Form FHA–14 will be used with Tables A and J being completed in the same manner as for any other borrower but other tables and portions of the Form will be completed only to the extent necessary to determine the debt-paying ability of the transferee and to give sufficient information for completing Table J. When a transfer is to be made to an eligible applicant and a release of liability is involved, a current financial statement of the transferor will be obtained.

(5) *County Committee recommendation and certification.* For FO loans transferred as family-type FO units when the County Committee recommends a release of the transferor from liability, one of the applicable statements in subdivision (i) of this subparagraph will be added as item 6 of Form FHA–491. For FO loans being transferred not as family-type FO units, Form FHA–121, "County Committee Certification," will be used and for such loans and SW and FH loans involving a release of liability, one of the applicable statements shown in subdivision (i) of this subparagraph will be added as item 4 of Form FHA–121. For all other loans, a memorandum statement will be prepared to include the information required in subdivision (ii) of this subparagraph and will be attached to the transferee's application.

(i) *Committee recommendation.* When the transfer by assumption is being made to an eligible transferee, a release of the transferor(s) from personal liability will be contingent upon the County Committee making one of the following recommendations. If the transferee is assuming the full amount of indebtedness, the following will be used: "The value of the security property of (names of all transferors) is not

less than the indebtedness against it and in our opinion the transferors do not have any assets from which the Farmers Home Administration could make a substantial recovery. Therefore, we recommend that transferors be released from personal liability upon assumption of the full indebtedness by the transferees." If the transferee is assuming less than the full amount of the outstanding indebtedness, the following will be used: "(names of transferors), in our opinion, do not have any assets from which the Farmers Home Administration could make a substantial recovery. They have cooperated in good faith, farmed in a workmanlike manner, used due diligence to maintain the security against loss, and otherwise fulfilled the covenants incident to their indebtedness to the best of their abilities. Therefore, we recommend that transferors be released from personal liability."

(ii) *Memorandum statement.* When Forms FHA–491 and FHA–121 are not applicable and the transfer is being made to an eligible applicant, the transfer will be contingent upon the Committee making the following recommendations: "In our opinion, the transferee (Name of transferee) will honestly endeavor to make payments in accordance with the assumption agreement, maintain the security, and carry out all undertakings and obligations required of him under the proposed assumption of indebtedness. We find that this applicant is without resources on his own account to purchase the security being transferred and pay the Farmers Home Administration loan in full and that he is unable to secure the necessary credit from other sources upon terms and conditions which he could reasonably be expected to fulfill. Therefore, we recommend the transfer." When the transfer is to be made to an ineligible applicant, only the first and last sentences of the foregoing quoted statement will be required.

(6) *Property insurance.* The transferee will obtain property insurance in accordance with the insurance requirement for the loan(s) involved at the time of the transfer unless the approval official requires additional insurance as a condition of approval. The insurance company will be notified by the County Supervisor immediately after completion of the transfer.

(7) *Title clearance and legal services.* The Attorney in Charge will issue closing instructions in connection with all transfers where such closing instructions are required in accordance with this section. The State Director, with the advice of the Attorney in Charge, will determine whether title clearance and loan closing will be accomplished by the Attorney in Charge with the assistance of the designated or other local attorney, title insurance company or a combination thereof, or other method.

(i) In case of the transfer of an FO, FH, or SW (not coded J) loan or when such a loan is being made in connection with a transfer, § 1872.3 will be applicable.

(ii) For all other kinds of loans being transferred, title clearance and loan closing services will not be required unless the approval official with the advice of the Attorney in Charge determines that such services are needed in order to maintain the Government's security position or for other reasons. In such a case, the title clearance and loan closing services will be accomplished in the same manner as outlined in subdivision (i) of this subparagraph. If other than an FHA mortgage is involved which requires the mortgagee's consent to the transfer, it will be obtained.

(8) *Assumption agreement, release from personal liability, receipts.* Form FHA–97 and, when applicable, Form FHA–437, "Release from Personal Liability," and Form FHA–37 will be completed and executed simultaneously with closing of the transaction. The original (signed copy for insured loan) Form FHA–97 and, when applicable, Form FHA–37, and a signed copy of Form FHA–437 will be retained by FHA. The original Form FHA–437 will be given to the borrower. In case of an insured loan, the executed original of Form FHA–97 will be sent to the holder of the note.

(9) *Transfer of unused farm development funds.* Any remaining funds in the transferor's supervised bank account to be used for farm development work will be transferred to the transferee's supervised bank account simultaneously with the closing of the transfer.

§ 1872.14 Voluntary conveyance of security to FHA.

(a) *Authority.* The State Director, subject to the policies outlined in this section, is authorized to approve a voluntary conveyance with or without release of personal liability.

(b) *Other real estate liens.* In case of voluntary conveyance of security to FHA, real estate liens (except the taxes and assessments which are to be advanced by FHA under Form FHA–411) held by other creditors must be satisfied by the borrower without FHA assistance.

(c) *Processing.* When a borrower offers to convey his property to the FHA in full or partial satisfaction of his indebtedness and agrees to carry out all the conditions contained in Form FHA–411, the form will be completed and he will signify his agreement by signing the form. A warranty deed on a form approved by the State Director will be required and, whenever possible, completed and signed simultaneously with Form FHA–411; however, it will not be recorded until closing of the transaction. Also, if water rights involved are not fully conveyed in the warranty deed, any necessary assignments or transfers of water stock or membership certificates or other water right title documents required by the Attorney in Charge will be obtained simultaneously with the execution of Form FHA–411 whenever possible but not later than the execution of the deed, and will be recorded, if necessary or appropriate, in connection with closing the transaction. When the borrower executes Form FHA–411, a preliminary determination will be made by the County Supervisor as to whether the property constitutes a family-type farm as defined in Part 1831 of this chapter.

(1) *Acceptance of offer.* When the offer provides for a credit to be allowed on the account equal to the value of the security as determined by FHA, the State Director will immediately accept the offer subject to the conditions outlined in Form FHA–411, irrespective of the value of the security. If the offer provides for full satisfaction of all FHA debts secured by the real estate, it will be accepted if and when it is determined that the security will satisfy the debt or that the borrower will be released from personal liability for the deficiency. If the offer to convey in full satisfaction of such debts is not acceptable, it will be returned and an attempt made to obtain an offer to convey for a credit equal to to the value of the security. When the State Director decides to accept an offer to convey security connected with an insured loan, action will be taken to have the insured loan assigned to FHA.

(2) *Borrower's financial statement.* When a voluntary conveyance involves a release of liability, a current financial statement of the borrower will be obtained.

(3) *Appraisals.* When an FO loan is involved, appraisal reports for family-type farms will show the normal earning capacity value and present market value based on present condition of the farm. For all other property, the appraisal report will show the normal market value and the present market value based on present condition of the property.

(4) *County Committee's certification and recommendation.* For each farm to be voluntarily conveyed, the County Committee will make in memorandum form the following certification: "We certify that the fair and reasonable value of (Name of borrower(s)) property to be voluntarily conveyed in its present condition is $_____, based upon its (Insert as appropriate either normal earning capacity value or normal market value)." When the amount to be credited to the borrower's account is less than the FHA debt, and the County Committee recommends a release of personal liability, the following will be added to the above certification: "We further certify that in our opinion (Name of borrower(s)) does not have any assets from which the Farmers Home Administration could make substantial recovery on the deficiency, has cooperated in good faith, farmed in a workmanlike manner, used due diligence to maintain the security against loss, and otherwise fulfilled the covenants incident to his indebtedness to the best of his abilities; and we recommend that the borrower(s) be released from personal liability upon acceptance of title to the security property by the Farmers Home Administration."

(5) *Determining the value of real estate to be conveyed.* The value of real estate security offered to be conveyed to FHA will be determined by the State Director. Farms which are suitable as family-type should have values established based upon their sale to applicants eligible for family-type FO loans; how-

ever, if it appears that a substantially higher price can be obtained by sale as surplus on the basis of present market value, the present market value should be used as a basis for establishing the value. The value of all property other than that considered suitable for family-type farms will be the estimated sale value based on present market value and terms of 20 percent down with the balance payable annually in five equal installments of principal plus interest at 5 percent per annum. In determining the estimated sale value of any property, the State Director will consider the recommendation of the County Committee.

(6) *Obtaining statement of account and refunding unused loan funds.* Any funds remaining in the supervised bank account will be applied as a refund.

(7) *Title examination and closing instructions.* Upon acceptance of the borrower's offer, title examination will be accomplished in accordance with § 1807.3 of this chapter, and the State Director, with the advice of the Attorney in Charge, will determine whether title clearance will be accomplished by the Attorney in Charge with the assistance of the designated attorney, other local attorney, title insurance company, or combination thereof, or by other method. Any additional title defects and encumbrances will be removed by the borrower except those recited in the FHA mortgage or subsequently approved by FHA.

(8) *Closing of conveyance.* The conveyance transaction will be closed in accordance with closing instructions issued by the Attorney in Charge. When an insured loan is involved, the transaction will not be closed until the assignment of the insured loan to FHA is completed. In all cases title to the property conveyed will vest in FHA when, and not before, the deed to it is recorded. If an oral lease of the farm or a portion of the farm exists, it will be reduced to writing on Form FHA–435.

(9) *Credit on indebtedness.* The credit allowed on the account will be either the value of the real estate conveyed as determined in accordance with subparagraph (5) of this paragraph or the total amount of the indebtedness owed on the account after all expense items have been charged thereto, whichever is less.

(i) *Satisfied account.* The Finance Office will stamp the borrower's note "satisfied by surrender of security" when the credit allowed as the value of the farm satisfies the indebtedness in full, or "satisfied by surrender of security and release from liability" when the borrower is to be released from personal liability for any deficiency. The stamped note will be delivered to the borrower.

(ii) *Unsatisfied account.* Where the account is not fully satisfied, it will be classified as collection-only and serviced in accordance with §§ 1861.1 through 1861.9 of this chapter.

§ 1872.15 Foreclosure by FHA.

Foreclosure action will be instituted in a default case when liquidation has been decided upon and foreclosure is determined to be the most practicable method of liquidation by which the interest of FHA can be protected, or failure to foreclose would adversely affect the FHA program in the area, and a substantial net recovery can be obtained on the FHA account(s). (If these requirements cannot be met under the circumstances existing when foreclosure is first considered but conditions change so that the requirements can be met at a later date, foreclosure will be instituted at a later date.) When there is a prior lien in default and the State Director determines that foreclosure is necessary, the prior lienholder will be given an opportunity to institute the foreclosure proceedings, with FHA taking whatever action is necessary to protect its interest. If the prior lienholder is unable or unwilling to institute the foreclosure, FHA will institute foreclosure proceedings subject to the prior lien, if feasible. Whether foreclosure of the FHA mortgage will be subject to the prior lien will depend upon such factors as the state law, the action or inaction of the prior lienholder, the condition of the prior lien account, the amount of the prior lien debt in relation to the debt, and other factors. After issuance of the acceleration notice, account and security servicing action will be taken only with the advice of the Attorney in Charge.

(a) *Authority.* The State Director is authorized to approve foreclosures and to execute any necessary documents. After such approval, the County Supervisor will take appropriate action and is authorized to execute all necessary forms except as otherwise provided in this section.

(b) *Actions after approval of foreclosure.* When foreclosure action is approved, steps will be taken to consummate the foreclosure as follows:

(1) *Unused loan funds.* Any funds remaining in the supervised bank account will be returned for credit on the account.

(2) *Assignment of insured mortgage.* In case of an insured FO mortgage held by the lender after the State Director approves foreclosure, the Finance Office will have the note and mortgage assigned to FHA in accordance with Part 1875 of this chapter.

(3) *Cancellation of foreclosure action.* When it has been determined that foreclosure is warranted and the circumstances change which, in the opinion of the State Director or County Supervisor and County Committee, make liquidation of the account unnecessary, the State Director may stop the action and reinstate the account. If the action is stopped, the borrower will be so informed.

(4) *Deficiency judgment.* Where foreclosure action does not automatically result in a deficiency judgment and there are other assets from which substantial recovery can be made, the Attorney in Charge will be requested by the State Director to obtain such a judgment if legally permissible.

(5) *Issuance of acceleration notice.* The State Director will date, sign, and forward an acceleration notice to the borrower. Thereafter, except where state law requires acceptance of defaulted installments after acceleration, the County Supervisor will not accept payment of less than the full amount of the indebtedness but will notify the State Director of any such offer and ask for instructions.

(6) *Institution of foreclosure action.* When the period provided by the acceleration notice expires, the following action will be taken:

(i) If it is an insured loan case and the note is not held by FHA, the Finance Office will have the note assigned to FHA in accordance with Subpart G or Subpart H of this part, as appropriate.

(ii) Title evidence required by the Attorney in Charge will be obtained and furnished to him so that he can issue his opinion as to whether FHA will acquire a title merchantable in fact if it is the successful bidder.

(iii) Ordinarily, no curative action will be taken with respect to title defects before foreclosure sale. However, where for special reasons the State Director with the advice of the Attorney in Charge determines that it would be in the best interest of FHA to cure certain defects before the foreclosure sale, the State Director may authorize the necessary curative action.

(iv) The Attorney in Charge will be requested to proceed with, or issue instructions regarding, foreclosure. When it has been determined that a title merchantable in fact can be obtained, the Attorney in Charge will advise the County Supervisor, who will prepare and submit to the Finance Office Standard Form 1034 for payment of all real estate taxes and assessments (including water assessments to protect the right to use water) which are due and payable.

(7) *Maximum bid.* The State Director will establish the maximum amount of the FHA bid as either the estimated resale value of the security or gross investment, whichever is less. The State Director will notify the County Supervisor of the maximum amount to be bid by the person authorized pursuant to subparagraph (8) of this paragraph. In court action foreclosures, the Attorney in Charge will inform the United States Attorney of the maximum amount recommended by FHA to be bid.

(i) The estimated resale value means the amount which the FHA can expect to realize from resale of the property in its present condition on terms of 20 percent down with the balance payable in five equal annual installments of principal plus interest at 5 percent per annum. The State Director will determine the estimated resale value after considering pertinent information, including the appraisal report. When the foreclosure sale is subject to any outstanding mineral rights, easements, or other interests, these exceptions will be taken into consideration in arriving at the estimated resale value. If there are title defects which are not to be cured and which, in the judgment of the State Director with the advice of the Attorney in Charge, will not make the title unmerchantable in fact but will adversely affect the value of the property, such title defects will also be taken into consideration in arriving at the estimated resale value.

When the foreclosure is subject to a prior lien, the unpaid balance of the debt so secured will be deducted from the value otherwise determined.

(ii) Gross investment means the aggregate amount of the FHA indebtedness secured by the mortgage, including all advances made or to be made by FHA and charged to the mortgage debt before the foreclosure sale, plus the amount of any prior liens to be paid from the foreclosure sale proceeds, plus any costs, and plus any other items which must be paid from proceeds of the foreclosure sale before payment of the FHA mortgage debt.

(8) *Bidding.* In cases where the estimated resale value of the security is 10 percent or more in excess of the gross investment or in States where redemption is for bid price, and it is necessary to place a bid to protect the FHA's interest, the only FHA bid made will be the authorized maximum. In all other cases the FHA bidder may engage in competitive bidding between 90 percent and 100 percent of the authorized maximum bid, and judgment should dictate when he should cease bidding provided, however, the FHA bidder will begin bidding at 90 percent of the authorized maximum if no one else bids that amount or more, will cease bidding as soon as another party bids 98 percent or more of the authorized maximum, and will not in any case bid in excess of the authorized maximum. The State Director or an employee designated by him is authorized to bid on behalf of FHA. However, the prior concurrence of the National Office will be obtained before authorizing a bid which is to include an amount for payment of a prior lien(s) exceeding $25,000. Ordinarily, the State Director will designate the County Supervisor to bid on behalf of FHA unless circumstances make it necessary or advantageous to designate another FHA employee.

(9) *Leases acquired through foreclosure.* If FHA is the successful bidder at a foreclosure sale made subject to an agricultural, mineral, or other lease in which the lessor's interest is acquired by FHA through the sale, the original or a copy of the lease will be submitted to the Finance Office for processing in accordance with § 1872.14(c)(8). If the lease is oral, it will be reduced to writing, using Form FHA–435. The County Supervisor will notify any lessee in writing that FHA has acquired the lessor's rights under the lease and will direct the lessee to remit all payments to the County Office. Payments to FHA under a lease which by its terms were due and payable prior to the date of the foreclosure sale will be applied first on any deficiency claim resulting from the foreclosure and then on any other FHA claim against the borrower. Any surplus remaining will be remitted to the borrower. Payments due and payable to FHA after the date of foreclosure will be collected and forwarded to the Finance Office as miscellaneous income. Receipts for collections made in accordance with this paragraph will be issued to: "Lease proceeds from farm formerly owned by (borrower's name and case number) and leased to (name of lessee)."

(10) *Property insurance.* Property insurance will be canceled in accordance with Part 1806 of this chapter.

§ 1872.16 Assignment of direct loans.

The policy prescribed in Subpart A of Part 1871 of this chapter for assigning notes and security instruments shall apply to all direct loans secured by real estate. Payment of the FHA debt in full will be collected at the time the assigned instruments are delivered.

§ 1872.17 Release of valueless junior liens.

A valueless FHA junior lien can be released without consideration only when requested by a prior lienholder and such release can be made only by the Comptroller General of the United States.

(a) *Action by prior lienholder.* A prior lienholder requesting release of an FHA junior lien without consideration will submit the following:

(1) Original and two copies of an application in narrative form, addressed to the FHA or an officer thereof.

(2) Original and two copies of a statement of the account secured by each lien prior to the FHA lien sworn to by the lienholder or a duly authorized officer thereof.

(3) Three photostat or certified copies of the FHA lien and of all liens superior thereto, including information as to the place and date of recording.

(4) Original and two copies of a certificate by the tax assessor or other appropriate public officer showing the assessed value of the property for the current tax year and the previous tax year and indicating the percentage of the full market value of the property on which the assessment was based.

(5) Original and two copies of a current statement by the County Treasurer or other appropriate public officer showing the total amount of tax liens on the property described in the FHA junior lien.

(6) Original and two copies of the opinion of a trust officer or real estate officer of a bank, trust company, or title company, or of a qualified appraiser, as to the market value of the property, or if such an opinion is not available, the opinion of a reputable local real estate dealer or broker.

(b) *Action by State Director.* If the foregoing information indicates that the FHA junior lien is valueless, the State Director will obtain a present market value appraisal of the security. If, after considering all information, the State Director finds that the FHA lien is valueless, he will submit his findings to the National Office.

(Sec. 5, 46 Stat. 1529; 28 U.S.C. 2410)

§ 1872.17a Assignment and release of Soil Bank Program payments.

The County Supervisor may take an assignment on income to be received under a Soil Bank contract to protect the financial interest of the Government or to facilitate loan servicing. The assignment or all or a portion of the income from the assignment, may be released to the borrower by the County Supervisor when not to the financial detriment of the Government and payments due on all Farmers Home Administration loans have been made from other income or the income is urgently needed to meet emergency expenses or other justifiable uses.

(R.S. 161, secs. 41, 6, 50 Stat. 528, as amended, 870, sec. 510, 63 Stat. 437, as amended, sec. 4, 64 Stat. 100, sec. 10, 68 Stat. 735; 5 U.S.C. 22, 7 U.S.C. 1015, 16 U.S.C. 590w, 42 U.S.C. 1480, 40 U.S.C. 442, 16 U.S.C. 590x–3; Order of Sec. of Agr., 19 F.R. 74, 22 F.R. 8188, 26 F.R. 8403)

§ 1872.18 Redelegation of authority.

The State Director is authorized to redelegate in writing any authority delegated to the State Director in this part, except authority to execute documents or instruments which may be recorded or filed for record, to one or more of the following State Office employees: Chief, Real Estate Loans; Chief, Operating Loans; Chief, Program Operations; Program Loan Officer; Real Estate Loan Officer; Operating Loan Officer.

Subparts B Through D—[Reserved]

Subpart E—Management and Disposition of Acquired Farms

AUTHORITY: The provisions of this Subpart E issued under sec. 41, 50 Stat. 528, as amended, sec. 4, 64 Stat. 100; 7 U.S.C. 1015, 40 U.S.C. 442. Interpret or apply secs. 43, 51, 50 Stat. 530, as amended, 531, as amended; 7 U.S.C. 1017, 1025. Other statutory provisions interpreted or applied are cited to text in parentheses.

§ 1872.81 General.

This subpart prescribes the authorities, policies, and procedures for the management of acquired farms from the time title to such farms is vested in the United States until they are sold or otherwise disposed of, and for their sale or other disposition. However, if the acquired farm represents an asset of a State Rural Rehabilitation Corporation and an agreement, pursuant to section 2(f) of the Rural Rehabilitation Corporation Trust Liquidation Act (Public Law 499, 81st Congress) (referred to in this subpart as a "section 2(f) agreement") is not currently in effect, the State Director will not sell the property until otherwise authorized but will retain it in inventory and manage it in the same manner as stipulated for other acquired farms.

(a) *Applicability.* For the purposes of this subpart, acquired farms are farms which before acquisition were security for:

(1) Direct loans made pursuant to title I of the Bankhead-Jones Farm Tenant Act, as amended, including such loans made under a section 2(f) agreement.

(2) Loans insured under title I of the Bankhead-Jones Farm Tenant Act, as amended.

(3) Credit sales of farms pursuant to sections 43 and 51 of the Bankhead-Jones Farm Tenant Act, as amended, and Public Law 563, 79th Congress.

(4) Credit sales by a State Rural Rehabilitation Corporation, directly or under an agreement with the Secretary of Agriculture.

(5) Loans for farm improvements or farm development made from Loans, Grants, and Rural Rehabilitation funds.

(6) Loans where the note and mortgage were assigned to the Government as security for, or the payment of, loans to, or in liquidation of, Defense Relocation Corporations, and Land Leasing and Land Purchasing Associations.

(7) The following types of Operating loans:

(i) Production and Subsistence loans.

(ii) Rural Rehabilitation loans.

(iii) Emergency Crop and Feed loans.

(iv) Flood, and Flood and Windstorm Restoration loans, made during the fiscal years 1944, 1945, and 1946.

(b) *Expeditious disposition of acquired farms.* Acquired farms will be sold or otherwise disposed of as expeditiously as possible consistent with the protection of the Government's investment in such farms.

§ 1872.82 Delegation of authority.

Subject to the policies and procedures prescribed in this subpart:

(a) The State Director is authorized to:

(1) Sell acquired farms and to execute deeds and other documents and instruments necessary in connection with such sales.

(b) The State Director or his delegate is authorized to:

(1) Lease or operate acquired farms.

(2) Execute caretakers' agreements.

(3) Enter into agreements prorating the payment of rent as between the Government and purchasers of acquired farms.

(4) When appropriate, pay taxes or to make payments in lieu of taxes on acquired farms.

(5) Authorize such repairs and maintenance of acquired farms as may be necessary to protect the Government's interest.

§ 1872.83 State Office routine subsequent to acquisition of farms.

When title to a farm becomes vested in the Government the State Director will take such of the following actions with respect to each acquired farm as may be appropriate:

(a) *Suitability of acquired farms for title I purposes.* If the farm is, or can be developed into, or used in the development of an efficient family-type unit having a total value, as repaired, improved, or enlarged, not exceeding the average value of efficient family-type units in the county, the State Director will determine that the farm is suitable for title I purposes. The County Supervisor will be advised when the decision is reached as to the suitability or nonsuitability of an acquired farm for title I purposes.

(b) *Care of growing crops on acquired farms.* At the time of acquisition, upon the advice of the representative of the Office of the General Counsel, the State Director shall instruct the County Supervisor with respect to the disposition to be made of any crops growing on acquired farms.

(c) *Care and leasing of acquired farms.* The State Director will furnish the County Supervisor with instructions regarding the care and leasing of acquired farms.

(1) *Caretaking.* Whenever it is impracticable to lease an acquired farm, and caretaking is deemed necessary to protect the Government's interest, such a farm may be placed under a caretaker's arrangement on terms approved by the State Director. Form FHA–529, "Caretaker's Agreement," to be signed by the caretaker, should be specific with respect to such items as the period covered by the agreement, care of the property, cultivation, harvesting, and care of growing crops, and the compensation to be allowed the caretaker for his services. Compensation allowed the caretaker for his services will be paid by use of Standard Form 1034, "Public Voucher for Purchases and Services Other Than Personal." In no event will the Government operate an acquired farm under a caretaker's agreement for a period exceeding one year from the date of acquisition. No provision shall be included in the caretaker's agreement which will interfere with the expeditious sale or other disposition of the farm.

(2) *Leasing.* Acquired farms will be leased for the current cropping season, or the remainder thereof, when it is determined that such leasing is necessary to protect the Government's investment. Form FHA–435, "Lease of Farm," will be used in such cases. The term of a lease may not exceed one year. Subject to the limitations on the period for sale, a farm may be leased for subsequent periods when necessary to protect the Government's interest. All leases will be on the best reasonable terms obtainable as determined by the State Director. Rent must be payable in cash, but the amount may be based on the market value of shares of agricultural commodities as provided on Form FHA–435. Leases will be on terms that will not delay unnecessarily the sale of farms.

(d) *Maintenance and minor repairs on acquired farms.* (1) Expenses for maintenance and minor repairs necessary to protect the Government's interest, which cannot practicably be deferred until after sale, may be incurred and paid by the Government. Where the contemplated expenditures for maintenance or repairs amount to $500 or less, the State Director will authorize the work to be done on a confirmatory basis. Upon completion of the maintenance or repairs a certified invoice or Standard Form 1034 will be obtained from the contractor and forwarded to the appropriate Finance Office for payment. Such invoice or voucher must include an itemization of the maintenance or repairs.

(2) Where the contemplated expenditures for maintenance or repairs amount to more than $500, the Finance Office will prepare and issue an invitation to bid for the work to be performed.

(e) *Taxation on acquired farms.* Except as provided in this paragraph the Farmers Home Administration is required, in accordance with section 50 (a) of the Farmers Home Administration Act of 1946, to pay taxes on farms acquired on behalf of the Government which are determined to be suitable for title I purposes, and, in accordance with section 50 (b) of the act, to make payments in lieu of taxes on farms acquired on behalf of the Government which are determined to be unsuitable for title I purposes.

(1) Taxes will be paid on acquired real property which represents an asset of a State Rural Rehabilitation Corporation, provided:

(i) There is a section 2 (f) agreement in effect whereunder the corporation or agency or official designated by the State legislature has authorized the Government to pay such taxes; and

(ii) The real estate would be taxable under State laws if it had been transferred to such corporation or agency or official under section 2 (d) of the Rural Rehabilitation Corporation Trust Liquidation Act, with no return transfer to the United States under a section 2 (f) agreement.

(2) In the absence of a section 2 (f) agreement tax payments will not be made on acquired farms which represent assets of a State Rural Rehabilitation Corporation.

(f) *Sale of acquired farms within the Farm Ownership Program.* Acquired farms will be sold as expeditiously as possible, and will not be held for an unreasonable length of time for within-program disposal.

(1) *Determination of selling price.* The State Director will establish a selling price, based upon the normal earning capacity value of the farm, taking into consideration such amounts as may be required to repair, improve, or enlarge the farm to meet established Farm Ownership minimum standards. If the acquired land, or a part thereof, will be sold for the purpose of enlarging another Farm Ownership unit, the sales price of the land to be added will be established on the basis of an appraisal report, prepared for the enlarged farm in accordance with §§ 1809.1 to 1809.2 of this chapter and will be consistent with the normal market value of comparable properties in the community and must be within the certified value for the enlarged farm. If there are buildings on the land being added, and such buildings are needed by the borrower in carrying out his farming operations, consideration will be given to the use value of such buildings, to be acquired by the purchaser, in arriving at the sales price of the real property being sold to the borrower. If there are buildings that will not be sold to the borrower, such buildings should be disposed of in accordance with §§ 1872.101 to 1872.109 of this chapter prior to the consummation of the sale of the land, and if such buildings are not removed from the land being sold by the date of the sale, adequate provisions will be stipulated in the sales instruments to allow sufficient time for removal. Also, the fair and reasonable value of the Government's interest in the mineral rights will be considered in determining the selling price.

(2) *Disposition of growing crops.* Growing crops, when not harvested under a caretaker's agreement, may be sold with the farm or separately. The State Director will determine the selling price thereof separately from that of the farm. Such crops may be sold for cash, but title I funds may not be loaned to enable a purchaser to make such purchases. When growing crops are sold on credit to a person eligible for the benefits of title I, either with the farm or separately, a separate note will be taken to evidence the sale price, payable not later than when the crops will be harvested. The separate note will be secured by a lien on the growing crops. When the growing crops are sold to any person not eligible for the benefits of title I, such crops will be sold pursuant to §§ 1872.101 to 1872.109.

(3) *Selection of purchaser.* The purchaser will be selected from applicants tentatively approved in accordance with Part 1801 of this chapter with preference accorded veterans as provided in §§ 1801.22 and 1821.5 of this chapter.

(4) *Sale to present Farm Ownership borrower.* An acquired farm, or part thereof, may be sold to a present Farm Ownership borrower, provided the State Director determines (i) the borrower's present unit is not an efficient family-type unit, and (ii) the addition of the acquired unit, or part thereof, will result in the borrower having an efficient family-type unit.

(g) *Methods of selling acquired farms within the Farm Ownership Program.* Acquired farms determined to be suitable for title I purposes may be sold within the program to present Farm Ownership borrowers or to applicants for Farm Ownership loans under such of the following methods as may be prescribed by the State Director.

(1) *Sale to Farm Ownership borrower.* An acquired farm, or part thereof, may be sold to a Farm Ownership borrower in a manner consistent with the policies and procedures for making a subsequent loan for farm enlargement purposes, on a credit basis, through a subsequent direct loan, through a subsequent insured mortgage loan or through a new direct or insured mortgage loan. If additional funds are needed by the Farm Ownership borrower with which to perform farm development necessary to make the enlarged farm an efficient family-type unit, such funds may be provided, in the case of sale on credit, through a direct loan processed simultaneously with the credit sale. In the case of sales through either new or subsequent direct or insured mortgage loans, such funds may be included in the loan made in connection with the purchase of the land.

(2) *Sale to Farm Ownership applicant.* The sale of acquired real estate to an approved Farm Ownership applicant, other than a present Farm Ownership borrower, may be accomplished by a sale on a credit basis when funds are not needed for repairs, improvements or enlargement; by a sale on a credit basis when funds are needed for repairs, improvements or enlargement, or by a sale through a direct or insured loan, which may include funds for repairs, improvements or enlargement. Where the State Director determines it to be impracticable to sell an acquired farm to a Farm Ownership applicant by any other method, the sale may be accomplished through a direct or insured loan.

(h) *Disposal of farms outside the Farm Ownership Program.* Acquired farms, or parts thereof, determined to be not suitable for title I purposes and suitable farms which cannot be sold to an eligible purchaser within a reasonable time will be sold as expeditiously as possible outside the program by the Farmers Home Administration unless special reasons require their transfer to the appropriate Government agency for disposal. The State Director is authorized to sell such farms at public or private sale to any individual at the best price obtainable, after public notice. Such sale may be accomplished by selling the land and buildings separately if such method of sale will result in the Government realizing a greater return from the sale. The sale may be either for cash or on terms of at least twenty percent cash with the balance secured by a first mortgage on the property and payable in equal annual installments within five years with interest at five percent on the unpaid principal payable annually.

(Secs. 1, 43, 44, 50, 50 Stat. 522, as amended, 530, as amended, 531, as amended, sec. 2, 64 Stat. 98; 7 U. S. C. 1001, 1017, 1018, 1024, 40 U. S. C. 440)

§ 1872.84 Miscellaneous matters pertaining to the sale of acquired farms.

The following general provisions will apply in connection with the sale of acquired farms:

(a) *Applications.* Applications to purchase acquired farms within the Farm Ownership Program will be processed in substantially the same manner as applications for initial loans as prescribed in Part 1832 of this chapter.

(b) *Type of deed form.* Conveyances will be made by deed without warranty and will be executed by the State Director. If legally possible, and the sale is to be made within the Farm Ownership Program, the deed should create an estate with the right of survivorship. On or after September 6, 1957, the sale of acquired farms will include only mineral interests acquired in the last acquisition of the farm and any State Rural Rehabilitation Corporation reserved mineral interest held in trust under an agreement entered into pursuant to section 2 (f), 64 Stat. 98. (Sec. 3, 64 Stat. 769; 7 U. S. C. 1035)

(c) *Abstracts of title.* Abstracts of title owned by the Government which cover only the land involved in a particular sale will be sold with the farm by adequate provision in the sales agreement. When the sale is on credit terms or a loan is made in connection with the sale, the abstract will be retained by the Government as additional security until the security instruments securing the credit sale or loan are fully satisfied.

(d) *Sales expense.* No expenses incident to the sale, such as revenue stamps, recording of mortgage, intangible taxes, or title insurance when required, will be borne by the Government.

(e) *Title clearance.* Title clearance for farms suitable for title I purposes will be effected in accordance with the applicable provisions of §§ 1807.1 to 1807.6 of this chapter.

(f) *Closing sales of acquired farms.* Each sale of an acquired farm will be closed in accordance with closing instructions issued by the representative of the Office of the General Counsel.

(g) *Cancellation of outstanding leases.* When an outstanding lease on an acquired farm is to be canceled pursuant to the terms of the sale, Form FHA–244, "Cancellation of Lease," will be used, one signed copy of which will be delivered to the lessee.

(h) *Sale subject to outstanding lease.* When it is necessary or desirable, the State Director may sell an acquired farm subject to an outstanding agricultural or mineral lease. In such cases the State Director will address a letter to the lessee informing him of the conveyance by the Government of its interest under the lease and furnish him with the name and address of the purchaser of the farm.

(i) *Proration of rent.* Ordinarily lease benefits will be sold with the property, however, when an acquired farm, or part thereof, is under lease which is not sold with the land and the Government's interest canceled at the time of sale, the rent has not become due before the sale is closed, and the lease does not contain provisions governing the proration of rent in the event of sale of the farm, the State Director will arrange for any prorated distribution of rent between the Government and the purchaser which is found by the State Director to be equitable and not detrimental to the financial interest of the Government.

(Sec. 9, 60 Stat. 1080; 7 U.S.C. 1031)

§ 1872.85 Easements and rights-of-way.

Generally, it will not be the policy of the Farmers Home Administration to grant or sell easements or rights-of-way on acquired real property, title to which is vested in the Government. When a request is received for an easement or right-of-way on such acquired real property, the State Director will make a determined effort to dispose of the property, thereby making it possible for the easement or right-of-way to be obtained from the purchaser of such property. In a case where it is impossible to sell the property, thereby enabling the purchaser to enter into an easement or right-of-way permit, the State Director will refer the matter to the National Office, giving a complete report on the case. Such a case will be handled on an individual case basis.

(Sec. 43, 50 Stat. 530, as amended; 7 U. S. C. 1017)

Subpart F—Sale of Farms Not Suitable For Purposes of Title I

AUTHORITY: The provisions of this Subpart F issued under sec. 41, 50 Stat. 528, as amended; 7 U.S.C. 1015. Interpret or apply secs. 43, 51, 50 Stat. 530, as amended, 531, as amended; 7 U.S.C. 1017, 1025. Other statu-

tory provisions interpreted or applied are cited to text in parentheses.

§ 1872.101 General.

Sections 1872.102 to 1872.109 prescribe supplemental authorities, policies, and procedures for the sale outside the Farm Ownership program by the Farmers Home Administration of acquired farms, or parts thereof, which have been determined to be not suitable for the purposes of Title I of the Bankhead-Jones Farm Tenant Act, as amended. (See §§ 1872.81 to 1872.84.)

§ 1872.102 Delegation of authority.

Subject to the policies and procedures contained in §§ 1872.102 to 1872.109 and in §§ 1872.81 to 1872.84, with respect to acquired farms, or parts thereof, determined not to be suitable for the purposes of title I:

(a) The State Director is authorized to:

(1) Accept or reject bids and negotiate for the sale of such farms, or parts thereof.

(2) Execute deeds and other instruments necessary in connection with such sales.

(b) The State Director or his delegate is authorized to:

(1) Procure, and approve vouchers in payment of, appraisals of such farms, or parts thereof.

(2) Invite bids or solicit offers in connection with the sale of such farms, or parts thereof.

§ 1872.103 Terms and conditions of sale.

Each sale of real property, pursuant to §§ 1872.101 to 1872.109, will be subject to the following terms and conditions:

(a) *Eligible purchasers.* A sale may be made to any individual or corporation. Farmers Home Administration employees are eligible to purchase such farms, or parts thereof, only when the sale is based upon competitive bids: *Provided*, That no sale shall be made, either directly or indirectly, to an employee who was in any way connected with its declaration as surplus or who was formerly accountable for the property or connected in any way with negotiations for the sale thereof. This restriction applies to State and County Committeemen. No sale may be made to persons related to ineligible employees, including Committeemen, within the third degree of consanguinity or affinity, without the prior approval of the Administrator.

(b) *Mineral rights.* On or after September 6, 1957, the sale of acquired farms will include only mineral interests acquired in the last acquisition of the farm and any State Rural Rehabilitation Corporation reserved mineral interests held in trust under an agreement entered into pursuant to section 2 (f), 64 Stat. 98.

(Sec. 3, 64 Stat. 769; 7 U.S.C. 1035)

(c) *Sale of abstracts.* Abstracts of title or other evidence of title held by the Government, which cover only the land involved in a particular sale, may be sold with the property, provided that when the sale is on credit such abstract(s) or other evidence of title will be retained by the Government until the purchase price is fully paid.

(d) *Terms.* The property shall be sold for the best price obtainable after public notice is given. The property should be sold preferably for cash, but may be sold on credit, secured by the property, when a purchaser for cash is not available, and will be sold on credit when a greater recovery can be obtained by credit sale (see § 1872.108(b)). In credit sales, an initial cash down payment of not less than twenty percent (20%) of the sale price must be made upon each sale, and the balance of the sale price must be paid in equal annual installments payable over a period of not to exceed five (5) years, with interest on the unpaid balance at the rate of five percent (5%) payable annually.

(Sec. 46, 50 Stat. 530, as amended, sec. 9, 60 Stat. 1080; 7 U.S.C. 1020, 1031)

§ 1872.104 Plan of sale.

The State Director will, in order to secure the best price obtainable, develop a plan of sale for each property to be sold. In developing such a plan consideration should be given to (a) subdivision and offering the property in units; (b) sale of land and marketable timber separately in order to obtain a better price than would be secured from the sale of the land with the timber thereon; and (c) determination of the terms on which bids will be invited.

§ 1872.105 Request for allotment to defray sales costs.

In the event that it is necessary to procure an outside appraisal report or formally advertise the property in newspapers, the State Director will request the establishment of an allotment of funds for such purposes in connection with the sale of each farm. Estimates for the cost of maintenance or repair work may be included when in the opinion of the State Director it will be impossible to sell the property for its reasonable value without making such expenditures, and the repairs or maintenance will add more to the fair market value of the property than the cost of the repairs or maintenance. Each request for an allotment will show the type of asset or security represented by the property.

§ 1872.106 Public notice.

The State Director will arrange for exposing the property to the market and for giving public notice of sale. The manner and form of giving public notice will be approved as to legal sufficiency by the representative of the Office of the General Counsel before release. If public notice and efforts to negotiate a sale of the property should fail to produce a reasonable offer or bid, public notice will again be given if, in the opinion of the State Director, such notice is likely to create additional interest.

(a) *When the value is $2,500 or less.* When the fair market value of the property, as determined by the State Director, does not exceed $2,500, public notice will be given by the State Director either by having appropriate notice of sale posted in not less than three public places (e. g., courthouse, postoffice building, and so forth) in the area where the property is located, or by publishing such notice of sale in the newspapers in accordance with the procedure for placing of advertising. When the State Director deems it desirable, in the interest of adequately exposing the property to the market, he may give such public notice by both posting the notices of sale and publishing them in the newspapers.

(b) *When the value exceeds $2,500.* When the fair market value of the property, as determined by the State Director, exceeds $2,500, public notice will be given by advertising the property formally, in sufficient newspapers, periodicals, trade journals, and other publications, and the employment of handbills, posters, and so forth, to expose the property adequately to the market.

§ 1872.107 Invitation to submit offer or bid.

(a) *When value is $2,500 or less.* When the fair market value of the property, as determined by the State Director, is $2,500 or less, the sale may be negotiated without sealed bids. After the period specified in the notice of sale has expired, the State Director, or the Farmers Home Administration employees authorized to do so by the State Director, will undertake negotiations for sale of the property with all persons who may be interested. Each designation of an employee to negotiate the sale will be made by the State Director in writing. A written report will be made of all negotiations conducted. When the negotiations are undertaken by the State Director and the best offer is acceptable to him, the offer will be reduced to writing on Form FHA–216, "Invitation, Bid, and Acceptance." The original and one copy of Form FHA–216 will be signed by the bidder and accompanied by the amount of the required deposit in the form of a certified check, money order, or cashier's check payable to the Treasurer of the United States. When the negotiations are undertaken by an employee other than the State Director, the best offer obtained, if it is likely to be considered to be acceptable, will likewise be reduced to writing on Form FHA–216, and Form FHA–216 then will be submitted to the State Director together with the deposit and the written report of all negotiations. Before final acceptance of an offer, the State Director will submit Form FHA–216 to the representative of the Office of the General Counsel for review as to legal sufficiency. The applicable procedure outlined in § 1872.108 will be followed with respect to analyzing, accepting, and awarding such offers.

(b) *When the value exceeds $2,500.* Sealed bids will be invited in connection with the offering of each property when the fair market value, as determined by the State Director, exceeds $2,500. The State Director will furnish prospective bidders with sufficient copies of Form FHA–216, and with properly addressed envelopes (requiring postage to be paid by the bidder) for transmitting bids, and

will request conformity with the detailed instructions contained in Form FHA–216 for the preparation and submission of bids. The State Director will sign section I of Form FHA–216 as issuing officer.

(c) *Preparation of invitaiton to bid.* (1) Form FHA–216 provides optional payment plans. If the State Director determines to invite bids on an all cash bid only, payment plan "A" will be made applicable by deleting payment plan "B" and paragraph "C" of section IV of Form FHA–216.

(2) If the State Director determines that offers will be acceptable on either payment plan "A" or payment plan "B", he will make the determination as to the percentage of the bid that will be required as an initial cash payment, which in no case will be less than twenty percent (20%), and fill in the blank in line 1 of payment plan "B". The State Director also will determine the period within which the balance of the sale price is to be paid, which period must not exceed five (5) years. The terms of payment of the balance of the sale price, together with the interest rate of five percent (5%) per annum, will be filled in on the two blank lines under payment plan "B".

(3) The State Director will determine the percentage of the bid to be required as a deposit, and will fill in the blank space in paragraph A 1 of section IV of Form FHA–216. The amount of deposit ordinarily should be ten percent (10%) of the total bid, but in no case shall it be less than five percent (5%).

(4) Whenever practicable, taxes or payments in lieu of taxes, rents, or receipts from the operation of the property for the current year will be prorated as of the date of delivery of the deed, and, when so prorated, "date of delivery of deed" will be inserted in the blank space in paragraph A 7 of section IV of Form FHA–216. When the property is under lease for the crop year and is sold during the crop year in two or more tracts, or when existing leases are on a share-of-the-crop basis and it is impracticable for these or other reasons to prorate rent as of the date of delivery of the deed, the State Director will insert a definite future date to which the Government will continue to receive all rents, and paragraph A 7 of section IV will be modified by making separate provision for proration of rents or other receipts, as distinguished from taxes or payments in lieu of taxes.

(5) A legal description of the property will be prepared and attached to Form FHA–216 as "Exhibit A". When applicable, the following sentence will be inserted under the legal description: "The above described land will be sold subject to the following specific conditions, reservations, and exceptions:". Following this, any specific conditions, reservations, and exceptions, such as easements, leases, back taxes, and so forth, will be listed.

§ 1872.108 Receiving, custody, and acceptance of bids.

The State Director will indicate the date and hour bids are received in the State Office by placing this information on all envelopes containing bids. Bids received prior to the hour and date stipulated in the advertisement for the bid opening will be kept in a locked container until the time fixed for opening. The State Director will have sole custody of the key at all times. Bids may be withdrawn or modified by written or telegraphic request received from the bidders prior to the time fixed for opening bids, but no bids may be withdrawn or modified after the time fixed for opening.

(a) *Opening of bids.* (1) All bids received will be opened at the hour stipulated in the advertisement. The State Director and at least three Farmers Home Administration employees will be present at the opening. All other interested persons who may desire to attend also may be present. The State Director will designate a secretary who will record the date and hour the bid opening began, the names of the Farmers Home Administration employees present, and tabulate information with respect to each bid as it is opened.

(2) When a bid is not accompanied by certified check, money order, or cashier's check, payable to the Treasurer of the United States, in an amount at least equal to the amount of deposit required in Form FHA–216, the bid will be disqualified, except that when such bid is the high bid and is otherwise acceptable, the bidder will be requested to make the required deposit within a stipulated period of time. If the bidder does not comply with this request, the bid will likewise be disqualified.

(b) *Analysis of bids.* In analyzing bids, as to acceptability, the highest qualified bid shall be the determining factor without regard to whether the bid is under payment plan "A" or payment plan "B". That is, a bid under payment "B" must be accepted if it is higher than any bid under payment plan "A", or vice versa.

(c) *Acceptance of bids.* When a bid exceeds $12,000, the State Director shall obtain the prior aproval of the National Office before accepting or rejecting the bid. The request for approval submitted to the National Office will include (i) the information tabulated at the opening with respect to each bid, (ii) a copy of Form(s) FHA–596, "Appraisal Report," made on the property, (iii) a report on the type and extent of the advertisement of sale of the property, (iv) a copy of the advertisement, (v) the originals of Forms FHA–216 received from the three highest bidders, and (vi) the recommendations of the State Director.

(1) *Manner of acceptance.* The State Director will accomplish acceptance of a bid by signing in the "Acceptance" block in section III on the original and one copy of Form FHA–216. The signed copy of the accepted bid Form will be mailed to the successful bidder on the acceptance date by registered mail with return receipt requested.

(2) *When a bid is accepted immediately.* If a bid is accepted immediately, the State Director will transmit the deposit of the successful bidder to the Finance Office for scheduling into the Special Deposits Account of the United States Treasury Regional Disbursing Office, and the deposits of the unsuccessful bidders will be returned promptly by registered mail with a covering letter of explanation.

(3) *When a bid is not accepted immediately.* If a bid is not accepted immediately, the State Director will transmit the deposits of the three highest bidders to the Finance Office for scheduling into the Special Deposits Account of the United States Treasury Regional Disbursing Office, where they will be held until final action is taken. All deposits of bidders other than the deposits of the three highest bidders will be returned promptly by registered mail with a covering letter of explanation. If one of the three highest bids is later accepted, the State Director will request the Director, Finance Office, to refund the deposits of other bidders. If all bids are rejected, the State Director will request the Director, Finance Office, to refund the deposits of all three bidders. At the time the State Director requests the Director, Finance Office, to refund deposits, the State Director will notify each unsuccessful bidder in writing that his bid has been rejected and that the Director, Finance Office, has been requested to refund the deposit.

(d) *Award to successful bidder.* Upon acceptance of a bid by the State Director, Standard Form No. 1036, "Statement and Certificate of Award," will be prepared in an original and two conformed copies. The original will be signed by the State Director. In the space below the "Certificate" will be shown the name and address of the successful bidder, and the following statement: "Award was made purusant to authority contained in sections 43 (d) and 51 of the Bankhead-Jones Farm Tenant Act, as amended by Public Law 731, 79th Congress (60 Stat. 1062)."

(e) *Negotiated sale.* In the event that all bids are rejected or no bids are received, the State Director may negotiate immediately with the bidders and other prospective purchasers, and consummate the sale of the property, when the negotiated offer is less that $12,000, at the best price obtainable without further advertising, provided that there are no indications that readvertising will create additional interest and result in a higher bid. When the negotiated offer is $12,000 or more, the State Director shall obtain the prior approval of the National Office in the same manner as provided in paragraph (c) of this section. Any negotiated sale shall be on terms not less favorable, and at a price not lower, than the best terms and highest price offered as a result of public notice.

§ 1872.109 Closing of sale and routing of documents.

Promptly after acceptance of the bid, the State Director will conform three copies of Form FHA–216 and will forward to the representative of the Office of the General Counsel the originals of Form FHA–216 and Standard Form No. 1036 and such other pertinent material as may be necessary to close the sale. He will request the representative of the

Office of the General Counsel to prepare the necessary legal instruments and closing instructions. The quitclaim deed, promissory note and security instrument will conform as nearly as possible to the type used in closing ordinary business transactions involving the sale of land in the locality where the property is located. The representative of the Office of the General Counsel will return the originals of Form FHA–216 and Standard Form No. 1036 and other pertinent material to the State Director with the closing instruments and instructions. After a sale on credit is closed, all documents executed in complying with the closing instructions will be forwarded to the representative of the Office of the General Counsel who will return the documents to the State Director with an opinion as to whether the sale has been properly closed.

(a) *Notification to tax officials and lessees.* After the deed has been delivered to the purchaser, the State Director immediately will send notice of the sale to the proper tax officials by registered mail, giving the name and address of the purchaser, the date of delivery of the deed, a description of the land, and stating that the United States of America no longer holds title to the property. If the property is subject to an oil, gas, or mineral lease, the State Director will notify the lessee(s) in the same manner.

(b) *Scheduling of proceeds.* All payments received (whether as deposit, down payment, installment payment, or full payment) on the purchase price of the property under the terms of the accepted bid will be scheduled by the collecting official to the Finance Office. No receipt will be issued on Form FHA–37, "Receipt for Payment," for any part of the down payment, or for full cash payment at the time of closing. However, Form FHA–37 will be issued in receipting payments on that part of the purchase price evidenced by a promissory note.

PART 1873—ASSIGNMENT OF INSURED NOTES

Sec.

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1873.8 Assignment of insured notes held by the Farmers Home Administration as trustee for a State Rural Rehabilitation Corporation under a section 2 (f) agreement.

AUTHORITY: The provisions of this Part 1873 issued under secs. 308, 309, 339, 75 Stat. 308, 309, 318, sec. 510, 63 Stat. 437, sec. 4, 64 Stat. 100, sec. 514, 75 Stat. 186; 7 U.S.C. 1928, 1929, 1989, 40 U.S.C. 442, 42 U.S.C. 1480, 1484; Orders of Sec. of Agr., 19 F.R. 74, 26 F.R. 8403, 27 F.R. 5005, except as otherwise noted.

§ 1873.1 Scope.

This part prescribes the authorities, policies, and procedures for processing the assignment of insured Soil and Water Conservation, insured Farm Ownership, and insured domestic Farm Labor Housing notes for loans for which the mortgage runs to the United States as mortgagee.

§ 1873.2 Definitions.

As used in this part, the term:

(a) "Private buyer" is any purchaser of an insured note other than the Farmers Home Administration (Insurance Fund) or the Farmers Home Administration as trustee for a State Rural Rehabilitation Corporation under section 2(f) of the Rural Rehabilitation Corporation Trust Liquidation Act.

(b) "Holder" is the current owner of an insured note.

(c) "Value" of an insured note is the outstanding unpaid principal plus the amount of unpaid accrued interest on the note account.

(d) "Insurance Fund" is the Agricultural Credit Insurance Fund which is the revolving fund made available pursuant to section 309 of the Consolidated Farmers Home Administration Act of 1961 for the making of insured loans and the discharge of obligations of the Farmers Home Administration under its insurance endorsements.

(e) "Annual charge" is the amount retained by the Farmers Home Administration out of interest payments on loans evidenced by note forms bearing a form date (or revision date) of January 8, 1959, or later.

(f) "Fixed period" is the period during which the note cannot be assigned by the holder to the Farmers Home Administration except at the request of the Government.

(g) "Option period" is the 12 months following the expiration of the fixed period.

(Sec. 2, 64 Stat. 98; 40 U.S.C. 440)

§ 1873.3 Authorities.

Subject to the policies and procedures prescribed in this part:

(a) The Director, Finance Office, is authorized, on behalf of the Government, in connection with the assignment of insured notes, to execute required documents and to perform other necessary steps, including but not limited to:

(1) Endorsing the note, executing the insurance endorsement, and endorsing the note for reinsurance.

(2) Acknowledging receipt of notice of assignment of an insured note.

(3) Requiring the holder of an insured note to assign the note to the Government, when requested to do so by the State Director.

(4) Approving the request of a holder to have the Farmers Home Administration purchase the note.

(5) Accepting the assignment of an insured note on behalf of the Insurance Fund.

(6) Authorizing disbursements from the Insurance Fund for notes being assigned to the Government.

(7) Executing Form FHA 471–5, "Supplemental Purchase Agreement (Automatic Renewal)," and Form FHA 471–6, "Reinsurance and Repurchase Agreement (Automatic Renewal)."

(8) Assigning an insured Soil and Water Conservation or Farm Ownership note held by the United States as trustee under a section 2(f) agreement.

(b) The State Director is authorized to require assignment of an insured note to the Farmers Home Administration in connection with voluntary conveyance, foreclosure, transfer, or any other servicing action relating to liquidation of the borrower's account. If the State Director believes assignment is necessary for servicing actions not involving liquidation of the borrower's account, such assignment may be approved in justified cases upon prior concurrence of the National Office. Ordinarily a case will be submitted to the National Office only when it is determined to be in the best interests of the Government. The State Director also is authorized to assign an insured Soil and Water Conservation or Farm Ownership note held by the Farmers Home Administration as trustee under a section 2(f) agreement.

§ 1873.4 General policies.

(a) *Conditions of assignment.* When insured notes are assigned between private holders, notice of such assignment, executed by both the assignor and the assignee, must be given to the Farmers Home Administration. The Farmers Home Administration may require assignment of an insured note to the Government at any time upon request to the holder, and, upon assignment of the note to the Government accompanied by the insurance endorsement, the Government will pay the holder the unpaid balance of principal and interest owing to him on the note.

(b) *Selling price.* Whenever a note on a form bearing a form date (or revision date) of January 8, 1959 or later is purchased or sold by the Government, for itself or as trustee under a 2(f) agreement, the selling price will be the value of the note as of the effective date of the sale minus the annual charge computed to such date of sale. Whenever any other insured note is purchased or sold by the Farmers Home Administration, for itself or as trustee, the selling price will be the value of the note as of the effective date of the sale. The selling price of an insured note assigned by one private holder to another will be the price determined by the assignor and the assignee.

(c) *Responsibilities of the Director, Finance Office.* The Director, Finance Office, will:

(1) Advise holders or purchasers regarding the procedures to be followed for assigning insured notes.

(2) Perform the necessary steps, on behalf of the Farmers Home Administration, in connection with the assignment of insured notes.

(3) Advise the holder of the options available to him at the expiration of the fixed period. Any holder of the note may, at his option:

(i) Within a period of one year beginning after the expiration of the period specified in the insurance endorsement relating to such note, have the note purchased by the Government, and if

such option is exercised, the Government will pay the holder by United States Treasury check the amount of unpaid principal and interest owing on the note to the holder;

(ii) Accept any new agreement which may be offered by the Government to purchase the note; or

(iii) Retain the note until it is paid in full, refinanced, or assigned to another lender.

(d) *Responsibility of the National Office.* The National Office is responsible for negotiating with private buyers for the assignment of notes held by the Insurance Fund or for the account of a State Rural Rehabilitation Corporation under a section 2(f) agreement.

(Sec. 2, 64 Stat. 98; 40 U.S.C. 440)

§ 1873.5 Assignment of an insured note by a private holder to a private buyer.

(a) Upon receipt of notice from a holder of intention to assign an insured note, the Director, Finance Office, will send any accumulated payments on the note to which the holder is entitled and furnish the holder with appropriate information on how to complete the assignment. The Director, Finance Office, also will send the holder a copy of Form FHA–756 or FHA 471–7, "Notice and Acknowledgment of Sale," and a statement of account.

(b) If the Director, Finance Office, receives information that an insured note has already been assigned, he will request the holder to furnish Form FHA–756 or FHA 471–7 completed with respect to information and signatures by the holder and buyer.

(c) Upon receipt of a properly completed Form FHA–756 or FHA 471–7, the Director, Finance Office, will prepare, execute, and date the acknowledgment section of the Form. He will send a facsimile of the completed Form to the assignee and the assignor, and retain the original.

(d) The Finance Office will transmit payments to the assignee after the date of acknowledgment of Form FHA–756 or FHA 471–7 and will notify the assignor and assignee of any payments processed to the assignor subsequent to the date of the assignment or the statement of account, whichever is earlier, and prior to the date of the acknowledgment. The Farmers Home Administration will assume no liability for failure to give such notice and for adjustment of these payments between the assignor and the assignee.

§ 1873.6 Assignment of insured notes to the Farmers Home Administration.

(a) *Assignment at the request of the holder.* The following actions will be taken whenever the holder of an insured note requests that the Farmers Home Administration accept assignment of the note during the option period.

(1) The Director, Finance Office, will inform the holder regarding the procedures to be followed to effect the assignment.

(2) Upon receipt of the endorsed note, the Director, Finance Office, will:

(i) Acknowledge receipt of the note.

(ii) Process payment to the assignor.

(iii) Send to the County Office a copy of Form FHA 451–5, "Notification of Insured Loan Payment," as notice of the payment to the assignor.

(b) *Assignment at the request of the Farmers Home Administration.* The County Supervisor will request the Finance Office to require the holder to assign the note to the Government when approval of such assignment is received from the State Office. The procedures for assigning such an insured note will be the same as those prescribed in paragraph (a) of this § 1873.6.

(R.S. 3648, as amended; 31 U.S.C. 529)

§ 1873.7 Assignment of notes from the Insurance Fund.

(a) Upon completion of the negotiations for assignment to a buyer of notes held by the Insurance Fund, the National Office will advise the Director, Finance Office, of:

(1) The name and case number shown on the notes to be sold, if known.

(2) The legal name and correct mailing address of the buyer; also, the legal name and address of the recipient, if collections are to be remitted to other than the buyer.

(3) The manner and time of delivery of the notes.

(4) Agreed upon arrangements for making payment.

(5) The effective date of the sale.

(6) Any other information particularly significant or pertinent to the terms and conditions of the sale.

(b) The Director, Finance Office, will send to the buyer a list of the notes showing each borrower's name and case number and the selling price of each note as of the effective date of the assignment.

(c) If payment will be made in advance of delivery of the endorsed notes, the Director, Finance Office, will request the buyer to forward a check or draft before the effective date of assignment, drawn to the order of the Farmers Home Administration, in the amount of the total selling price of all the notes. If the buyer is an individual, payment by certified check or cashier's check will be required. Upon receipt of payment, the Director, Finance Office, will:

(1) Endorse each note for assignment.

(2) Whenever notes on forms bearing a form date (or revision date) of January 8, 1959, or later are assigned from the insurance fund, execute Form FHA 440–5, "Insurance Endorsement (Insured FO, LH, or SW Loan)," for each note, or he will execute such other form of insurance endorsement as the National Office may approve. The rate of annual charge and the length of the fixed period to be stipulated in the insurance endorsement or other agreement will be determined by negotiation with the buyer, but in no case will the rate of annual charge be less than ½ of one percent, nor will the initial fixed period be less than 3 years. The initial fixed period will begin from the date of execution of the insurance endorsement.

(3) Execute a Form FHA 471–6 for each note assigned from the Insurance Fund after the initial fixed period has expired, except when a repurchase agreement has not been offered to the buyer. When both Forms FHA 471–6 and FHA 440–5 are executed for a note on a form bearing a form date (or revision date) of January 8, 1959, or later, paragraph 7 of Form FHA 440–5 will be stricken and the deletion initialed in the margin by the Director, Finance Office. When Form FHA 471–6 or FHA 440–5 is not executed, a reinsurance provision will be added to the endorsement of the note as follows: "The debt evidenced by this note is hereby reinsured as of _____, 19__."

(4) Send the notes, and when applicable, Forms FHA 440–5 and FHA 471–6 to the purchaser by certified mail, return receipt requested.

(d) If a sight draft is used, the Director, Finance Office, will attach it to the endorsed notes and send them to the bank designated by the buyer by certified mail, return receipt requested. The buyer will pay the bank's charge for handling the transaction. The remittance must be dated on or before the effective date of assignment.

(e) If the negotiated terms and conditions of the sale provide for delivery and payment by means other than those enumerated above, the Director, Finance Office, will make the necessary arrangements.

(f) If any collection has been processed to the borrower's note account subsequent to the date on which the selling price of the note was computed and prior to the effective date of the assignment, the Finance Office will process a check to the assignee for the amount of the payment to which he is entitled.

§ 1873.8 Assignment of insured notes held by the Farmers Home Administration as trustee for a State Rural Rehabilitation Corporation under a section 2(f) agreement.

(a) *Assignment to a private buyer.* (1) Upon completion of negotiations for assignment to a buyer of notes held under a 2(f) agreement, the State Office will send the notes to be assigned to the Director, Finance Office, by certified mail, return receipt requested, and will advise the Director, Finance Office, of:

(i) The legal name and correct mailing address of the buyer; also, the legal name and mailing address of the recipient, if collections are to be remitted to other than the buyer.

(ii) The manner and time of delivery of the notes.

(iii) Agreed upon arrangements for making payment.

(iv) The effective date of the sale.

(v) Any other information particularly significant or pertinent to the terms and conditions of the sale.

(2) The Director, Finance Office, will send to the buyer a list of the notes showing each borrower's name and case number and the selling price of each note as of the effective date of the assignment.

(3) If payment will be made in advance of delivery of the endorsed notes, the Director, Finance Office, will request the buyer to forward a check or draft before the effective date of assignment, drawn to the order of "Farmers Home Administration, Trustee of the (insert name of the State Rural Rehabilitation Corporation)," in the amount of the total selling price of all the notes. If the buyer is an individual, payment by certified check or cashier's check will be required. Upon receipt of payment, the Director, Finance Office, will:

(i) Endorse each promissory note for assignment.

(ii) Send the notes to the buyer, return receipt requested, with a letter of transmittal listing each note separately and acknowledging the assignment thereof.

(4) If a sight draft is used, the Director, Finance Office, will attach it to the endorsed notes and forward them to the bank designated by the buyer.

(5) If the negotiated terms and conditions of the sale provide for delivery and payment by means other than those enumerated above, the Director, Finance Office, will make the necessary arrangements.

(6) If any collection has been processed to the borrower's note account subsequent to the date on which the selling price of the note was computed and prior to the effective date of assignment, the Finance Office will process a check to the assignee for the amount of the payment to which he is entitled.

(b) *Assignment to the Insurance Fund.* When it becomes necessary to assign to the Insurance Fund a loan held under a 2(f) agreement, the State Director will send the note to the Finance Office and request the Director, Finance Office, to take the necessary steps immediately to assign the loan to the Insurance Fund.

(Sec. 2, 64 Stat. 98; 40 U.S.C. 440)

PART 1874—ASSIGNMENT OF INSURED MORTGAGES

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1874.32 Execution of declarations of trust.
1874.33 Distribution of documents.
1874.34 Assignment of notes.

AUTHORITY: The provisions of this Part 1874 issued under secs. 308, 309, 339, 75 Stat. 308, 309, 318, sec. 4, 64 Stat. 100; 7 U.S.C. 1928, 1929, 1989, 40 U.S.C. 442; Orders of Sec. of Agr., 19 F.R. 74, 26 F.R. 8403, 27 F.R. 5005, 9957, except as otherwise noted.

Subpart A—General

§ 1874.1 Scope.

This subpart prescribes the authorities, policies, and procedures for processing the assignment of insured Farm Ownership mortgages which run to the lender as mortgagee and which are not subject to a trust assignment pursuant to subpart B of this part 1874 or to a declaration of trust pursuant to Subpart C of this part. It includes the assignment by a private holder to a private buyer or to the Government, the assignment by the Government (insurance fund) to a private buyer, and the assignment to a private buyer or to the Government of an insured mortgage held by the Farmers Home Administration as trustee of the assets of a State Rural Rehabilitation Corporation under section 2(f) of the Rural Rehabilitation Corporation Trust Liquidation Act (40 U.S.C. 440(f)).

§ 1874.2 Definitions.

As used in this subpart the term:

(a) "Private buyer" is any purchaser of an insured mortgage other than the Government or the Government as trustee for a State Rural Rehabilitation Corporation under a section 2(f) agreement.

(b) "Holder" is the current owner of an insured mortgage. "Private holder" is any holder other than the Government or the Government as trustee for a State Rural Rehabilitation Corporation under a section 2(f) agreement.

(c) "Value" of an insured mortgage is the outstanding unpaid principal plus the amount of unpaid accrued interest on the note account, plus the unpaid amount of advances, if any, made by a holder for property insurance premiums, taxes, assessments, water charges, and other payments in discharge of liens which are prior to the mortgage.

(d) "Insurance fund" is the Agricultural Credit Insurance Fund made available under section 309 of the Consolidated Farmers Home Administration Act of 1961 for the discharge of obligations of the Farmers Home Administration under its insurance endorsements.

(e) "Mortgage and related instruments" includes the original mortgage (deed of trust or other security instrument), the promissory note (bond), the triple agreement (Form FHA–359), if any, the original executed instrument of assignment, if a separate instrument was used, and any other documents held by the assignor relating to the mortgage transaction, such as copies of any partial releases from the lien of the mortgage, the originals of any previous instrument of assignment, and Form FHA–38, "Letter of Certification," if one was issued.

(f) "Fixed period" is the agreed period of years during which a mortgage is not assignable to the Government unless the borrowed is in default.

§ 1874.3 Authorities.

Subject to the policies and procedures prescribed in this subpart:

(a) The Director, Finance Office is authorized, on behalf of the Government, in connection with the assignment of insured mortgages, to execute required documents and to perform other necessary steps, including but not limited to:

(1) Acknowledging receipt of notice of assignment of an insured mortgage.

(2) Requiring the holder of an insured mortgage to assign the mortgage to the Government, when requested to do so by the State Director.

(3) Approving the request of a holder to have the Government purchase the mortgage.

(4) Accepting the assignment of an insured mortgage on behalf of the insurance fund, assigning such mortgage, endorsing the note for assignment, and endorsing the note for reinsurance.

(5) Authorizing disbursements from the insurance fund for mortgages being assigned to the Government.

(6) Executing Form FHA 471–5, "Supplemental Purchase Agreement (Automatic Renewal)," and Form FHA 471–6, "Reinsurance and Repurchase Agreement (Automatic Renewal)."

(7) Assigning an insured mortgage held by the United States as trustee of the assets of a State Rural Rehabilitation Corporation under a section 2(f) agreement.

(b) The State Director is authorized to require assignment of an insured mortgage to the Farmers Home Administration when the borrower is in default in connection with voluntary conveyance, foreclosure, transfer, or any other servicing action relating to liquidation of the borrower's account. If the State Director believes assignment is necessary for other servicing actions not relating to liquidation of the account, such assignment may be approved in justified cases when the borrower is in default upon prior concurrence of the National Office. Ordinarily, a case will be submitted to the National Office only when it is determined to be in the best interests of the Government.

§ 1874.4 General policies.

(a) *Conditions of assignment.* When insured mortgages are assigned between private holders, notice of such assignment, executed by both the assignor and the assignee, must be given to the Farmers Home Administration. The Government may require assignment of an insured mortgage if the borrower is in default. The holder has the privilege of assigning a mortgage to the Government when a borrower has been in default for more than 12 months or during the one-year period following the expiration of a fixed period. Insured loans

that have been acquired by the insurance fund may be assigned to private buyers provided the borrower is not in default.

(b) *Selling price.* Whenever an insured mortgage is purchased or sold by the Government, whether in its own right or as trustee of the assets of a State Rural Rehabilitation Corporation, the selling price will be the value of the mortgage. The selling price of an insured mortgage assigned by one private holder to another will be determined by the assignor and the assignee and may differ from the value of the mortgage.

(c) *Method of assignment.* Insured mortgages will be assigned in accordance with the law of the State in which the mortgaged property is located. The Office of the General Counsel will advise the Director, Finance Office, of the appropriate method or methods of assignment to be used in each State. In States in which recordation is necessary (see paragraph (e) of this section), the mortgage will be assigned by a separate instrument of assignment, except that recordation may be made by marginal entry when a mortgage is assigned between private parties and the mortgaged property is located in Arkansas, Indiana, Iowa, Kentucky, Mississippi, Nevada, Ohio, or Wyoming. The promissory note will be assigned by endorsement "to the order of" and delivery to, the assignee. Assignment of the mortgage may be affected by endorsement and delivery of the note when the mortgaged property is located in Colorado, Louisiana, Missouri, Tennessee, Virginia, or Puerto Rico.

(d) *Form of assignment.* Assignment forms will be furnished by the Farmers Home Administration to the holder for use in states in which recordation is necessary. In assignments between private parties, the holder may, at his option, use any other appropriate form of assignment which transfers to the assignee all rights, interests, and claims of the assignor arising out of the mortgage transaction.

(e) *Recording of assignments.* All assignments will be recorded in the land records except when the mortgaged property is located in Colorado, Louisiana, Missouri, Tennessee, Virginia, or Puerto Rico. The assignee is responsible for recording the assignment of an insured mortgage and for paying the recording fee. When the Farmers Home Administration is the assignee and recordation is necessary as provided herein, the County Supervisor will have the assignment recorded and pay the fee.

(f) *Responsibilities of the Director, Finance Office.* The Director, Finance Office, will:

(1) Advise holders regarding the procedures to be followed for assigning insured mortgages.

(2) Perform the necessary steps, on behalf of the Government, in connection with the assignment of insured mortgages.

(3) Notify the National Office of mortgages held by the insurance fund that are eligible for assignment.

(4) Notify the National Office 60 days prior to the expiration of the fixed period of each loan.

(5) Notify holders whenever a borrower is in default on the installments on his note, whenever other defaults occur of which the Director, Finance Office, receives notice from the State Director, and whenever any of such defaults are corrected.

(6) Advise the holder of the options available to him at the expiration of the fixed period. Any holder may, at his option, (i) within a period of one year beginning after the expiration of the period specified in the triple agreement or in the insurance endorsement, as the case may be, have the mortgage loan purchased by the Government, and if such option is exercised, the Government will pay the holder by United States Treasury check an amount equal to the value of the mortgage; (ii) accept any new agreement which may be offered by the Government to purchase the loan; or (iii) retain the loan until it is paid in full, refinanced or assigned to another lender.

(g) *Responsibilities of the National Office.* The National Office is responsible for negotiating with private buyers for the assignment of mortgages acquired by the insurance fund or for the account of a State Rural Rehabilitation Corporation under a section 2(f) agreement.

§ 1874.5 Assignment of insured mortgage by private holder to private buyer.

(a) Upon receipt of notice from a holder of intention to assign an insured mortgage, the Director, Finance Office, will send any accumulated payments on the loan to the holder and furnish the holder with appropriate information on how to complete the assignment. The Director, Finance Office, also will send the holder a copy of Form FHA–756 or FHA 471–7, "Notice and Acknowledgement of Sale," a statement of account, and assignment forms, if needed.

(b) If the Director, Finance Office, receives information that an insured mortgage has already been assigned, he will inform the holder of any additional steps that are needed to complete the assignment and request the holder to furnish a completed Form FHA–756 or FHA 471–7.

(c) Upon receipt of a properly completed Form FHA–756 or FHA 471–7 and a conformed copy of the instrument of assignment, if a separate instrument of assignment was used, the Director, Finance Office, will prepare, execute, and date the acknowledgment section of Form FHA–756 or FHA 471–7. He will send a facsimile of the completed Form FHA–756 or FHA 471–7 to the assignee, the assignor, and the County Supervisor, and retain the original. Upon execution of the acknowledgement of notice of sale on Form FHA–756 or FHA 471–7, the assignment shall be binding upon the Government from the date of the assignment, provided a valid assignment of the note and mortgage has been effected, and provided further that, except when the mortgaged property is located in Colorado, Louisiana, Missouri, Puerto Rico, Tennessee, or Virginia, the assignment has been properly recorded in the land records. The Government assumes no liability for any payment transmitted to the assignor prior to the date of the acknowledgment of notice of sale on Form FHA–756 or FHA 471–7.

(d) The Finance Office will transmit payments to the assignee after the date of the acknowledgement on Form FHA–756 or FHA 471–7 and will notify the assignor and assignee of any payments processed to the assignor subsequent to the date of the assignment or the statement of account, whichever is earlier, and prior to the date of acknowledgment. The Farmers Home Administration will assume no liability for failure to give such notice and for adjustment of these payments between the assignor and the assignee.

§ 1874.6 Assignment of insured mortgages to the Government.

(a) *Assignment at the request of the holder.* The following actions will be taken whenever the holder of an insured mortgage requests that the Government accept assignment of the mortgage after the borrower has been in default for more than a year or during the 12-month period following the expiration of a fixed period.

(1) The Director, Finance Office, will inform the holder regarding the procedures to be followed to effect the assignment. He also will send him copies of the assignment form, unless the assignment can be effected merely by endorsement and delivery of the note.

(2) Upon receipt of the mortgage and related instruments, and the executed instrument of assignment, if any, the Director, Finance Office, will acknowledge receipt of the mortgage and related instruments, process payment to the assignor for an amount equal to the value of the mortgage as of the date of the Treasury check and send to the County Office a copy of Form FHA 451–5, "Notification of Insured Loan Payment," for the payment to the assignor, together with the original mortgage and related documents. If a separate instrument of assignment was used, it will be sent to the County Office for recording with a request that it be returned to the Finance Office when recorded.

(b) *Assignment at request of the Farmers Home Administration.* The County Supervisor will request the Finance Office to require the holder to assign the insured mortgage to the Government when approval of such assignment is received from the State Office. The procedures for assigning such an insured mortgage will be the same as those prescribed in paragraph (a) of this section, except that the Director, Finance Office, will inform the holder that it is necessary for the Government to require assignment of the Mortgage in order to service the account properly.

(R.S. 3648, as amended; 31 U.S.C. 529)

§ 1874.7 Assignment of insured mortgage from insurance fund to private buyer.

Upon completion by the National Office of the negotiations for assignment to a private buyer of insured mortgages held

by the insurance fund, the National Office will advise the Director, Finance Office, of the terms, conditions, and effective date of the assignment. The Director, Finance Office, will send to the buyer a list of the mortgages showing each borrower's name and case number and the value of each mortgage as of the effective date of the assignment.

(a) If payment will be made in advance of delivery of the executed security documents, the Director, Finance Office, will request the buyer to forward a check or draft before the effective date of assignment, drawn to the order of the Farmers Home Administration in the amount of the total value of all the mortgages. If the buyer is an individual, payment by certified check or cashier's check will be required. Upon receipt of payment, the Director, Finance Office will:

(1) Prepare and execute an instrument of assignment for each mortgage, if one is required.

(2) Endorse each note for assignment.

(3) Execute a Form FHA 471–6 except when the original fixed period has not expired, or when a Repurchase Agreement has not been offered to the buyer. When Form FHA 471–6 is not executed, a reinsurance provision will be added to the endorsement of the note as follows: "The debt evidence by this note is hereby reinsured as of _____, 19__."

(4) Send the mortgage and related instruments including Form FHA 471–6, if one was executed, to the purchaser by registered mail, return receipt requested.

(b) If the sight draft method is used, the Director, Finance Office, will attach a sight draft to the executed security documents and send them to the bank designated by the buyer by registered mail, return receipt requested. The buyer will pay the bank's charge for handling the transaction. The remittance must be dated on or before the effective date of assignment.

(c) The Director, Finance Office, will request the assignee to have the assignment recorded in States where recordation is necessary. He will send a conformed copy of the assignment form to the County Supervisor for filing in the borrower's County Office case folder. In States where a separate instrument of assignment is not used, the Director, Finance Office, will advise the County Supervisor of the assignment by letter.

(d) If any payment has been processed to the borrower's note account subsequent to the date on which the value of the mortgage was computed and prior to the effective date of the assignment, the Finance Office will process a check to the assignee for the amount of the payment.

§ 1874.8 Assignment of insured mortgage held by the Farmers Home Administration as trustee for a State Rural Rehabilitation Corporation under a section 2(f) agreement.

(a) *Assignment to a private buyer.* The steps involved in assigning a mortgage from the United States as trustee for a State Rural Rehabilitation Corporation to a private buyer are generally the same as those prescribed in § 1874.7 for the assignment of mortgages from the insurance fund, except that Form FHA 471–6 will not be executed and a reinsurance provision will not be included in the endorsement of the note.

(1) The Director, Finance Office, will request the State Director to forward to the Finance Office, return receipt requested, the mortgages and related instruments to be assigned.

(2) The Director, Finance Office, will request the buyer to make the check or draft payable to the "Farmers Home Administration, Trustee of the (insert name of the State Rural Rehabilitation Corporation)."

(3) Upon receipt of payment from the buyer, the Director, Finance Office, will:

(i) Execute an assignment form for each mortgage, unless the assignment is accomplished merely by endorsement and delivery of the note.

(ii) Endorse each promissory note on behalf of the United States as trustee of the (use name of the State Rural Rehabilitation Corporation). When a separate instrument of assignment is not used, the effective date of the assignment will be added to the endorsement.

(iii) Send the mortgage and related instruments to the buyer, return receipt requested, with a letter of transmittal listing each mortgage separately and acknowledging the assignment thereof.

(4) If the sight draft method is used, the Director, Finance Office, will attach a sight draft to the executed assignment form, if any, the mortgage, and related instruments and forward these documents to the bank designated by the buyer.

(b) *Assignment to the insurance fund.* When the State Director approves such assignment, he will:

(1) Execute any necessary assignment instruments in accordance with the advice of the Director, Finance Office, and endorse the note in the manner specified in paragraph (a) of this section.

(2) Notify the Director, Finance Office, that he has taken the necessary action to assign the loan to the insurance fund.

(3) Request the Director, Finance Office, to process payment to the revolving fund of the State Rural Rehabilitation Corporation for the value of the mortgage as of the effective date of assignment.

Subpart B—Assigning Insured Mortgages to the Government as Trustee

§ 1874.21 General.

This subpart prescribes the authorities, policies, and procedure for assigning to the Government, as trustee, those insured Farm Ownership mortgages which run to the lender as mortgagee. The mortgage will be held in trust for the benefit of the holder of the note. When such an assignment has been completed, the Government will take all actions usually performed by mortgagees, including the execution of partial releases, subordinations, and satisfactions. Holders of the notes may then sell them separately by endorsement and delivery without further assignment of the mortgages. Notice of such sales, nevertheless, must be given to the Government.

(a) Assignments of insured Farm Ownership mortgages to the Government in trust may be executed by holders of such mortgages when they sell the notes to buyers who have agreed to such assignment, except when the mortgaged property is located in Colorado, Louisiana, Missouri or Puerto Rico.

(b) Assignments of insured Farm Ownership mortgages to the Government in trust also may be executed by holders who retain the notes, except when the mortgaged property is located in Alaska, Colorado, Louisiana, Missouri, Nevada, Puerto Rico, or South Carolina.

(c) Assignments of insured Farm Ownership mortgages to the Government in trust may be executed by holders preparatory to selling the notes to the Government for the insurance fund, except when the mortgaged property is located in Alaska, Colorado, Louisiana, Missouri, Nevada, Puerto Rico, or South Carolina.

§ 1874.22 Authorities.

Subject to the policies and procedures prescribed in this subpart, the Director, Finance Office, is authorized on behalf of the Government, in connection with insured Farm Ownership mortgages assigned or to be assigned to the Government under a trust assignment, to execute required documents and perform other necessary acts, including but not limited to:

(a) Informing holders and prospective holders of insured Farm Ownership mortgages of the advantage of, and procedure for, making assignments of mortgages in trust, and of the options available to the holder at the expiration of the fixed period as provided in § 1874.4(f)(6).

(b) Furnishing approved forms of trust assignment.

(c) Acknowledging notices of sale of Farm Ownership notes.

(d) Executing Form FHA 471–6, "Reinsurance and Repurchase Agreement (Automatic Renewal)," and Form FHA 471–5, "Supplemental Purchase Agreement (Automatic Renewal)."

§ 1874.23 Assigning mortgages to the Government as trustee.

(a) The Director, Finance Office, will advise any holder or buyer of an insured Farm Ownership mortgage who is interested in a trust assignment of the procedures to be followed.

(b) When the Government holds salable notes and mortgages, either for the insurance fund, or as Trustee of a State Rural Rehabilitation Corporation under a section 2(f) agreement, the mortgages may be assigned to the Government in trust in connection with the sale of the notes.

(c) The assignment of mortgages to the Government in trust shall be accomplished by the holder executing an approved form of trust assignment covering

each mortgage. The Director, Finance Office, will provide the holder with the required number of forms and with instructions for completing and executing them. The holder, after executing a form for each loan, will return it to the Finance Office, along with the original recorded mortgage and related documents, such as previous assignments, partial releases, subordination agreements, and water stocks. Any Forms FHA–359, "Borrower-Insurer-Lender Triple Agreement," FHA–38, "Letter of Certification," and FHA 471–5 will not be sent to the Finance Office, but will be transferred or retained with the note.

(d) Upon receipt of the executed form of trust assignment, the Director, Finance Office, will forward it and any prior assignments which have not been recorded, to the appropriate County Supervisor for recording where the original mortgage was recorded. The recordation fee will be paid by the Government. The original mortgage and related documents will be kept in the County Office, except for water stock which will be kept in the State Office. The State Director will take such action as may be necessary to transfer the water stock on the books of the company, have the certificates endorsed or new certificates issued, or obtain a new pledge agreement, when required, as the case may be. The original recorded trust assignment will be forwarded to the holder of the note.

§ 1874.24 Assignment of notes.

(a) *Between private parties.* After a trust assignment has been effected, the note may be bought and sold by private holders independently of the mortgage, without disturbing the trust. The assignment will be processed in accordance with § 1873.5 of this chapter. The original trust assignment and any Forms FHA–359, FHA–38, or FHA 471–5 will be delivered to the buyer with the note.

(b) *To the Government.* (1) When the noteholder requests that the Government accept assignment of the note during the 12-month period following the expiration of a fixed period, the assignment will be handled in accordance with § 1873.6 of this chapter. The original trust assignment and any Forms FHA–359, FHA–38, or FHA 471–5 will be delivered to the Government with the note.

(2) Assignment of the note to the Government at the request of the Farmers Home Administration will be handled in accordance with § 1874.3(b). When the State Director approves such assignment he will request the Director, Finance Office, to require the holder to endorse the note to the Government and to deliver the endorsed note, the original trust assignment, and any Forms FHA–359, FHA–38, or FHA 471–5 to the Government; to pay the holder in full from the insurance fund; and in case of foreclosure, assign the mortgage to the Government for the account of the insurance fund by executing an assignment from the Government as trustee on an approved form.

(c) *From the insurance fund to a private buyer.* Upon completion of negotiations for assignment to a private buyer of an insured note held by the insurance fund, when the mortgage is subject to a trust assignment, the assignment will be handled in accordance with § 1873.7 of this chapter. The original trust assignment and any Forms FHA–359, FHA–38, or FHA 471–6 will be delivered to the buyer with the note. The buyer will be informed in the transmittal letter that the mortgage is held by the United States in trust for the noteholder.

§ 1874.25 Notification to State Director.

Whenever servicing actions require the consent or approval of the State Director, the County Supervisor will be responsible for informing him that the mortgage is held by the Government in trust for the noteholder.

Subpart C—Placing Mortgages in Trust With the Government by Declaration of Trust

§ 1874.31 General.

This subpart provides for placing in trust with the United States as trustee those insured Farm Ownership mortgages running to the lender which were assigned outright to the United States for the account of the insurance fund and are not subject to a trust assignment pursuant to Subpart B of this part, in order that the security may be serviced by the Government as trustee and the holder of the note may sell it without executing an assignment of the mortgage. Such mortgages may be placed in trust preparatory to selling the notes secured thereby out of the insurance fund. This subpart does not apply when the mortgaged property is located in Colorado, Louisiana, Missouri, or Puerto Rico.

§ 1874.32 Execution of declarations of trust.

The mortgages will be placed in trust by having the Government execute a "Declaration of Trust In Mortgage With United States As Trustee" (Form FHA–175...). The Director, Finance Office, is authorized on behalf of the United States of America to execute declaration of trust instruments and to perform any other necessary act or function in connection with placing such mortgages in trust with the United States; and to endorse promissory notes, execute Form FHA 471–6, "Reinsurance and Repurchase Agreement (Automatic Renewal)," and other required documents, and perform other necessary acts or functions in connection with loans secured by mortgages placed in trust with the United States under such declarations.

§ 1874.33 Distribution of documents.

After a declaration of trust is executed it will be forwarded to the County Supervisor for recording, and the original recorded declaration of trust and the mortgage and related documents will be distributed in a manner similar to that provided in § 1871.23(d) of this chapter.

§ 1874.34 Assignment of notes.

After a mortgage has been placed in trust under such declaration, the procedure prescribed in § 1874.24 generally will apply with respect to the assignment of the note secured by the mortgage.

SUBCHAPTER G—MISCELLANEOUS REGULATIONS

PART 1886—DISPOSAL OF RESERVED MINERAL INTERESTS

Subpart A—Sales

Sec.
1886.1 General.
1886.2 Actions by State Directors.
1886.3 Sales in $1.00 per application areas.
1886.4 Sales in fair market value areas.
1886.5 Failure to accept delivery of quitclaim deeds.

AUTHORITY: The provisions of this Part 1886 issued under secs. 4, 6, 64 Stat. 100, 770; 40 U.S.C. 442, 7 U.S.C. 1038. Interpret or apply sec. 2, 60 Stat. 1062, as amended, sec. 2, 64 Stat. 98, secs. 1, 2, 3, 5, 7, 64 Stat. 769, 770; 40 U.S.C. 440, 7 U.S.C. 1001 note, 1033, 1034, 1035, 1037, 1039.

Subpart A—Sales

§ 1886.1 General.

(a) Public Law 760, 81st Congress, approved September 6, 1950, provides for the disposal by the Government of certain reserved mineral interests under the jurisdiction of the Farmers Home Administration. Such reserved mineral interests covered by a single application will be sold for a total consideration of one dollar in areas in which the Secretary of Agriculture determines that there is no active mineral development or leasing. Such areas are referred to in this subpart as "$1.00 per application areas." In other areas the reserved mineral interests will be sold for their fair market value. Such areas are referred to in this part as "fair market value areas."

(b) This part prescribes the authorities, policies, and procedures for sale of reserved mineral interests which are under the jurisdiction of the Farmers Home Administration, including reserved mineral interests representing assets of Defense Relocation Corporations which are conveyed to the Government pursuant to liquidation or other agreements, and reserved mineral interests representing assets of State Rural Rehabilitation Corporations which are conveyed to the Government pursuant to agreements entered into under section 2 (f) of Public Law 499, 81st Congress, authorizing the Government to sell such reserved mineral interests in the manner and on the terms and conditions provided for in Public Law 760.

§ 1886.2 Actions by State Directors.

Subject to the policies and procedures contained in this subpart, State Directors will take the following actions with respect to the sale of reserved mineral interests covered by this subpart.

(a) Accept or reject applications and offers to purchase.

(b) Obtain appraisal reports and determine fair market values in fair market value areas.

(c) Procure and approve vouchers and certified invoices in payment of authorized expenses.

(d) Execute deeds and other instruments necessary in connection with sales.

§ 1886.3 Sales in $1.00 per application areas.

(a) *Issuance of forms and advice to applicants.* Upon request, the County Supervisor will furnish each prospective applicant with two copies of Form FHA–987, "Application to Purchase Reserved Mineral Interests in $1 Per Application Areas," and will instruct him as to the manner in which it should be completed. The County Supervisor will also advise each prospective applicant as to the terms and conditions applicable to the sale of the reserved mineral interests under his land.

(b) *Terms and conditions of sale.* Each sale will be made under the following terms and conditions:

(1) *Eligible purchasers.* To be eligible for the purchase of such reserved mineral interests, applicants must be private persons who at the time of application are the owners of the surface of the land covered by the application.

(2) *Application to purchase.* The original of Form FHA–987 will be filed with the County Supervisor serving the county in which the reserved mineral interests are located. Such applications could not be made prior to December 5, 1950, and cannot be made later than September 5, 1957. A single application may cover all of the reserved mineral interests under lands owned by the applicant in the same county, whether the tracts are contiguous or not and even though the mineral reservations were made in more than one deed. No application will be accepted for an undivided interest in the minerals reserved by the Government or State Rural Rehabilitation or Defense Relocation Corporation. One of several joint owners may apply on behalf of all owners of the surface rights.

(3) *Establishment of surface title.* Applicants must establish, at their own expense, to the satisfaction of the Government, that on the date of their application, they and any other persons on whose behalf the application is made, are the owners of the surface of the land covered by their application. Applicants will be required to furnish evidence of their surface title in the form of a supplemental abstract of title or an attorney's opinion or certificate of title based on examination of the records. Additional title evidence which the Government deems necessary for use in determining the surface ownership also may be required. Such evidence of surface title will cover at least the period from the time of recordation of the surface deed or deeds in which the mineral reservations were made (or from the time of recordation of the transfer deed or deeds approved by the Government in transfer cases) through the date of execution of Form FHA–987.

(4) *Sales price and terms.* The reserved mineral interests covered by a single application will be sold for $1.00 to be tendered with the application.

(5) *Conveyance.* The reserved mineral interests will be conveyed by use of Form FHA–65.__, "Quitclaims Deed to Minerals." All surface owners will be named as grantees in the quitclaim deed. The Government will not furnish the purchaser any base or supplemental abstract of title or any other title evidence. Fees for recording the quitclaim deed, and any revenue, sales, stamp, or other taxes that may be required by law in connection with the conveyance will be paid by the purchaser.

(c) *Transmitting application dockets to the State Office.* When Form FHA–987, the $1.00, and surface title evidence are delivered to the County Supervisor in proper form, he will issue Form FHA–37, "Receipt for Payment," for the $1.00 tendered with the application, and will transmit Form FHA–987 and the title evidence to the State Director.

(d) *Disposition of $1.00 tendered with application.* The $1.00 tendered with the application will be held in suspense by the Finance Office until it receives notification that the application has been rejected or that the sale has been consummated. If the application is rejected, the $1.00 will be returned to the applicant. If the sale is consummated, it will be applied as payment of the purchase price.

(e) *Processing dockets in State Office and closing sales.* Upon receipt of an application docket from the County Office, the State Director will review the docket and will take the following actions:

(1) *Dockets showing applicants to be ineligible.* If the docket as originally submitted or as subsequently corrected discloses that the applicant is not eligible to purchase the reserved mineral interests, the State Director will deliver or mail to the applicant Form FHA–988, "Notice of Rejection of Application to Purchase Reserved Mineral Interests in $1 Per Application Areas," notifying the applicant that the application has been rejected.

(2) *Dockets showing applicants to be eligible.* If the docket as originally submitted or as subsequently corrected discloses that the applicant is eligible to purchase the reserved mineral interests, the State Director will accept the application and will execute and forward to the County Supervisor the original of Form FHA–65.__, and any abstract of title submitted by the applicant as evidence of his surface title, together with closing instructions. The County Supervisor will close the sale transaction in the manner required by the closing instructions.

§ 886.4 Sales in fair market value areas.

(a) *Issuance of forms and advice to applicants.* Upon request, the County Supervisor will furnish each prospective applicant with two copies of Form FHA–990, "Application and Offer to Purchase Reserved Mineral Interests in Fair Market Value Areas," and will instruct him as to the manner in which it should be completed. The County Supervisor will also advise each prospective applicant as to the terms and conditions applicable to the sale of the reserved mineral interests under his land.

(b) *Terms and conditions of sale.* Each sale will be made under the following terms and conditions:

(1) *Eligible purchasers.* To be eligible for the purchase of such reserved mineral interests, applicants must be private persons who at the time of application are the owners of the surface of the land covered by the application.

(2) *Application and offer to purchase.* The original of Form FHA–990 must be filed with the County Supervisor serving the county in which the reserved mineral interests are located. Such applications could not be made prior to December 5, 1950, and cannot be made later than September 5, 1957. However, if an application is made within that period and is withdrawn, rejected, or terminated, another application and offer may be made within the same period of time. A single application may cover all of the reserved mineral interests under lands owned by the applicant in the same county, whether the tracts are contiguous or not and even though the mineral reservations were made in more than one deed. No application will be accepted for an undivided interest in minerals reserved by the Government or State Rural Rehabilitation or Defense Relocation Corporation. One of several joint owners may apply on behalf of all owners of the surface rights.

(3) *Subsequent offers.* If the offer contained in the application is rejected by the Government and the application remains in effect, subsequent offers on Form FHA–992, "Subsequent Offer to Purchase Reserved Mineral Interests in Fair Market Value Areas," may be filed by the applicant with the County Supervisor at any time while the application remains in effect.

(4) *Establishment of surface title.* Applicants must establish, at their own expense, to the satisfaction of the Government, that on the date of their application, they and any other persons on whose behalf the application is made, are the owners of the surface of the land covered by their application. Applicants will be required to furnish evidence of their surface title in the form of a supplemental abstract of title or an attorney's opinion or certificate of title based on examination of the records. Additional title evidence which the Government deems necessary for use in determining the surface ownership also may be required. Such evidence of surface title will cover at least the period from the time of recordation of the surface deed or deeds in which the mineral interests were reserved (or from the time of recordation of the transfer deed or deeds approved by the Government in transfer cases) through the date of execution of Form FHA–990.

(5) *Sales price.* The reserved mineral interests covered by each application and offer will be sold for their fair market value as determined by the State Director in accordance with paragraph (c) of this section.

(6) *Terms.* The reserved mineral interests will be sold for cash.

(7) *Conveyance.* The reserved mineral interests will be conveyed by use of

Form FHA–65. --, "Quitclaim Deed to Minerals." All surface owners will be named as grantees in the quitclaim deed. The Government will not furnish the purchaser any base or supplemental abstract of title or any other title evidence. Fees for recording the quitclaim deed, and any revenue, sales, stamp, or other taxes that may be required by law in connection with the conveyance will be paid by the purchaser. If any documentary, Internal Revenue, or other stamp taxes are required by law to be paid on the conveyance, the stamps will be furnished, affixed, and canceled by the purchaser at the time of delivery of the deed. If, at the date of the quitclaim deed, the reserved mineral interests are subject to any mineral lease, lease permit, or contract, the purchaser will be entitled to the Government's interest thereunder in:

(i) Any rentals under any lease on such minerals for the lease year or years beginning subsequent to the date of the quitclaim deed;

(ii) The balance of minimum royalty becoming due and payable on such minerals subsequent to the date of the quitclaim deed; and

(iii) Any royalties or other income from the production or sale of such minerals produced subsequent to the date of the quitclaim deed.

(8) *Duration of applications and offers.* Applications and offers on Form FHA–990 will terminate automatically one year from date thereof, unless they are previously accepted or rejected by the Government or withdrawn by the applicant. Withdrawal or rejection of an offer will not in itself constitute withdrawal or rejection of an application, but withdrawal, rejection or termination of an application will constitute withdrawal, rejection, or termination of an offer.

(c) *Transmitting application and offer dockets to the State Office.* When Form FHA–990 and surface title evidence are delivered to the County Supervisor in proper form, he will:

(1) Prepare a fair market value appraisal report reflecting the appraisal by the County Committee and County Supervisor as required in paragraph (e) (2) of this section.

(2) Transmit to the State Director the original of Form FHA–990, the original appraisal report by the County Committee and County Supervisor, and the required title evidence.

(d) *Processing dockets in State Office and closing sales.* Upon receipt of an application and offer docket from the County Office, the State Director will take the following action:

(1) *Docket showing applicant to be ineligible.* If the docket as originally submitted or as subsequently corrected discloses that the applicant is not eligible to purchase the reserved mineral interests, the State Director will deliver or mail to the applicant Form FHA–991, "Notice of Acceptance or Rejection (Fair Market Value Areas)," notifying the applicant that the application and offer have been rejected.

(2) *Docket showing applicant to be eligible.* If the docket as originally submitted or as subsequently corrected discloses that the applicant is eligible to purchase the reserved mineral interests, the State Director will determine whether a technical appraisal is necessary and, if so, obtain it as provided for in paragraph (e) (3) of this section, and will determine the fair market value in accordance with paragraph (e) of this section.

(i) If the offer represents the fair market value, the State Director will accept the application and offer and will execute and forward to the County Supervisor the original of Form FHA–65.--, and any abstract of title submitted by the applicant as evidence of his surface title, together with closing instructions. The County Supervisor will close the sale transaction in the manner required by the closing instructions. The amount of the sale price will be collected at the time of closing the sale, in the form of cash, a cashier's check, certified check, or United States Postal Money Order. The County Supervisor will issue Form FHA–37 to the purchaser.

(ii) If the offer does not represent the fair market value of the reserved mineral interests, the State Director will notify the applicant that the application has been accepted but that the offer has been rejected. The notification will be made by use of Form FHA–991, which will be completed to show the reason for the rejection of the offer, and to advise the applicant as to the amount determined to represent the fair market value of the reserved mineral interests, and as to the period of time within which a subsequent offer in that amount would be acceptable to the Government. Two copies of the subsequent offer form, Form FHA–992, will be furnished to the applicant with the notice of rejection.

(iii) If a subsequent offer on Form FHA–992 is received within the time and in the amount specified in Form FHA–991, the State Director will accept the offer, and the sale transaction will be completed in the manner provided for in subdivision (i) of this subparagraph. If a subsequent offer is received within the time specified in Form FHA–991 but in a different amount than specified therein, the offer will not be considered but will be immediately returned to the applicant personally or by mail with appropriate explanation. If a subsequent offer on Form FHA–992 is received after the date specified in Form FHA–991 and while the application is still in effect, the subsequent offer will be considered on the basis of the fair market value existing at the time action is taken thereon, and the offer will be handled as if it were an original offer. If an application is withdrawn by the applicant, rejected by the Government, or terminates, any abstract of title submitted by the applicant as evidence of his surface title will be returned to him.

(e) *Establishment of fair market value.* In fair market value areas, appraisals will be required and the reserved mineral interests will be sold for their fair market value. "Fair market value" as applied to the sale of such reserved mineral interests means the cash price for which they could reasonably be expected to sell upon negotiations between a reasonably well-informed owner who is willing but not obligated to sell, and a reasonably well-informed buyer who is able and willing but not obligated to buy.

(1) *Fair market value.* The fair market value of the reserved mineral interests in each case will be established by the State Director taking into consideration the appraisal information, his personal knowledge, and any other available pertinent information, including any information which is obtainable from State authorities on mineral development, production, and other relevant matters.

(2) *Appraisal by County Committee and County Supervisor.* A fair market value appraisal will be made by the appropriate Farmers Home Administration County Committee and County Supervisor for the reserved mineral interests covered by each application in fair market value areas. Some of the factors to be considered in making such appraisals and to be covered by the appraisal report are geological information which may be available, leasing activity, lease bonus and rental prices, prices being paid for royalty or mineral rights in the immediate area, trading activity in royalty or minerals and leases, proximity to drilling or mining activity, and results of previous drilling or mining operations.

(3) *Technical appraisals.* In some cases, the State Director may, because of the existence of development or other conditions, deem it necessary to obtain technical appraisals by persons experienced in the field of appraising minerals. Such appraisals may be made by qualified Government appraisers or by other qualified persons.

§ 1886.5 Failure to accept delivery of quitclaim deeds.

In any case in which the applicant does not accept delivery of the quitclaim deed of mineral interests (and pay the purchase price in fair market value areas) within fifteen (15) days from the date delivery is tendered to him, the contract resulting from the application, offer, and acceptances will terminate automatically, and the County Supervisor will return the deed to the State Director for cancellation. The applicant will agree to such cancellation by the execution of a rider attached to his application Form FHA–987 or FHA–990, and made a part of such application.

PART 1887—SALE OF ABSTRACTS OF TITLE

Sec.
1887.1 General.
1887.2 Sales authority.
1887.3 Sales.

AUTHORITY: The provisions of this Part 1887 issued under R.S. 161; 5 U.S.C. 22. Interpret or apply sec. 203, 63 Stat. 385, as amended; 40 U.S.C. 484.

§ 1887.1 General.

Government-owned abstracts of title covering lands in which the Government no longer has any interest will be considered surplus personal property and sold. By memorandum dated February 27,

1952, the Administrator, General Services Administration, authorized the Secretary of Agriculture to dispose of surplus property abstracts under his jurisdiction without further report of such abstracts to that Administration.

§ 1887.2 Sales authority.

State Directors, State Field Representatives, and County Supervisors are authorized to dispose of surplus abstracts of title as outlined in this part. Finance Office officials have negotiated sales authority.

§ 1887.3 Sales.

Sales of surplus abstracts of title will be for cash and generally will be negotiated in cases where the reasonable recovery value involved in any one sale does not exceed $500. In the event it appears that the reasonable recovery value in any one sale will exceed $500, it is required that such abstracts be advertised for sale. All abstracts covering land owned by a particular individual may be sold as a unit, even though they cover separate, noncontiguous tracts.

(a) *Negotiated sales.* Sales will be negotiated to the extent practical, at the best price obtainable, with (1) the owners, either surface or mineral, (2) local title companies, lawyers, or other persons engaged in preparing abstracts of title for the public generally, and (3) persons holding a mortgage or other interest. When equal offers are received from owners and others, the sale should be made to the owners. In those cases where an abstract covers a tract of land which has been subdivided, and the land interests are held by several parties, determination should be made as to whether they wish to purchase the abstract jointly. If all of them are not interested in making a joint purchase of the abstract, the abstract may be sold to any one or more of the several owners who are interested in buying it.

(b) *Advertised sales.* If there should be cases where it appears that the reasonable recovery value of surplus abstracts of title in any one sale will exceed $500, the Finance Office will furnish the State Office with the required invitation to bid forms and necessary instruction for handling the matter and for the return of the bid docket to the Finance Office for execution of the contract of sale by an authorized contracting officer.

PART 1891—WATERSHED LOANS

Subpart A—Policies and Authorities

Sec.

1891.1 General.
1891.2 Application for loans.
1891.3 Eligibility for loans.
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1891.11 Planning advances.
1891.12 Multiple loan advances.
1891.13 Loan closing.
1891.14 Use of and accountability for loan funds.
1891.15 Accounts and records of local organization.

Subpart B—Processing and Servicing

1891.21 General.
1891.22 Application for loan.
1891.23 County Committee recommendations.
1891.24 Preparation, assembly, and submission of loan dockets.
1891.25 Approval of loans.

AUTHORITY: The provisions of this Part 1891 issued under R.S. 161, 5 U.S.C. 22. Interpret or apply secs. 1–8, 68 Stat. 666–668, as amended, secs. 8, 9, 70 Stat. 1090; 16 U.S.C. 1001–1007, 1006a, 1006b, E.O. 10584, 19 F.R. 8725, 3 CFR 1954 Supp.

Subpart A—Policies and Authorities

§ 1891.1 General.

Watershed loans to local organizations are authorized under the Watershed Protection and Flood Prevention Act (Pub. Law 566, 83d Cong., as amended by Pub. Law 1018, 84th Cong.) referred to in this part as the act. The Secretary of Agriculture is authorized by the act to give technical and financial help to local organizations in planning and carrying out works of improvement for protecting and developing the land and water resources in small watershed or subwatershed project areas. Local people acting through their own local organizations must take the initiative and full responsibility for starting small watershed projects.

(a) *Definitions.* (1) For Watershed loan purposes, the term "local organization" means a State or a department, agency, or political subdivision thereof, soil or water conservation district, irrigation district, drainage district, flood prevention or control district, municipal corporation, or similar agency having authority under State law to carry out, maintain and operate works of improvement, and to borrow any repay loans for the installation thereof.

(2) "Works of improvement" are defined as structural or land treatment measures needed in small watershed or subwatershed areas and included in a watershed work plan for (i) flood prevention to reduce floodwater, sediment, and erosion damage, or (ii) the conservation, development, utilization, and disposal of water.

(3) A "watershed work plan" is a plan agreed upon by a local organization and the Soil Conservation Service for carrying out, operating, and maintaining works of improvement for protecting and developing land and water resources in a particular watershed or subwatershed area. It describes the watershed and its problems and needs. It contains estimates of costs, proposed cost-sharing arrangements, responsibilities, and economic justification for specific works of improvement desired by local people for protection and improvement of that watershed. When approved, it is the basis for extending Federal, technical, and cost-sharing assistance. It will be used by the Farmers Home Administration when considering an application for a Watershed loan.

(4) A "watershed project" is a system of works of improvement in a watershed or subwatershed area of not more than 250,000 acres for flood prevention, irrigation, drainage, municipal water supply, or other water management purposes.

(b) *Coordination of Soil Conservation Service and Farmers Home Administration responsibilities and activities.* The Secretary of Agriculture assigned to the Farmers Home Administration responsibility for administering section 8 of the act relative to loans. The Soil Conservation Service is responsible for administering the other sections of the act. The Memorandum of Understanding entered into by the Soil Conservation Service and the Farmers Home Administration covers policies and methods coordinating these assigned responsibilities.

(c) *Cost sharing.* The act provides for sharing certain costs of installing works of improvement by the Federal Government and by local organizations. Under certain conditions, cost sharing and free engineering services are available for the items listed under § 1891.5(a)(1). No cost sharing is available to pay installation costs allocated to water storage for the purposes listed in § 1891.5(a)(2). Cost sharing arrangements will be included in the watershed work plan.

§ 1891.2 Application for loans.

Each local organization requesting a Watershed loan will make application by submitting a letter to the State Director of the Farmers Home Administration. The letter should give the address of the applicant, the name and location of the watershed, a brief description of the facilities to be installed with the loan, the estimated amount of the Watershed loan needed, and a brief statement about the organization including an exact reference to, and citation of, the statute under which the applicant is, or will be, organized, and the statute or statutes which give the applicant authority and power to obtain the loan and repay it. The letter should be signed by the presiding officer if the group is incorporated, or by the members of the organizing committee if the group is not incorporated.

(a) Upon receipt of an application, the State Director will consult with the State Conservationist of the Soil Conservation Service to ascertain the status of a watershed plan, the estimated cost of the proposed works to be installed with the loan, and any cost sharing which may be available to the organization. This information, the letter of application, and any other pertinent information the State Director has will be forwarded to the National Office with his comments and recommendations.

(b) If the National Office determines that favorable consideration should be given to the application, it will provide further instructions and assistance for the development and submission of a loan docket. If it is determined that no further consideration should be given to the application, the National Office will advise the State Director why favorable action cannot be taken.

§ 1891.3 Eligibility for loans.

To be eligible for a Watershed loan, the local organization must:

(a) Be a public or quasi-public organization such as a political subdivision of a State, a municipality or a drainage district, or similar organization with authority under State law to install, maintain, and operate works of improvement to be installed with the Watershed loan.

(b) [Reserved]

(c) Have the legal capacity and organizational arrangements necessary for obtaining, giving security for, and raising revenues for repaying the loan and for operating and maintaining the facilities to be financed with the loan.

(d) Sponsor, co-sponsor, or agree to participate in a watershed work plan which provides for the installation, operation, and maintenance of works of improvement.

§ 1891.4 County Committee recommendations and comments.

County Committee recommendations and comments will be obtained on each Watershed loan application.

(a) Comments will be obtained from the County Committee in the county in which the applicant's principal place of business is located. When the watershed covers more than one county, recommendations and comments may be obtained from such of the other County Committees as the State Director deems desirable to have on issues such as the local sentiment and the need for the project.

(b) The recommendations will cover, but need not be limited to, the community need for and interest in the proposed works of improvement, local issues, and other items of a similar character which will be helpful to the approving official.

§ 1891.5 Loan purposes.

(a) Watershed loans may be made for the following purposes:

(1) Installing, repairing, or improving works of improvement in the following categories:

(i) Facilities for the storage and conveyance of water to farms for irrigation.

(ii) Drainage facilities in farm areas.

(iii) Facilities for the storage or development, treatment, and conveyance of water in rural areas primarily for use on farms for farmstead, livestock, and orchard and crop spraying purposes.

(iv) Other agricultural water management measures and practices for such purposes as the stabilization of annual streamflow, increasing the recharge of ground water reservoirs, and the conservation of existing water supplies by the control of undesirable vegetation such as salt cedars and willows.

(v) Special land treatment measures, structures, or equipmnet which are primarily, though not exclusively, for flood prevention but will produce community benefits sufficient to justify the use of taxes or other revenues available to the local organization to install and maintain such measures, structures, or equipment, and to repay loans for that purpose. These include:

(*a*) Observation towers, dwellings for fire guard personnel, tank trucks, and other equipment for fire prevention and control.

(*b*) Tree plantings and the establishment of other vegetative cover needed for the stabilization of critical runoff and sediment producing areas.

(*c*) Minor structural and vegetative measures to stabilize stream channels and gullies.

(*d*) On-farm measures such as level water retention terraces used to control runoff and sediment in lieu of downstream flood prevention structures.

(2) Installing, repairing, or improving water storage facilities, including outlet works for such purposes as municipal water supply, recreation, fish and wildlife improvement, and pollution abatement by stream-flow regulation and saline water intrusion control. A Watershed loan for a storage reservoir for municipal water supply may include funds for pipelines to convey the water from the reservoir to the existing municipal treatment facilities or water system.

(3) The purchase of land or an interest therein for sites of rights-of-way upon which works of improvement will be located and associated costs such as the removal, relocation, or replacement of bridges, roads, railroads, pipelines, buildings, and fences.

(4) The acquisition of a water supply or a water right. This may be acquired by purchase or by appropriation pursuant to local, State, and Federal laws. The loan may include funds for the purchase of land on which the water supply or water right is presently being used when the water supply or water right cannot be purchased without the land.

(5) The hiring of, or contracting for, personal services such as the services of engineers, attorneys, auditors, construction foremen and clerks needed for organizing the group, making engineering surveys, developing construction plans, administering construction contracts, and supervising the construction of works of improvement. Funds to pay costs incidental to loan closing, such as those incurred to obtain title evidence, clear titles, and to file or record lien instruments may be included in a loan.

(6) The purchase of equipment and machinery needed by the local organization for construction, installation, and maintenance of planned works of improvement in the categories under subparagraph (1) of this paragraph, provided the equipment is not available at reasonable rental cost or the cost of works of improvement will be lower as the result of such purchase.

(7) To refinance debts of a local organization when all of the following conditions exist:

(i) The indebtedness being refinanced was incurred in the installation or rehabilitation of works of improvement of the types for which loan funds could be advanced.

(ii) The creditor(s) is unwilling to extend, subordinate, or modify the terms of the debts and any security instruments to provide a satisfactory basis for the loan.

(iii) The amount to be advanced for refinancing is an incidental part of the loan being made.

(b) Loan funds may not be used for:

(1) Irrigation or drainage facilities for the primary purpose of bringing into production land which has not previously been in agricultural production; however, this will not preclude using funds to install facilities which result in the incidental conversion of some land from nonagricultural to agricultural production. Land in agricultural production shall be construed to refer to all land which has been cleared or substantially improved and is used for any farm crop, including pasture. It does not include woodland, brush, wildland, native range, swampland, or marshland unless such land was formerly in agricultural production and has since reverted to a condition of nonuse or lesser use.

(2) Land treatment measures on individual farms except as provided in paragraph (a) (1) (v) of this section.

(3) Recreational facilities such as boat docks, picnic and lodging accommodations, golf courses, and other facilities of a similar character.

(4) Water treatment plants and pipelines or other facilities for distributing water in urban, suburban, or other nonrural areas substantially developed for residential and commercial uses. When such facilities will be needed to make use of the stored water, and loan repayments will depend upon income derived from such use, the applicant must present evidence, before loan closing, that these facilities can be financed and installed as needed.

(5) Electric generating, transmission, and distribution facilities.

(6) Fish and wildlife facilities such as hatcheries, rearing ponds, and fences.

(7) Paying costs allocated in a watershed work plan to structural measures for flood prevention.

(8) Storm and sanitary sewers.

(9) Drainage facilities primarily for nonrural areas.

§ 1891.6 Loan limitations.

The total amount of principal outstanding for all Watershed loans for any one watershed project, whether made to one or more borrowers, shall not exceed $5,000,000. However, a local organization sponsoring, co-sponsoring, or participating in more than one watershed project may receive a separate Watershed loan for each watershed project, provided the amount of each such separate Watershed loan to the local organization together with the amount of Watershed loans to other borrowers does not exceed $5,000,000 for any one watershed project.

§ 1891.7 Special requirements.

(a) *Water rights.* Applicants under this program will be required to comply with applicable State and local laws and regulations governing appropriating, diverting, storing and using water, changing the place and manner of use of water, and in disposing of water. All of the rights of any landowner, appropriator, or user of water from any source shall be fully honored in all respects as they may be affected by facilities installed with Watershed loans. If, under the provisions of State law, notice of the proposed diversion or storage of water by the

applicant may be filed, the applicant will be required to file such a notice. Even though such filing may be optional under State law, the record might be of value at some future time to protect the borrower's rights or priority to the use of water.

(b) *Title requirements.* Title clearance on real estate or interest in real estate to be taken as security for loans will be in accordance with applicable regulations governing Soil and Water Conservation loans to associations.

(c) *Insurance.* The applicant will obtain insurance coverage in the amounts and types specified by the Administrator of the Farmers Home Administration in his loan approval memorandum.

(d) *Bonding.* (1) Prior to the execution of construction contracts by the local organization, contractors shall furnish Surety Bonds to guarantee both performance and payment.

(2) The local organization will provide Fidelity Bond coverage for the officials entrusted with the receipt and disbursement of its funds and the custody of any property. The amount of the bond will be at least equal to the maximum amount of money that the local organization will have on hand at any one time exclusive of loan funds deposited in a supervised bank account.

(3) The amount of coverage required in Surety and Fidelity Bonds will be specified by the Administrator in his loan approval memorandum.

§ 1891.8 Terms of loans.

(a) *Repayment period.* Loans will be scheduled for repayment within the shortest period consistent with the ability of the borrower to pay. In no instance will the repayment period exceed 50 years from the date when the principal benefits from works of improvement first become available. Ordinarily, installments will be amortized and payments will be scheduled annually on January 1, starting with the first January following the date of loan closing or the end of any approved deferment period. There must be adequate evidence that income will be sufficient to meet all scheduled repayments.

(b) *Deferred or partial payments.* Deferred or partial payments may be scheduled for a period not to exceed the second January 1 after the date when the principal benefits from works of improvement first become available. Deferred or partial payments will be permitted only when:

(1) Repayments will be dependent upon the increased returns expected from planned works of improvement, or from the installation on individual farms of land development or other soil and water improvements essential for obtaining benefits from works of improvement to be installed with loan funds.

(2) The deferment or partial payment will not be used to permit the accelerated repayment of other debts, to make capital improvements, or to create operating reserves.

(3) The deferment or partial payment does not violate State or local laws affecting the creation and repayment of debts by the borrower.

(c) *Interest.* (1) Interest will begin with the date of the note or bond. When a loan is made in multiple advances, interest on the first advance will begin with the date of the note or bond and interest will begin on each subsequent advance on the date of the check.

(2) The interest rate on loans will be the average rate, as determined by the Secretary of the Treasury, payable by the United States Treasury upon its marketable public obligations outstanding at the beginning of the fiscal year in which a loan agreement is executed, which are neither due nor callable for redemption for 15 years from date of issue. The rate will be announced as of July 1 for each fiscal year, and this rate will prevail throughout the fiscal year. When a loan is approved, the interest rate for that particular loan will be the interest rate in effect for the fiscal year in which the loan agreement is executed and will not change during the life of the loan.

(d) *Payments.* (1) Each borrower may make prepayments in any amount at any one time.

(2) Payments will be applied first to interest accrued on the note to the date of the receipt of payment, and second to the principal balance on the note. If the regular payments plus any prepayments exceed the cumulative amount due on the note, the excess payments will be applied on next due installments except that loan refunds and proceeds from the sale of security property will be applied on the final unpaid installment(s).

§ 1891.9 Security requirements.

Watershed loans will be secured in a manner which will adequately protect the interests of the Government. Security requirements will be determined and made as a loan approval condition for each applicant. In general, however, bonds or other evidence of debt will be required that meet all statutory requirements pertaining to their authorization, sale, and acceptance and, unless the loan is approved with security of a pledge of revenues only, one or more of the following types of security will be required:

(a) A statutory tax or mortgage lien.

(b) A first lien on real and personal property, exclusive of easements, rights-of-way, and water rights owned by the applicant at the time the loan is approved. If a first lien is not obtainable, a junior lien may be taken.

(c) A first lien on property acquired with loan funds exclusive of easements, rights-of-way, and water rights.

(d) A lien on the interest of the applicant in all easements, rights-of-way, and water rights used in connection with works of improvement. In some instances, such easements or rights-of-way will involve private lands, and will not be derived pursuant to State Statutes authorizing the installation of works of improvement across lands of other owners. In such instances, local organizations will obtain partial releases or consents to such easements and rights-of-way from holders of outstanding liens which are disclosed by lien searches covering a period of at least 10 years prior to the execution of the easements and rights-of-way.

(e) Assignment of income.

§ 1891.10 Approval of loans.

(a) State Directors will be authorized to approve Watershed loans to local organizations on an individual case basis after review by the National Office of loan dockets and related watershed work plans, and State Directors' recommendations. Following the review, the Administrator will issue a memorandum to the State Director (1) authorizing the approval of the loan, (2) specifying conditions that must be met by the local organization, and (3) containing any special instructions needed for closing the loan. When the State Director approves a loan, he will send a memorandum of approval to the County Supervisor. The memorandum will include the conditions specified by the Administrator that must be met. The original of the memorandum will be delivered to the applicant by the County Supervisor.

(b) The Farmers Home Administration will not approve a Watershed loan until after the approval of a watershed work plan, which provides for the works of improvement to be financed with the loan. Watershed work plans are approved by the Soil Conservation Service and, if necessary, by Committees of the Congress. Congressional Committee approval is required when a watershed work plan involves an estimated Federal contribution to construction costs in excess of $250,000, or includes any structure which provides more than 2500 acre-feet of total water storage capacity. If there is an urgent need to start construction, the loan docket may be prepared and submitted prior to the final approval of the watershed work plan by the Soil Conservation Service. The Farmers Home Administration will advise the local organization of work that needs to be done prior to loan closing; however, no loan commitment will be made until approval of the watershed work plan.

§ 1891.11 Planning advances.

A portion, not to exceed the lesser of five percent or $50,000, of the estimated amount of a Watershed loan may be advanced to the local organization, prior to loan closing, to pay for technical services and other expenses incidental to obtaining a Watershed loan. Such advances will be scheduled for repayment over a period of not to exceed five years except that at the time the total Watershed loan is closed, any unpaid portion of a planning advance may be rescheduled for repayment corresponding with the amortization schedule for the loan. These advances may be made provided all of the following conditions exist:

(a) The watershed work plan has been approved.

(b) A loan approval memorandum has been issued by the National Office and the applicant has agreed in writing to meet the conditions set forth therein.

(c) The local organization lacks, or cannot raise, funds of its own to pay for such services or is unable to arrange for the payment of such services and supplies until after the loan is closed.

(d) The local organization is legally organized and has the necessary powers to obligate itself for the advance of funds.

(e) The local organization either has or will raise income sufficient to meet scheduled payments on the advance.

(f) The advance can be secured in the manner specified in § 1891.9.

§ 1891.12 Multiple loan advances.

A Watershed loan may be disbursed in multiple advances in accordance with the need of the local organization for funds, as shown by a construction schedule approved by the Soil Conservation Service.

§ 1891.13 Loan closing.

Except for planning advances, no Watershed loan will be closed until:

(a) The Soil Conservation Service has scheduled the construction of works of improvement for which a loan, or any part thereof, is to be advanced.

(b) The local organization has met all requirements for receiving Federal assistance in the installation and operation of the scheduled works of improvement and the Soil Conservation Service has obligated funds and is ready to make payments to the local organization to cover the Federal share, if any, of installing such works of improvement.

(c) The local organization is ready to use the loan funds and has either met or will comply with those loan approval conditions and requirements in closing instructions which are to be completed on or before the day of loan closing.

§ 1891.14 Use of and accountability for loan funds.

Each local organization will be required to use loan funds in accordance with its agreements with the Government. Watershed loan funds and any funds furnished by the local organization to supplement the loan will be deposited in a supervised or special bank account and will not be commingled with other funds of the local organization.

(a) The borrower may be required to deposit Watershed loan funds in a supervised bank account on the date of loan closing in accordance with Part 1803 of this Chapter.

(b) In lieu of a supervised bank account, the borrower may be permitted to deposit loan funds in a special bank account upon which withdrawals will be made by checks signed by two of the borrower's officials who are covered by a Fidelity Bond obtained in accordance with § 1891.7(d)(2).

(c) Preferably, loan funds should be deposited in banks covered by Federal Deposit Insurance. If the bank is not covered by Federal Deposit Insurance, or the amount deposited in a bank covered by Federal Deposit Insurance is not fully protected, the bank shall place in escrow account sufficient obligations of the United States to cover the amount of loan funds not protected.

(d) Funds deposited in joint bank accounts or in special bank accounts shall be pledged to the United States of America as security for the loan until expended for authorized purposes under a deposit agreement approved by the Farmers Home Administration.

(e) As long as any loan funds remain in a bank account, such account shall be subject to inspection by the Farmers Home Administration and to such periodic audits as the Farmers Home Administration may require. The borrower shall furnish to the County Supervisor for examination each bank statement.

(f) Payments to contractors or for other expenses incurred in the planning and construction of works of improvement will be made by checks drawn on a supervised or special bank account. Payments may be made in a lump sum at the completion of a job, or partial payments may be made as work progresses in accordance with partial payment provisions of construction contracts or other prearranged agreements with suppliers of materials or services. All payments for construction items will be based upon Form SCS–49a, "Contract Payment Estimate," prepared in an original and two copies by the borrower and approved by the Soil Conservation Service. Payments for personal services will be based upon periodic payrolls, and payments for other purposes such as title clearance and miscellaneous supplies will be based upon invoices or bills.

(1) If payments are to be made from a supervised bank account, the borrower will present Form SCS–49a, a periodic payroll, and an invoice or a bill, as appropriate, to the County Supervisor before checks are countersigned.

(2) If payments are to be made from a special bank account, the borrower will make a report to the County Supervisor covering such period as agreed upon by the borrower and the Farmers Home Administration, showing the payee, amount, and purpose of each check drawn during the period. The borrower will attach to the report a copy of the payroll, Form SCS–49a, receipts, or receipted bills or invoices for the checks issued. The receipts and receipted bills or invoices will be returned to the borrower.

§ 1891.15 Accounts and records of local organization.

Borrowers shall establish and maintain such accounts and other records pertaining to transactions related to the installation, operation, and maintenance of works of improvement as may be required by the Farmers Home Administration. These accounts and records shall be kept in a form and manner satisfactory to the Farmers Home Administration and shall be open to inspection and audits by representatives of the Farmers Home Administration during the borrower's regular business hours. The borrower shall prepare and furnish to the County Supervisor at intervals designated by the State Director such written reports as may be required by the Farmers Home Administration.

Subpart B—Processing and Servicing

§ 1891.21 General.

This subpart and regulations contained in Part 1854 of this chapter will be used as a guide for processing Watershed loans. These regulations will be supplemented on an individual loan basis by special instructions, approval memorandums, and closing instructions. To the extent possible, the National Office of the Farmers Home Administration will provide technical assistance to State Directors for developing and submitting loan dockets. Watershed loans will be serviced in accordance with regulations contained in Parts 1861 and 1862 of this chapter applicable to Soil and Water Conservation loans to associations. State Directors will utilize the authorities contained in subparagraphs (3), (6), (7), (8), (11), (12), and (14) of § 1861.43(a) of this chapter only with the prior approval of the National Office on an individual case basis. The Administrator may prescribe such special instructions on a case basis which he deems necessary for making and servicing of Watershed loans.

§ 1891.22 Application for loan.

Loan applications will be processed in accordance with the provisions of § 1891.2.

§ 1891.23 County Committee recommendations.

County Committee recommendations will be obtained on each application in accordance with the provisions of § 1891.4.

§ 1891.24 Preparation, assembly, and submission of loan dockets.

(a) The preparation of a loan docket will not be started until the National Office has reviewed the application letter and has issued to the State Director such special instructions as may be needed, as provided in § 1891.2.

(b) If the National Office determines that favorable consideration should be given to the application, the County Supervisor will proceed with the assembly of the loan docket and will be responsible for its submission to the State Director.

(c) The applicant, with the advice and guidance of Farmers Home Administration personnel will:

(1) Prepare and execute Form FHA-28, "Association Proposal and Request for Funds."

(2) Supply or assist in obtaining information that is required by Farmers Home Administration personnel in preparing the narrative report on the application that will become a part of the loan docket.

(3) Prepare all documents that may have been required by the National Office in previous correspondence regarding the particular loan.

(d) The completed docket together with the recommendations of the State Director will be forwarded to the National Office.

§ 1891.25 Approval of loans.

The Administrator will authorize the approval of loans and issue any special instructions needed for completing the processing of loans. When the State Director exercises the approval authority delegated to him by the Administrator, he will issue a memorandum of approval to the County Supervisor pursuant to

§ 1891.10. When authorization cannot be given for the approval of a loan, the Administrator will notify the State Director, who in turn will notify the applicant.

[F.R. Doc. 66-12023; Filed, Nov. 3, 1966; 8:45 a.m.]

Chapter I—Consumer and Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture

PART 52—PROCESSED FRUITS AND VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

Subpart—U.S. Standards for Grades of Green Olives [1]

A proposal to revise the U.S. Standards for Grades of Green Olives was published in the FEDERAL REGISTER of September 14, 1965 (30 F.R. 11723). By notices in the FEDERAL REGISTER of January 8, 1966 (31 F.R. 270), March 29, 1966 (31 F.R. 5074), and May 17, 1966 (31 F.R. 7185), the originally published time for receiving written data, views, and arguments was extended first to April 1, 1966, then to May 2, 1966, and lastly to July 1, 1966.

Statement of consideration leading to the revised standards. Certain changes are made to the proposal of September 14, 1965, as a result of comments from interested persons. The more significant changes are:

(1) Lowering the required sodium chloride content of the packing media.

(2) Providing for the addition of suitable garnishes, spices, seasoning ingredients, or any other ingredient(s) permitted under the Federal Food, Drug, and Cosmetic Act.

(3) Relaxing the average count per pound limit for U.S. Grades B and C. Petite size (originally designated "midget") is now permitted in U.S. Grade A. Subpetite size (originally designated "Peewee") is permitted in, but limited to, U.S. Grade B. Olives counting 221 to 275 per pound are limited to U.S. Grade C. Counts above 275 olives per pound are limited to Substandard, regardless of the product's total score.

(4) Redefining major wrinkles to combine the originally proposed classifications of major wrinkles and serious wrinkles.

(5) Removing the stipulated limits for, and method for determining the presence of, reducing sugars.

Other changes include some editorial reorganization of text and modification of wording for clarification of meaning.

After considering all relevant data, views, and arguments presented, including the proposal set forth in the aforesaid notice, the following U.S. Standards for Grades of Green Olives are hereby promulgated pursuant to the authority contained in the Agricultural Marketing Act of 1946.

(Secs. 202–208, 60 Stat. 1087, as amended; 7 U.S.C. 1621–1627)

The revision is as follows:

Subpart—United States Standards for Grades of Green Olives

PRODUCT DESCRIPTION, TYPES, STYLES, GRADES

Sec.
52.5441 Product description.
52.5442 Types of green olive pack.
52.5443 Styles of green olives.
52.5444 Grades of green olives.

SIZE DESIGNATIONS

52.5445 Sizes of whole style green olives.
52.5446 Size of pitted and stuffed styles of green olives.

RECOMMENDED MINIMUM DRAINED WEIGHTS

52.5447 Recommended minimum drained weights.
52.5448 Compliance with recommended minimum drained weights.

FACTORS OF QUALITY

52.5449 Ascertaining the grade of a sample unit.
52.5450 Ascertaining the rating for the factors which are scored.
52.5451 Color.
52.5452 Uniformity of size.
52.5453 Absence of defects.
52.5454 Character.

DEFINITION OF TERMS AND METHODS OF ANALYSIS

52.5455 Definition of terms.
52.5456 Methods of analysis.

LOT COMPLIANCE

52.5457 Ascertaining the grade of a lot.

SCORE SHEET

52.5458 Score sheet for green olives.

AUTHORITY: The provisions of this subpart, issued under secs. 202–208, 60 Stat. 1087, as amended; 7 U.S.C. 1621–1627.

PRODUCT DESCRIPTION, TYPES, STYLES, GRADES

§ 52.5441 Product description.

Green olives are completely fermented and cured fruit of the olive tree (Olea europaea) which have been prepared from a firm fruit of suitable maturity and variety that have been properly treated to partially remove the characteristic bitterness. The cured olives and the brine packing media have a pH of not more than 4.00 and a sodium chloride content of not less than 6.00 percent. Not more than a trace of reducing sugars may be present. Suitable garnishes, spices, seasoning ingredients, or any other ingredient(s) permitted under the Federal Food, Drug, and Cosmetic Act may be added.

§ 52.5442 Types of green olive pack.

(a) "Thrown pack" means green olives packaged without regard to placement or arrangement within the package.

(b) "Placed (or stick) pack" means green olives packaged in such a manner as to indicate that the individual olives have been carefully positioned in a definite pattern.

§ 52.5443 Styles of green olives.

(a) "Whole" or "plain" green olives are those which have not been pitted.

(b) "Pitted" green olives are those from which the pits have been removed.

(c) "Stuffed" green olives are pitted green olives that have (1) pimiento; (2) onion; (3) almond; (4) celery; or (5) any other suitable ingredient stuffed into the pit cavity.

(d) "Halved" green olives are pitted green olives that have been cut lengthwise into two approximately equal parts.

(e) "Sliced" green olives are pitted green olives cut into parallel slices of fairly uniform thickness.

(f) "Chopped" or "Minced" (or "Relish-type") green olives are small random-sized cut pieces or cut bits prepared from pitted green olives.

(g) "Broken pitted" or "Salad pack" green olives are pitted olives, whole or broken or stuffed, that have not been cut or sliced.

§ 52.5444 Grades of green olives.

(a) "U.S. Grade A" (or "U.S. Fancy") is the quality of whole, pitted, stuffed, halved, and sliced green olives that: (1) Have similar varietal characteristics; (2) have normal flavor and odor; (3) have good color; (4) are practically uniform in size in whole, pitted, and stuffed styles of single sizes; (5) are practically free of defects; (6) have good character; and (7) score not less than 90 points when scored in accordance with the scoring system outlined in this subpart.

(b) "U.S. Grade B" (or "U.S. Choice") is the quality of whole, pitted, stuffed, halved, sliced, and chopped or minced styles of green olives that: (1) Have similar varietal characteristics; (2) have normal flavor and odor; (3) have reasonably good color; (4) are reasonably uniform in size in whole, pitted, and stuffed styles of single sizes; (5) are reasonably free of defects; (6) have reasonably good character; and (7) score not less than 80 points when scored in accordance with the scoring system outlined in this subpart.

(c) "U.S. Grade C" (or "U.S. Standard") is the quality of whole, pitted, stuffed, halved, sliced, chopped, or minced, and broken pitted styles of green olives that: (1) Have similar varietal characteristics; (2) have normal flavor and odor; (3) have fairly good color; (4) are fairly uniform in size in whole, pitted, and stuffed styles of single sizes; (5) are fairly free of defects; (6) have fairly good character; and (7) score not less than 70 points when scored in accordance with the scoring system outlined in this subpart.

(d) "Substandard" is the quality of any style of green olives that fails to meet the applicable requirements of U.S. Grade C.

SIZE DESIGNATIONS

§ 52.5445 Sizes of whole style green olives.

(a) *General.* (1) The count for green olives is calculated on the basis of the drained weight of the olives from all sample units comprising the sample.

(2) The "counts per pound" in Table I are expressed as a range in count from the minimum to maximum number for a stated size. Where a single approximate count per pound is stated, it is an

[1] Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act or with applicable state laws and regulations.

additional expression representing the approximate midpoint within the count range.

(3) The "approximate counts per kilo" in Table I are alternative or supplemental expressions to "counts per pound" but are not exact equivalents. Where two or more count ranges are stated for an illustrated size, any of such count ranges may be used to describe the size illustrated.

(b) *Determining compliance*—(1) *Single size.* Green olives shall be considered of a single size designation if the olives:

(i) Are at least fairly uniform in size as defined in §52.5452(d); and

(ii) Approximate the size illustrated in Table I; and

(iii) Are within the count range for such size.

(2) *Mixed sizes.* Green olives shall be considered "Mixed sizes" when the olives are not classifiable as a single size.

§ 52.5446 Size of pitted and stuffed styles of green olives.

The size designation for pitted and stuffed styles of green olives shall be that of the single size or a blend of sizes which conforms most closely to the size or sizes illustrated in Table I.

TABLE I

SINGLE SIZES

Illustration of sizes and numerical designation	Size designation	Counts per pound	Other size designations: Approximate counts per kilo
Smaller than	Sub-Petite	221 or more	more than 420
00	Sub-Petite	Approximate 200 (181 to 220)	400/420
0	Petite or Midget	Approximate 160 (141 to 180)	380/400 340/360 300/320
1	Small or Select or Standard	Approximate 135 (128 to 140)	280/300
2	Medium	Approximate 113 (106 to 127)	240/260
3	Large	Approximate 98 (91 to 105)	200/220
4	Extra Large	Approximate 82 (76 to 90)	180/200 160/180
5	Mammoth	Approximate 70 (65 to 75)	150/160 140/150
6	Giant	53 to 64	130/140 120/130
7	Jumbo	42 to 52	110/120 100/110 90/100
8	Colossal	33 to 41	80/90 70/80
9	Super Colossal	32 or less	60/70

Illustrations reduced to 46½ percent of original size.

Recommended Minimum Drained Weights

§ 52.5447 Recommended minimum drained weights.

(a) *General.* The minimum drained weight recommendations for the various styles in Table II and Table III are not incorporated in the grade of the finished product since drained weight, as such, is not a factor of quality for the purposes of these grades.

(b) *Method for determining drained weight.* The drained weight of green olives is determined by emptying the container contents upon a U.S. Standard No. 8 sieve, of proper diameter, containing 8 meshes to the inch (0.0937-inch, ±3 percent, square openings) so as to distribute the product evenly, inclining the sieve slightly to facilitate drainage, and allowing to drain for 2 minutes. The drained weight is the weight of the sieve and olives minus the weight of the dry sieve. A sieve 8 inches in diameter is used for the equivalent of 1-quart size containers and smaller, and a sieve 12 inches in diameter for larger containers.

TABLE II—RECOMMENDED MINIMUM DRAINED WEIGHTS FOR GREEN OLIVES (WHOLE, PITTED, AND STUFFED STYLES)

Container sizes[1]	½ pint		1 pint		1 quart		1 gallon
	Whole	Pitted and stuffed	Whole	Pitted and stuffed	Whole	Pitted and stuffed	Whole
Size designations	*Ounces*	*Ounces*	*Ounces*	*Ounces*	*Ounces*	*Ounces*	*Ounces*
Subpetite; Petite	5½	4	11	9	22	18	88
Small; Select; Standard(s)	5	3¾	10	8	21	17	88
Medium	5	3¾	10	8	21	17	88
Large	5	4	10	8½	21	18	88
Extra Large	5	4	10	8½	21	18	88
Mammoth	4¾	4	10	8½	21	18	88
Giant	4½	3¾	9½	8	20½	17	86
Jumbo	4½	3¾	9½	8	20½	17	86
Colossal	4½	3¾	9½	8	20½	17	86
Super Colossal	4½	3½	9	7½	19	16½	86
Mixed Sizes	5	4	10	8½	21	18	88

[1] Recommended minimum drained weight for other container sizes are proportionate to the 1 quart recommendations for the applicable size and style.

TABLE III—RECOMMENDED MINIMUM DRAINED WEIGHTS FOR GREEN OLIVES (HALVED, CHOPPED OR MINCED, SLICED, AND BROKEN PITTED STYLES)

Container sizes[2]	4.4 ounces	1 pint	1 quart	1 gallon
Styles	*Ounces*	*Ounces*	*Ounces*	*Ounces*
Halved	2¼	7½	15	72
Chopped or minced	4½	15½	31	122
Sliced	2¼	7½	15	72
Broken pitted		7½	15	72

[2] Recommended minimum drained weights for other container sizes are proportionate to the 1 quart recommendations for the applicable style.

§ 52.5448 Compliance with recommended minimum drained weights.

Compliance with the recommended minimum drained weights for green olives is determined by averaging the drained weights from all of the containers which are representative of a specific lot and such lot is considered as meeting the recommendations if the following criteria are met:

(a) The average of the drained weights from all of the containers meets the recommended minimum drained weight; and

(b) The drained weights from the containers which do not meet the minimum recommended drained weight are within the range of variability for good commercial practice.

Factors of Quality

§ 52.5449 Ascertaining the grade of a sample unit.

(a) *General.* In addition to considering other requirements outlined in the standards the following quality factors are evaluated:

(1) *Factor not rated by score points.*

(i) Flavor and order.

(2) *Factors rated by score points.* The relative importance of each factor which is scored is expressed numerically on the scale of 100. The maximum number of points that may be given each factor are:

(i) Color	20
(ii) Uniformity of size	20
(iii) Absence of defects	30
(iv) Character	30
Total score	100

§ 52.5450 Ascertaining the rating for the factors which are scored.

The essential variations within each factor which is scored are so described that the value may be ascertained for each factor and expressed numerically. The numerical range within each factor which is scored is inclusive (for example, "18 to 20 points" means 18, 19, or 20 points).

§ 52.5451 Color.

(a) *General.* The evaluation of color shall be determined immediately after the container has been opened and, as applicable for the style, is based upon the exterior color, the interior flesh color, and general appearance. The exterior color of "halved" style is determined on the uncut surfaces.

(b) (*A*) *Classification.* Green olives that have good color may be given a score of 18 to 20 points. "Good color" has the following meaning for the applicable styles:

(1) *Whole; pitted; stuffed; halved.* The olives have a practically uniform bright yellow-green to green exterior color that is characteristic of the variety, a light colored flesh, and not more than 5 percent, by count, of the olives or units thereof may vary from such color that is typical of the variety from which prepared: *Provided,* That in stuffed style or when garnish is added the stuffing or garnish shall have a good characteristic color typical of the product used.

(2) *Sliced.* The general color of the olives is normal and typical of these styles prepared from olives having at least reasonably good color and when garnish is added the garnish shall have a good characteristic color typical of the product used.

(c) (*B*) *Classification.* Green olives that have reasonably good color may be given a score of 16 or 17 points. "Reasonably good color" has the following meaning for the applicable styles:

(1) *Whole; pitted; stuffed; halved.* The olives have a reasonably uniform yellow-green to green exterior color, a light colored flesh, and not more than 10 percent, by count, of the olives or units thereof may vary from such color that is typical of the variety from which prepared: *Provided,* That in stuffed style or when garnish is added the stuffing or garnish shall have a reasonably good characteristic color typical of the product used.

(2) *Sliced; chopped or minced.* The general color of the olives is normal and typical of the styles prepared from olives having at least fairly good color and when garnish is added the garnish shall have a reasonably good characteristic color typical of the product used.

(d) (*C*) *Classification.* Green olives that have fairly good color may be given a score of 14 or 15 points. Green olives that fall into this classification shall not be graded above U.S. Grade C, regardless of the total score for the product (this is a limiting rule). "Fairly good color" has the following meaning for the applicable styles:

(1) *Whole; pitted; stuffed; halved.* The olives have a fairly uniform yellow-green to green exterior color, may have a variable colored flesh, and not more than 20 percent by count, of the olives or units thereof may vary from such color that is typical of the variety from which prepared: *Provided,* That in stuffed style or when garnish is added the stuffing or garnish shall have a fairly good characteristic color typical of the product used.

(2) *Sliced; chopped or minced.* The general color of the olives is normal and varies more markedly than these styles prepared from olives with fairly good color.

(3) *Broken pitted.* The general color of the olives is normal and may be variable, but is typical of this style prepared from olives with good, reasonably good, or fairly good color.

(e) (*SStd*) *Classification.* Green olives that are extremely dull grey-green, dark, oxidized, or have other abnormal color or that fail to meet the requirements of paragraph (d) of this section may be given a score of 0 to 13 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

§ 52.5452 Uniformity of size.

(a) *General.* (1) Uniformity of size refers to the variation in diameters of whole, pitted, and stuffed styles. "Diameter" means the shortest measurement at the greatest diameter thickness of the olive when measured at right angles to the pit or pit cavity.

(2) The factor of uniformity of size is not applicable to mixed sizes or to halved, sliced, chopped or minced, and broken pitted styles; and is not scored. For mixed sizes and these styles the sum of the scores for the other factors (color, defects, and character) is multiplied by 10 and divided by 8, dropping any fractions, to determine the total score.

(b) (*A*) *Classification.* Whole, pitted, and stuffed style green olives of a single size that are practically uniform in size may be given a score of 18 to 20 points. "Practically uniform in size" means that of all the olives, the variation in diameters does not exceed ⅛ inch; and in 90 percent, by count, that are most uniform in diameter, the olive with the largest diameter does not exceed the olive with the smallest diameter by more than 1/16 inch.

(c) (*B*) *Classification.* Whole, pitted, and stuffed style green olives of a single size that are reasonably uniform in size may be given a score of 16 or 17 points. "Reasonably uniform in size" means that of all the olives, the variation in diameters does not exceed 3/16 inch; and in 80 percent, by count, that are most uniform in diameter, the olive with the largest diameter does not exceed the olive with the smallest diameter by more than 1/16 inch. Green olives of subpetite size (or olives of whole style that count 181 to 220 per pound) shall not be graded above U.S. Grade B or U.S. Choice, regardless of the total score for the product.

(d) (*C*) *Classification.* Whole, pitted, and stuffed style green olives of a single size that are fairly uniform in size or whole, pitted, or stuffed style green olives of mixed sizes may be given a score of 14 or 15 points. "Fairly uniform in size" means that of all the olives, in 60 percent, by count, that are most uniform in diameter the olive with the largest diameter does not exceed the olive with the smallest diameter by more than 1/16 inch. Olives of whole style that count 221 to 275 per pound shall not be graded above U.S. Grade C or U.S. Standard, regardless of the total score for the product.

(e) (*SStd*) *Classification.* Green olives of whole style that have an average count of more than 275 per pound or that otherwise fail to meet the requirements of paragraph (d) of this section may be given a score of 0 to 13 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

§ 52.5453 Absence of defects.

(a) *General.* Absence of defects refers to the degree of freedom from harmless extraneous material, pit material, stems and portions thereof, blemishes, wrinkles, mutilated olives, internal gas pockets, and from any other defects which affect the appearance or edibility of the product.

(b) *Definitions of defects*—(1) *Harmless extraneous material.* "Harmless extraneous material" means any vegetable substance that is harmless.

(2) *Pit material.* "Pit material" is classified as follows:

(i) "Pit" means any whole pit in other than whole olives, whether loose or partially attached to the flesh.

(ii) "Piece of pit" means any portion of pit regardless of size in pitted, stuffed, halved, sliced, or broken pitted styles.

(iii) "Fragments of pit" means any portion of pit in chopped or minced style that weighs more than 5 milligrams.

(3) *Stem.* A "stem" or any portion thereof that measures 3/32 inch or less from the shoulder of the olive is not considered a defect. Stems are classified as follows:

(i) A "minor stem" is a stem or portion thereof that measures more than 3/32 inch, but not more than 5/32 inch, from the shoulder of the olive.

(ii) A "major stem" is a stem or portion thereof that measures more than 5/32 inch from the shoulder of the olive.

(4) *Blemishes.* "Blemishes" mean dark-colored surface marks which may or may not penetrate into the flesh or internal discoloration. Blemishes are classified as follows:

(i) "Insignificant blemishes" are surface marks which do not penetrate perceptibly into the flesh and which individually or collectively do not more than slightly affect the appearance of the olive or unit.

(ii) "Minor blemishes" are surface marks which do not penetrate perceptibly into the flesh and which individually or collectively materially affect the appearance of the olive or unit.

(iii) "Major blemishes" include:

(*a*) Surface marks or similar injury which may or may not be associated with a soft texture below the skin and which individually or collectively seriously af-

fect the appearance or edibility, or both, of the olive or unit;

(b) Surface marks or bruises or similar injury which penetrate perceptibly into the flesh and which individually or collectively seriously affect the appearance or edibility, or both, of the olive or unit; and

(c) Internal discolorations of any type, or intensity, involving any portion of the flesh.

(5) *Wrinkles.* Classification of wrinkles shall be determined while olives are moist and any increase in wrinkling due to dehydration after removing from the container shall not be considered. Wrinkles are classified as follows:

(i) "Insignificant wrinkles" are those which are hairline in appearance and approximate less than 1/64 inch in width and, regardless of area covered, are not considered as defects.

(ii) "Minor wrinkles" are those which approximate 1/64 inch but not more than 1/32 inch in width and cover not more than approximately one-sixth of the area of the olive.

(iii) "Major wrinkles" are: (a) Minor wrinkles which cover more than one-sixth of the area on the olive; or (b) are wrinkles which are more than 1/32 inch in width and cover more than approximately one-sixth of the area of the olive.

(6) *Mutilated.* A "mutilated" olive in whole, pitted, or stuffed styles means an olive that is so pitter-torn or damaged by other means that the entire pit cavity is exposed or the appearance of the olive is seriously affected to the same degree.

(7) *Internal gas pockets.* Internal gas pockets that exceed 1/8 inch in length.

(c) *(A) Classification.* Green olives of whole, pitted, stuffed, halved, and sliced styles that are practically free of defects may be given a score of 27 to 30 points. "Practically free of defects" means that the green olives are practically free of any defects not specifically mentioned and that these defects may no more than slightly affect the appearance or edibility of the olives; that the packing media of stuffed olives is practically free of detached pieces of stuffing; that the overall appearance of the product is not materially affected by olives or units with insignificant blemishes; and, in addition, that the specifically mentioned defects do not exceed the allowances for U.S. Grade A set forth in Tables IV or V, as applicable.

(d) *(B) Classification.* (1) Green olives of whole, pitted, stuffed, halved, sliced, and chopped or minced styles that are reasonably free of defects may be given a score of 24 to 26 points. Green olives that fall into this classification shall not be graded above U.S. Grade B, regardless of the total score of the product (this is a limiting rule).

(2) "Reasonably free of defects" means that the green olives are reasonably free of any defects not specifically mentioned and that these defects may more than slightly, but not materially, affect the appearance or edibility of the olives; that the packing media of stuffed olives is reasonably free of detached pieces of stuffing; that the overall appearance of the product may be materially affected by olives or units with insignificant blemishes; and, in addition, that the specifically mentioned defects do not exceed the allowances for U.S. Grade B set forth in Tables IV or V, as applicable.

(e) *(C) Classification.* Green olives of whole, pitted, stuffed, halved, sliced, chopped or minced, and broken pitted styles that are fairly free of defects may be given a score of 21 to 23 points. Green olives that fall into this classification shall not be graded above U.S. Grade C, regardless of the total score for the product (this is a limiting rule). "Fairly free of defects" means that the olives are fairly free of any defects not specifically mentioned and that these defects may materially, but not seriously, affect the appearance and edibility of the olives; that the packing media of stuffed olives is fairly free of detached pieces of stuffing; that the overall appearance of the product may be seriously affected by olives or units with insignificant blemishes; and, in addition, that the specifically mentioned defects do not exceed the allowances for U.S. Grade C set forth in Tables IV or V, as applicable.

(f) *(SStd) Classification.* Green olives that fail to meet the requirements of paragraph (e) of this section may be given a score of 0 to 20 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

TABLE IV—DEFECT ALLOWANCES—GREEN OLIVES FOR WHOLE—PITTED—STUFFED—HALVED STYLES

Defects	U.S. grade A or U.S. fancy		U.S. grade B or U.S. choice		U.S. grade C or U.S. standard	
	Maximum (on an average) per 100 whole, pitted, or stuffed olives or per 200 halved olives					
Harmless extraneous material.	1 piece		2 pieces		3 pieces.	
Pit material (pitted, stuffed, and halved styles).	1 pit or piece of pit		2 pits or pieces of pits		3 pits or pieces of pits.	
Stems: minor and major.	Total of 6 but not more than 3 major stems.		Total of 10 but not more than 5 major stems.		Total of 20 but not more than 10 major stems.	
Darkened or blemished stuffing material (stuffed style).	5 olives		7 olives		10 olives.	
	Total and limiting (maximum) percentages by count of olives with defects stated					
	Total	Provided these limits are not exceeded	Total	Provided these limits are not exceeded	Total	Provided these limits are not exceeded
Blemishes: minor and major.	10 percent by count.	5 percent major blemishes or major wrinkles (combined).	15 percent by count.	10 percent major blemishes or major wrinkles (combined).	25 percent by count.	15 percent major blemishes or major wrinkles (combined).
Wrinkles: minor and major.						
Olives with internal gas pockets/mutilated olives.		3 percent with internal gas pockets and/or mutilated.		10 percent with internal gas pockets, 5 percent mutilated.		15 percent with internal gas pockets, 8 percent mutilated.

TABLE V—DEFECT ALLOWANCES—GREEN OLIVES FOR SLICED—CHOPPED—BROKEN PITTED STYLES

Defects	Broken pitted style	Sliced style	Sliced; chopped styles	Sliced; chopped styles
	U.S. Grade C or U.S. Standard	U.S. Grade A or U.S. Fancy	U.S. Grade B or U.S. Choice	U.S. Grade C or U.S. Standard
Harmless extraneous material: Pit material	*Maximum (per pound of drained olives—average)* 2 pits or pieces of pit.	These or any other defects (including pieces of pits and fragments) do not more than slightly affect the appearance or edibility of the product.	These or any other defects (including pieces of pits and fragments) do not materially affect the appearance or edibility of the product.	These or any other defects (including pieces of pits and fragments) do not seriously affect the appearance or edibility of the product.
Stems: minor and major.	4 stems.			
Olives that are blemished by and/or major blemishes.	Maximum (by weight of drained olives) 15 percent.			

§ 52.5454 Character.

(a) *General.* Character refers to the firmness, crispness, and texture characteristic for the variety and the condition of the epidermal tissue.

(b) *Definition of term.* (1) "Slip skin" refers to epidermal tissue that has become loosened and/or detached from the underlying flesh of the olive.

(c) *(A) Classification.* Green olives of whole, pitted, stuffed, halved, and sliced styles that have good character may be given a score of 27 to 30 points. "Good character" means that the olives have a uniform tender texture that is characteristic of the variety and that is firm, crisp, and fleshy; and that the olives are practically free of slip skins.

(d) *(B) Classification.* Green olives of whole, pitted, stuffed, halved, sliced, and chopped or minced styles that have reasonably good character may be given

a score of 24 to 26 points. Green olives that score into this classification shall not be graded above U.S. Grade B, regardless of the total score (this is a limiting rule). "Reasonably good character" means that the olives have a reasonably uniform tender texture that is characteristic of the variety; that there may be a moderate variation in the firmness, crispness, and fleshiness; and that the olives are reasonably free of slip skins.

(e) *(C) Classification.* Green olives of whole, pitted, stuffed, halved, sliced, chopped, or minced, and broken pitted styles that have fairly good character may be given a score of 21 to 23 points. Green olives that score into this classification shall not be graded above U.S. Grade C, regardless of the total score for the product (this is a limiting rule). "Fairly good character" means that the olives have a fairly good texture that is typical of the variety; that they may vary from fairly firm and crisp to fairly hard and tough; and that the olives are fairly free of slip skins.

(f) *(SStd) Classification.* Green olives that fail to meet the requirements of paragraph (e) of this section may be given a score of 0 to 20 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

DEFINITION OF TERMS AND METHODS OF ANALYSIS

§ 52.5455 Definition of terms.

(a) *"Completely fermented olives"* means that the olives and brine contain not more than a trace of reducing sugars.

(b) *"Normal flavor and odor"* means that the green olives are free of any objectionable flavors or odors including, but not limited to, Zapatera and/or butyric acid flavors or odors.

(c) *"Garnishes"* means diced, cut, or chopped pimiento or sweet pepper; sliced, cut, chopped, or whole onions; sliced, cut, or chopped ripe olives; or other similar ingredients.

§ 52.5456 Methods of analysis.

The reducing sugars and salt in green olives are determined in accordance with the latest official method outlined in Official Methods of Analysis of the Association of Official Analytical Chemists or any other method that gives equivalent results.

LOT COMPLIANCE

§ 52.5457 Ascertaining the grade of a lot.

The grade of a lot of green olives covered by these standards is determined by the procedures set forth in the Regulations Governing Inspection and Certification of Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products (§ 52.1 through § 52.87).

SCORE SHEET

§ 52.5458 Score sheet for green olives.

Number, size, and kind of container			----
Label (including size declaration)			----
Container mark or identification			----
Net weight (ounces)			----
Vacuum (inches) if any			----
Drained weight (ounces)			----
Type of pack			----
Size			----
Style			----
Average count per pound (whole style)			----
pH			----
Percent NaCl (sodium chloride)			----
Factors		**Score points**	
Color	20	(A) 18–20 (B) 16–17 (C) [1] 14–15 (SStd) [1] 0–13	
Uniformity of size	20	(A) 18–20 (B) [2] 16–17 (C) [3] 14–15 (SStd) [4] 0–13	
Absence of defects	30	(A) 27–30 (B) [1] 24–26 (C) [1] 21–23 (SStd) [1] 0–20	
Character	30	(A) 27–30 (B) [1] 24–26 (C) [1] 21–23 (D) [1] 0–20	
Total Score	100		
Normal flavor and odor			----
Grade			----

[1] Limiting rule.
[2] Limiting rule for Subpetite size.
[3] Limiting rule for sizes counting 221 to 275 per pound.
[4] Limiting rule for sizes counting more than 275 per pound.

The U.S. Standards for Grades of Green Olives (which is the second issue) contained in this subpart, shall become effective 60 days after the date of publication hereof in the FEDERAL REGISTER, and will thereupon supersede the U.S. Standards for Grades of Green Olives which have been in effect since June 1, 1946.

Dated: October 28, 1966.

G. R. GRANGE,
Deputy Administrator,
Marketing Services.

[F.R. Doc. 66–11945; Filed, Nov. 3, 1966; 8:45 a.m.]

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

[Amdt. 11]

PART 719—RECONSTITUTION OF FARMS, ALLOTMENTS, AND BASES

Pooling and Transfer of Allotments

(a) This amendment is issued pursuant to section 375(b) of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1375(b)), section 124 of the Soil Bank Act (7 U.S.C. 1812), and the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590g–p). This amendment (1) defines feed grain base, (2) provides that the pooling and transfer provision of these regulations be inapplicable where a public entity acquires land for designation under the Cropland Adjustment Program pursuant to Part 751 of this chapter, and (3) provides that, subject to certain conditions, allotments and bases for an acquired farm need not be pooled in cases where the cropland on the acquired farm represents 15 percent or more of the total cropland on the farm.

(b) Since farms are now being acquired, it is essential that this amendment be made effective as soon as possible. It is hereby found and determined that compliance with the notice, public procedure, and 30-day effective date requirement of section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C. 1003) is impracticable and contrary to the public interest and this amendment shall be effective upon filing this document with the Director, Office of the Federal Register.

The regulations for Reconstitution of Farms, Allotments, and Bases (29 F.R. 13370, as amended), are amended as follows:

A new subparagraph designated (6) shall be inserted after subparagraph (5) of paragraph (a) of § 719.11 and subparagraphs (6) through (9) of such paragraph (a) shall be redesignated as subparagraphs (7) through (10). In addition, subparagraph (5) of paragraph (b) of § 719.11 is amended and a new subparagraph (6) of such paragraph shall be inserted after subparagraph (5) to read as follows:

§ 719.11 Pooling and transfer of farm acreage allotments and feed grain bases where the farm owner is displaced by an agency having the right of eminent domain.

(a) *Definitions.* * * *

(6) *Feed grain base.* Bases established for corn, grain sorghums, and barley.

* * * * *

(b) *Limitations on applicability of this section.* * * *

(5) (i) To a farm acquired for nonfarming purposes if the cropland on the acquired farm represents less than 15 percent of the total cropland on the farm. In such cases, the allotment and bases attributable to that portion of the farm so acquired shall remain with that portion of the farm not so acquired.

(ii) To a farm acquired for nonfarming purposes if the cropland on the acquired farm represents 15 percent or more of the total cropland on the farm: *Provided,* That (*a*) the owner from whom the farm is acquired files a request in writing that he be permitted to retain the allotment and feed grain base, or any part thereof, attributable to that portion of the farm so acquired on that portion of the farm not so acquired; (*b*) the sum of allotment and feed grain base does not exceed the cropland on that portion of the farm not acquired; and (*c*) the amount of allotment or feed grain base on that portion of the farm not ac-

quired does not exceed that amount established for other farms in the same area which are similar, taking into consideration the land, labor, and equipment available for the production of the commodity, crop rotation practices, and other physical factors affecting production. If any one of these conditions limits the acreage of allotment or feed grain base which may remain with the portion of the farm not acquired such acreage shall be pooled for the benefit of the displaced owner. In applying the provisions of this subparagraph, if a parent farm is composed of tracts under separate ownership, each separately-owned tract being acquired in whole or in part shall be considered a separate farm.

(6) To a farm acquired by a public entity having the right of eminent domain where the land is acquired for designation under the Cropland Adjustment Program pursuant to Part 751 of this chapter and the owner of the acquired farm as a part of the acquisition transaction agrees in writing that he will not request that any allotment or feed grain base be transferred from the farm so acquired.

* * * * *

(Secs. 375, 378, 52 Stat. 66, as amended, 72 Stat. 995, as amended, 7 U.S.C. 1375, 1378; sec. 124, 70 Stat. 198, 7 U.S.C. 1812; secs. 16(b), 74 Stat. 1030, 16(c), 75 Stat. 5, 16(d), 75 Stat. 302, 105(c), 75 Stat. 301, 16(h), 77 Stat. 45, 16 U.S.C. 590p)

Effective date. Date of filing this document with the Director, Office of the Federal Register.

Signed at Washington, D.C., on October 31, 1966.

H. D. GODFREY,
Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 66-12041; Filed, Nov. 3, 1966; 8:48 a.m.]

[Amdt. 1]

PART 722—COTTON

Subpart—1966 Upland Cotton Program

MISCELLANEOUS AMENDMENTS

The regulations governing the 1966 Upland Cotton Program, 31 F.R. 4884, are hereby amended as follows:

1. Section 722.809 is amended by changing the last sentence of paragraph (a) to read as follows: "The rate of diversion payment under the program with respect to land which is leased or rented on a cash-rent basis from the Federal, State, county, or local government, or subdivisions thereof, if such land is not otherwise ineligible for participation in the program, shall be the smaller of (i) the per acre payment rate for which the farm would have qualified if the exception for land cash-rented from a governmental unit were not in effect, or (ii) one-half of such rate plus the actual cash-rent per acre of the land, adjusted to take into account the quality of the acres actually diverted when compared with the total acres rented and the services performed and capital improvements made at the producer's expense which are in addition to rent."

2. Section 722.815 is amended as follows:

a. Change the first sentence of paragraph (f) to read as follows: "A farm shall be eligible for a price support payment if producers on the farm file a Form 378 in accordance with § 722.812 and comply with all of the regulations in this subpart."

b. Change the third sentence of paragraph (f) to read as follows: "An acreage on the farm which the county committee determines was not planted to cotton because of flood, drought, or other natural disaster shall be deemed to be planted to cotton in accordance with instructions issued by the Deputy Administrator provided such acreage is not subsequently planted to any other crop for which marketing quotas or a voluntary adjustment program is in effect."

3. Section 722.817 is amended by adding at the end of paragraph (d) the following new sentence: "(The provisions of paragraph (b) of this section shall not apply to a cash tenant, standing-rent tenant, or a fixed-rent tenant unless such tenant was living on the farm in 1965 or received 50 percent or more of his income in such year from farming.)"

(Sec. 103(d), 79 Stat. 1194, 7 U.S.C. 1444(d))

Effective date. Date of filing this document with the Director, Office of the Federal Register.

Signed at Washington, D.C., on October 31, 1966.

H. D. GODFREY,
Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 66-12042; Filed, Nov. 3, 1966; 8:48 a.m.]

SUBCHAPTER C—SPECIAL PROGRAMS

[Amdt. 4]

PART 751—LAND USE ADJUSTMENT PROGRAM

Subpart—Cropland Adjustment Program for 1966 Through 1969

MISCELLANEOUS AMENDMENTS

The regulations governing the 1966–1969 Cropland Adjustment Program (31 F.R. 3483) are amended as follows:

§ 751.108 [Amended]

Section 751.108, *Cropland adjustment program bases,* paragraph (a) is amended by adding a new sentence at the end thereof to read as follows: "Effective beginning with 1967 agreements, (1) no cropland adjustment program base shall be determined for wheat and rice, and (2) the cropland adjustment program base determined for feed grains shall include only corn and grain sorghums."

§ 751.109 [Amended]

Section 751.109, *Awarding cropland adjustment agreements,* paragraph (a) (1) is amended by adding a new sentence at the end thereof to read as follows: "Notwithstanding any other provision of this paragraph, at the prior request of the producer, an acreage of the feed grain base not to exceed 3 acres need not be diverted when the production of such acreage of corn or grain sorghums will be used primarily for home consumption."

§ 751.113 [Amended]

Section 751.113, *Agreement period,* paragraph (d) is amended by adding a new sentence at the end thereof to read as follows: "Notwithstanding any other provision of this paragraph, the agreement period for 1966 agreements under which wheat, rice, or barley is designated shall not be extended."

§ 751.115 [Amended]

Section 751.115, *Annual adjustment payments,* paragraph (e) is amended by adding a new sentence at the end thereof to read as follows: "Notwithstanding any other provisions of this paragraph, beginning with 1967 agreements, the adjustment payments shall be made in annual payments after compliance is determined but not before October 1 during each of the years of the agreement period."

§ 751.118 [Amended]

Section 751.118, *Designation and use of acreage diverted,* paragraph (b) (2) (xiii) is amended by changing the period at the end of the last sentence in parentheses to a colon and adding the following proviso: *"Provided,* That beginning with 1967 agreements, the continuation of an agreement by a new owner shall be permitted only if the county committee determines that the original agreement was entered into by the original owner in good faith with no intention of transferring his interest in the farm to another party."

§ 751.121 [Amended]

Section 751.121, *Permitted acreage on cropland adjustment program base crops diverted under the program,* is amended by changing the period at the end of the first sentence to a comma and adding the following: "except as otherwise authorized in § 751.109(a) (1)."

§ 751.123 [Amended]

Section 751.123, *Provisions relating to tenants and sharecroppers,* paragraph (d) is amended by deleting "the farm" at the end thereof and inserting in lieu thereof the word "farming".

Section 751.137 is amended to read as follows:

§ 751.137 Preservation of cropland, crop acreage, and allotment history.

The cropland, crop acreage, and allotment history shall be preserved in accordance with the regulations governing the preservation of cropland, crop acreage and allotment history, 7 CFR, Part 719, as amended.

§ 751.101 [Amended]

Section 751.101, *Definitions,* paragraph (e) is amended by adding at the end thereof the following new sentence: "The

word 'agreement' preceded by a year means an agreement containing an agreement period beginning with such year."

(Sec. 602(q), 79 Stat. 1210)

Effective date. Upon filing with the Director, Office of the Federal Register.

Signed at Washington, D.C., on October 31, 1966.

H. D. GODFREY,
Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 66-12043; Filed, Nov. 3, 1966; 8:48 a.m.]

Title 29—LABOR

Chapter XIV—Equal Employment Opportunity Commission

PART 1601—PROCEDURAL REGULATIONS

Processing of Cases

By virtue of the authority vested in it by section 713(a) of Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e-12(a), the Equal Employment Opportunity Commission hereby amends Part 1601 of its regulations to add a new § 1601.25a.

Section 706(e) of the Civil Rights Act requires that the Commission notify the charging party where it has failed to achieve voluntary compliance with Title VII within 60 days of the filing of the charge, and provides that upon receipt of such notice the charging party may bring an action in Federal court. Section 706(e) contemplates that such notification occur subsequent to the Commission investigation, determination of reasonable cause, and efforts at conciliation; however, because of its caseload the Commission has been and is unable to process cases through the stage of conciliation within 60 days. The Commission believes that in general the purposes of Title VII are better served by delaying the notification under section 706(e) until the proceedings before the Commission have been completed. However, we recognize that there may be circumstances under which either the charging party or the respondent may desire that the right to bring an action accrue as promptly as possible upon the expiration of the 60-day period, and where such a desire is clearly manifested, we believe it consistent with the statutory scheme that notification issue irrespective of the status of the case before the Commission. Accordingly, this amendment is intended to state clearly the circumstances under which the Commission will issue notification of its failure to achieve voluntary compliance pursuant to section 706(e) of the Act.

This amendment also reaffirms and makes a part of the Commission's procedural regulations the Commission determination of August 18, 1965, made pursuant to section 706(e) of the Act, extending the period for processing all cases from 30 to 60 days.

Because the amendments herein adopted are procedural in nature the provisions of section 4 of the Administrative Procedure Act, 5 U.S.C. 1003, for public notice and delay in effective date are inapplicable, and these regulations shall become effective immediately and shall apply to cases presently before the Commission.

1. The table of contents of Part 1601 is amended to insert the following item:

1601.25a Processing of cases; when notice issues under § 1601.25.

2. Part 1601 is amended to add a new § 1601.25a, reading as follows:

§ 1601.25a Processing of cases; when notice issues under § 1601.25.

(a) The time for processing all cases is extended to 60 days except insofar as proceedings may be earlier terminated pursuant to § 1601.19.

(b) Notwithstanding the provisions of paragraph (a) of this section, the Commission shall not issue a notice pursuant to § 1601.25 prior to a determination under § 1601.19 or, where reasonable cause has been found, prior to efforts at conciliation with respondent, except that the charging party or the respondent may upon the expiration of 60 days after the filing of the charge or at any time thereafter demand in writing that such notice issue, and the Commission shall promptly issue such notice to all parties.

(c) Issuance of notice pursuant to § 1601.25 does not terminate the Commission's jurisdiction of the proceeding, and the case shall continue to be processed.

Signed at Washington, D.C., this 28th day of October 1966.

STEPHEN SHULMAN,
Chairman.

[F.R. Doc. 66-12025; Filed, Nov. 3, 1966; 8:46 a.m.]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 66-245]

PART 25—CUSTOMS BONDS

Bond for Articles for Exhibition

Section 25.4(a)(17) of the Customs Regulations provides that the bond for articles for exhibition, customs Form 7565, shall be taken in an amount equal to one and one-quarter times the estimated duties on the articles covered thereby.

Headnote 2, part 5B, schedule 8, Tariff Schedules of the United States, provides that the above-mentioned bond shall be given for the payment of lawful duties, but it does not prescribe the amount of the bond. In the opinion of the Bureau, an amount equal to the estimated duties determined at the time of entry is adequate.

Accordingly, § 25.4(a)(17) is amended by deleting therefrom "one and one-quarter times" so that it will read as follows:

§ 25.4 Bonds approved by collectors; form and execution.

(a) * * *

(17) Bond for articles for exhibition, customs Form 7565, in an amount equal to the estimated duties, as determined at the time of entry.

* * * * *

(R.S. 161, as amended, 251, sec. 624, 46 Stat. 759; 5 U.S.C. 22, 19 U.S.C. 66, 1624)

The purpose of this amendment is to reduce the amount of the bond to be taken for articles imported for exhibition to an amount which has been found to be adequate to assure the collection of lawful duties. This is a determination which is necessarily based on facts within the knowledge of the Bureau of Customs. It is to the benefit of the public that this amendment be made effective at the earliest practicable date. Accordingly, pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 1003), notice and public procedure are found to be unnecessary and good cause is found for making this amendment effective upon publication in the FEDERAL REGISTER.

[SEAL] LESTER D. JOHNSON,
Commissioner of Customs.

Approved: October 28, 1966.

TRUE DAVIS,
Assistant Secretary of the Treasury.

[F.R. Doc. 66-12027; Filed, Nov. 3, 1966; 8:46 a.m.]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 204—DANGER ZONE REGULATIONS

PART 207—NAVIGATION REGULATIONS

Pacific Ocean, Hawaii; Black Warrior-Tombigbee Rivers, Alabama and Mississippi

1. Pursuant to the provisions of section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U.S.C. 1), § 204.223 establishing and governing the use and navigation of danger zones in the Pacific Ocean, Hawaii, is hereby amended with respect to paragraph (a)(1), revoking the danger zone off Kahuku Point, Island of Oahu, Hawaii, effective on publication in the FEDERAL REGISTER, since the area is no longer needed, as follows:

§ 204.223 Pacific Ocean, Hawaii; danger zones.

(a) *Danger zones*—(1) *Low level aerial radar target off Kahuku Point, Island of Oahu, Hawaii.* [Revoked]

* * * * *

[Regs., Oct. 21, 1966, 1507-32 (Pacific Ocean, Hawaii)-ENGCW-ON] (Sec. 7, 40 Stat. 266; 33 U.S.C. 1)

2. Pursuant to the provisions of section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U.S.C. 1), § 207.180 is hereby amended with respect to paragraph (d)(8) deleting that portion of the regulation governing the operation of tows on the Black Warrior-Tombigbee River System, Alabama and Mississippi, effective on publication in the FEDERAL REGISTER since tows are now able to pass over the dams at old Locks 13, 14, and 15, as follows:

§ 207.180 All waterways tributary to the Gulf of Mexico (except the Mississippi River, its tributaries and outlets) from St. Marks, Fla., to the Rio Grande; use, administration and navigation.

* * * * *

(d) *Locks and floodgates.* * * *

(8) *Number of lockages.* Tows or rafts locking in sections will generally be allowed only two consecutive lockages if individual vessels are waiting for lockage, but may be allowed more in special cases. If tows or rafts are waiting above and below a lock for lockage, sections will be locked both ways alternately whenever practicable. When two or more tows or rafts are waiting lockage in the same direction, no part of one shall pass the lock until the whole of the one preceding it shall have passed.

* * * * *

[Regs., Oct. 21, 1966, 1507-32 (Black Warrior-Tombigbee Rivers, Alabama and Mississippi)-ENGCW-ON] (sec. 7, 40 Stat. 266; 33 U.S.C. 1)

KENNETH G. WICKHAM,
Major General, U.S. Army,
The Adjutant General.

[F.R. Doc. 66-12005; Filed, Nov. 3, 1966 8:45 a.m.]

Title 50—WILDLIFE AND FISHERIES

Chapter III—International Regulatory Agencies (Fishing and Whaling)

SUBCHAPTER A—INTERNATIONAL PACIFIC HALIBUT COMMISSION

PART 301—PACIFIC HALIBUT FISHERIES

Regulations of the International Pacific Halibut Commission adopted pursuant to the Pacific Halibut Fishery Convention between the United States of America and Canada, signed March 2, 1953: Part 301 of Title 50 is revised to read as follows:

Sec.

301.1 Regulatory areas.
301.2 Length of halibut fishing seasons.
301.3 Closed seasons.
301.4 Catch limits in Areas 2, 3A and 3B.
301.5 Size limits.
301.6 Licensing of vessels.
301.7 Statistical return by vessels.
301.8 Statistical return by dealers.
301.9 Dory gear prohibited.
301.10 Retention of halibut taken by nets.
301.11 Retention of tagged halibut.
301.12 Responsibility of master.
301.13 Supervision of unloading and weighing.
301.14 Sealing of fishing equipment.
301.15 Previous regulations superseded.

AUTHORITY: The provisions of this Part 301 issued under Art. III, 5 U.S.T. 5; TIAS 2900.

§ 301.1 Regulatory areas.

(a) The "convention waters" which include the territorial waters and the high seas off the western coasts of Canada and the United States of America including the southern and the western coasts of Alaska shall be divided into the following areas, all directions given being magnetic unless otherwise stated.

(b) Area 1 (south of Willapa Bay) shall include all convention waters southeast of a line running northeast and southwest through Willapa Bay Light on Cape Shoalwater, as shown on Chart 6185, published in November 1964 (42d Edition) by the U.S. Coast and Geodetic Survey, which light is approximately latitude 46°44'03" N., longitude 124°04'38" W.

(c) Area 2 (Willapa Bay to Cape Spencer) shall include all convention waters off the coasts of the United States of America and of Alaska and of Canada between Area 1 and a line running through the most westerly point of Glacier Bay, Alaska, to Cape Spencer Light as shown on Chart 8304, published in September 1964 (9th Edition) by the U.S. Coast and Geodetic Survey, which light is approximately latitude 58°11'57" N., longitude 136°38'18" W.; thence south one-quarter east.

(d) Area 3A (Cape Spencer to Shumagin Islands) shall include all the convention waters off the coast of Alaska that are between Area 2 and a straight line running southeast one-half east from the highest point on Kupreanof Point, which highest point is approximately latitude 55°34'08" N., longitude 159°36'00" W.; the highest point on Kupreanof Point shall be determined from Chart 8859 as published March 1964 (4th Edition) by the U.S. Coast and Geodetic Survey.

(e) Area 3B (Shumagin Islands to Atka Island, not including Bering Sea) shall include all convention waters off the coast of Alaska that are between Area 3A and the meridian of 175° W. and that are south of straight lines running from Cape Kabuch Light at the head of Ikatan Bay, which light is approximately latitude 54°49'00" N., longitude 163°21'36" W.; thence to Cape Sarichef Light at the western end of Unimak Island, which light is approximately latitude 54°36'00" N., longitude 164°55'42" W.; thence to the head of Pumicestone Bay on Unalaska Island at a point approximately latitude 53°31'45" N., longitude 166°58'15" W.; thence to Ananiuliak Island Light on the southwest side of Umnak Island, which light is approximately latitude 52°59'48" N., longitude 168°55'06" W.; thence to Seguam Island Light, which light is approximately latitude 52°23'16" N., longitude 172°26'15" W.; thence to the point at intersection with the meridian of 175° W. on Atka Island at a point approximately latitude 52°04'08" N. The positions of Cape Kabuch Light and Cape Sarichef Light were determined from Chart 8860 published in October 1964 (14th Edition); the positions of the head of Pumicestone Bay and Ananiuliak Island Light were determined from Chart 8861, published in March 1965 (2d Edition); the positions of Seguam Island Light and the point on Atka Island were determined from Chart 8862, published in September 1963 (4th Edition), all charts as published by the U.S. Coast and Geodetic Survey.

(f) Area 3C (west of Atka Island, not including Bering Sea) shall include all convention waters off the coast of Alaska that are between Area 3B and a straight line running west northwest from Cape Wrangell, the westernmost extremity of Attu Island at a point approximately latitude 52°55'20" N., longitude 172°26'50" E., and that are south of straight lines running from a point on Atka Island at approximately latitude 52°04'08" N., longitude 175°00'00" W.; thence to Cape Amagalik on Tanaga Island, which cape is approximately latitude 51°40'40" N., longitude 178°07'00" W., thence to Aleut Point at the northwest end of Amchitka Island, which point is approximately latitude 51°38'20" N., longitude 178°37'20" E.; thence to Cape Wrangell. The position of Cape Amagalik was determined from Chart 8863, published in May 1959 (6th Edition), revised September 1963; the position of Aleut Point was determined from Chart 8864, published in June 1962 (6th Edition), revised March 1965; and the position of Cape Wrangell was determined from Chart 8865, published July 1963 (4th Edition), all charts as published by the U.S. Coast and Geodetic Survey.

(g) Area 4A (the edge between Unimak Pass and the Pribilof Islands in Bering Sea) shall include all the convention waters within the following boundary: From Cape Sarichef Light at the western end of Unimak Island, which light is approximately latitude 54°36'00" N., longitude 164°55'42" W.; thence in a straight line to a point at latitude 54°00'00" N., longitude 170°00'00" W.; thence true north to a point northeast of St. Paul Island, approximately latitude 57°15'00" N., longitude 170°00'00" W.; thence to the point of origin at Cape Sarichef Light.

(h) Area 4B (Fox Islands in Bering Sea) shall include all the convention waters within the following boundary: From Cape Sarichef Light at the western end of Unimak Island, which light is approximately latitude 54°36'00" N., longitude 164°55'42" W., westerly along the boundary line of Area 3B, as described in paragraph (e) of this section, to the point of intersection with the meridian of 170° W. at a point approximately latitude 52°48'00" N.; thence true north to a point at latitude 54°00'00" N., longitude 170°00'00" W.; thence to the point of origin at Cape Sarichef Light.

(i) Area 4C (south of a line between Cape Sarichef and Cape Navarin between 170° W. and 175° W. in Bering Sea) shall include all the convention waters

between the meridians of 170° W. and 175° W. that are north of the boundary of Area 3B as defined in paragraph (e) of this section, and that are south of a straight line between a point at latitude 57°15'00'' N., longitude 170°00'00'' W. and a point at latitude 59°42'00'' N., longitude 175°00''00' W.

(j) Area 4D (west of 175° W. and the northeastern flats in Bering Sea) shall include all the convention waters which are not included in Areas 1, 2, 3A, 3B, 3C, 4A, 4B, 4C, and 4E.

(k) Area 4E (southeastern flats in Bering Sea) shall include all the convention waters within the following boundary: From Cape Sarichef Light at the western end of Unimak Island, which light is approximately latitude 54°36'00'' N., longitude 164°55'42'' W.; thence to a point northeast of St. Paul Island, approximately latitude 57°15'00'' N., longitude 170°00'00'' W.; thence to Cape Newenham, which cape is approximately latitude 58°39'00'' N., longitude 162°10'-25'' W.; thence easterly and southerly along the Alaska coastline to Cape Kabuch Light at the head of Ikatan Bay, which light is approximately latitude 54°49'00'' N., longitude 163°21'36'' W.; thence to the point of origin at Cape Sarichef Light. The position of Cape Newenham was determined from Chart 9103 as published in September 1958 (3d Edition), revised April 1962 by the U.S. Coast and Geodetic Survey.

§ 301.2 Length of halibut fishing seasons.

(a) In Area 1, the halibut fishing season shall commence and terminate at the same time as the halibut fishing season in Area 2 shall commence and terminate.

(b) In Area 2, the halibut fishing season shall commence at 1800 hours of the 9th day of May and terminate at 1800 hours on a date to be determined and announced under paragraph (b) of § 301.4, or at 1800 hours of the 15th day of October, whichever is earlier.

(c) In Area 3A, the halibut fishing season shall commence at 1800 hours of the 9th day of May and terminate at 1800 hours on a date to be determined and announced under paragraph (b) of § 301.4, or at 1800 hours of the 15th day of October, whichever is earlier.

(d) In Area 3B, there shall be two halibut fishing seasons: the first season shall commence at 1800 hours of the 18th day of April and terminate at 1800 hours of the 28th day of April; the second season shall commence on the 9th day of May and terminate at 1800 hours on a date to be determined and announced under paragraph (b) of § 301.4, or at 1800 hours of the 15th day of November, whichever is earlier.

(e) In Area 3C, the halibut fishing season shall commence at 1500 hours of the 25th day of March and terminate at 1800 hours of the 15th day of November.

(f) In Area 4A, the halibut fishing season shall commence at 1500 hours of the 6th day of April and terminate at 1800 hours of the 15th day of April.

(g) In Area 4B, the halibut fishing season shall commence at 1500 hours of the 1st day of September and terminate at 1800 hours of the 10th day of September.

(h) In Area 4C, the halibut fishing season shall commence at 1500 hours of the 25th day of March and terminate at 1800 hours of the 20th day of June.

(i) In Area 4D, the halibut fishing season shall commence at 1500 hours of the 25th day of March and terminate at 1800 hours of the 15th day of November.

(j) In Area 4E, the halibut fishing season shall commence at 1500 hours of the 25th day of March and terminate at 1800 hours of the 20th day of June.

(k) All hours of opening and closing of areas in this section and other sections of the regulations in this part shall be Pacific standard time, except in Areas 3C, 4A, 4B, 4C, 4D and 4E, where they shall be local standard time.

§ 301.3 Closed seasons.

(a) Under paragraph 1 of Article I of the Convention, all convention waters shall be closed to halibut fishing except as provided in § 301.2.

(b) All convention waters, if not already closed under other provisions of the regulations in this part, shall be closed to halibut fishing at 1800 hours of the 15th day of November and shall remain closed until reopened as provided in § 301.2, and the retention and landing of any halibut caught during this closed period shall be prohibited.

(c) Nothing contained in the regulations in this part shall prohibit the fishing for species of fish other than halibut during the closed halibut seasons, provided that it shall be unlawful for a vessel to have halibut aboard, or for any person to have halibut in his possession while so engaged. Nor shall anything in the regulations in this part prohibit the International Pacific Halibut Commission, hereafter in the regulations in this part referred to as "the Commission," from conducting or authorizing fishing operations for investigation purposes as provided for in paragraph 3 of Article I of the Convention.

§ 301.4 Catch limits in Areas 2, 3A, and 3B.

(a) The quantities of halibut to be taken during the halibut fishing seasons in areas with catch limits shall be limited to 23 million pounds in Area 2, to 33 million pounds in Area 3A, and to 3,500,000 pounds in Area 3B, each of the above quantities to consist of salable halibut and the weights in each limit to be computed as with heads off and entrails removed.

(b) The Commission shall as early in the said year as is practicable determine and announce the date on which it deems each limit of catch defined in paragraph (a) of this section will be attained, and the limit of each such catch shall then be that which shall be taken prior to said date, and fishing for halibut in the area to which each limit applies shall at that date be prohibited until each area is reopened to halibut fishing as provided in § 301.2, and provided that if it shall at any time become evident to the Commission that the limit will not be reached by such date, it may substitute another date.

(c) Catch limits shall apply only to the halibut fishing seasons in Area 2, Area 3A, and Area 3B.

§ 301.5 Size limits.

The catch of halibut to be taken from all areas shall be limited to halibut which with head on are 26 inches or more in length as measured from the tip of the lower jaw to the extreme end of the middle of the tail or to halibut which with the head off and entrails removed are 5 pounds or more in weight, and the possession of any halibut of less than the above length, or the above weight, according to whether the head is on or off, by any vessel or by any master or operator of any vessel or by any person, firm or corporation, is prohibited.

§ 301.6 Licensing of vessels.

(a) All vessels of any tonnage which shall fish for halibut in any manner or hold halibut in possession in any area, or which shall transport halibut otherwise than as a common carrier documented by the Government of the United States or of Canada for the carriage of freight, must be licensed by the Commission, provided that vessels of less than five net tons or vessels which do not use set lines need not be licensed.

(b) Each vessel licensed by the Commission shall carry on board at all times while at sea the halibut license thus secured when it is validated for halibut fishing, and this license shall at all times be subject to inspection by authorized officers of the Governments of Canada or the United States or by representatives of the Commission.

(c) The halibut license shall be issued without fee by the customs officers of the Governments of Canada or the United States or by representatives of the Commission or by fishery officers of the Governments of Canada or the United States at places where there are neither customs officers nor representatives of the Commission.

(d) The halibut license of any vessel shall be validated before departure from port for each halibut fishing operation for which statistical return is required and at such times as required by other provisions of the regulations in this part. This validation of a license shall be by customs officers or by fishery officers of the Governments of Canada or the United States when available at places where there are no customs officers and shall not be made unless the area in which the vessel will fish is entered on the license form and unless the provisions of § 301.7 have been complied with for all landings and all fishing operations since issue of the license, provided that if the master or operator of any vessel shall fail to comply with the provisions of § 301.7, the halibut license of such vessel may be validated by customs officers or by fishery officers upon evidence either that there has been a judicial determination of the offense or that the laws prescribing penalties therefor have been complied with,

or that the said master or operator is no longer responsible for, nor sharing in, the operations of said vessel.

(e) The halibut license of any vessel fishing for halibut in Area 3B when Area 3A is closed to halibut fishing must be validated at Sand Point, Alaska, prior to such fishing, except as provided in paragraph (f) of this section.

(f) Any vessel already fishing in Area 3B prior to the date of closure of Area 3A may continue to fish in said area until first entry at a port or place with a validating officer or until any halibut is unloaded. The vessel must comply with paragraph (g) of this section when it departs from Area 3B.

(g) The halibut license of any vessel departing from Area 3B into Area 3A with any halibut on board when Area 3A is closed to halibut fishing, must be validated at Sand Point, Alaska, subsequent to fishing and prior to such departure.

(h) The halibut license of any vessel fishing for halibut in Areas 3C, 4A, 4B, 4C, 4D, or 4E must be validated at Sand Point, Alaska, both prior to such fishing and prior to unloading any halibut at any port or place other than Sand Point, Alaska.

(i) A halibut license shall not be validated for departure for halibut fishing in Areas 1 or 2 more than 48 hours prior to the commencement of any halibut fishing seasons in said areas.

(j) A halibut license shall not be validated for departure for halibut fishing in Area 3A from any port or place outside Area 3A more than 96 hours prior to commencement of the halibut fishing season in Area 3A, except that a halibut license shall not be validated for departure for halibut fishing in Area 3A from any port or place within Area 3B more than 60 hours prior to commencement of the halibut fishing season in Area 3A.

(k) A halibut license shall not be validated for departure for halibut fishing in Areas 3A or 3B from any port or place inside said areas more than 48 hours prior to the commencement of the halibut fishing season in each of said areas.

(l) A halibut license shall not be validated for departure for halibut fishing in Areas 3C, 4A, 4C, 4D, or 4E more than 96 hours prior to commencement of the halibut fishing season in each of said areas.

(m) Notwithstanding the provisions of paragraph (i) of § 301.2, a halibut license shall not be valid for halibut fishing in that portion of Area 4D that is east of the meridian of 175° west after 1800 hours of the 20th day of June, unless the master or operator of the vessel shall report by radio telegraph to the International Pacific Halibut Commission, Seattle, at least 24 hours prior to entry into said area the intention of the vessel to shift its fishing activities into the area.

(n) A halibut license shall not be valid for halibut fishing in more than one of Areas 1 or 2, as defined in § 301.1, during any one trip, nor shall it be revalidated for halibut fishing in another of said areas while the vessel has any halibut on board.

(o) A halibut license may be validated for halibut fishing in more than one of Areas 2 or 3A after 1800 hours of the 9th day of May provided that the master or operator of the vessel shall declare in which one of said two areas the vessel intends to fish for halibut and provided the master or operator shall report by radio telegraph to the International Pacific Halibut Commission, Seattle, the intention of the vessel to shift its fishing activities to another of said areas, the date and approximate time of the shift and the amount of halibut that is on board at the time of shifting, and such radio report shall be recorded at the time in the log book of the vessel.

(p) A halibut license validated for halibut fishing in Areas 3C, 4C, 4D, or 4E prior to the opening of Area 4A or Area 3B may at the same time be validated for halibut fishing in Area 4A and Area 3B when the latter areas are opened.

(q) A halibut license may be validated for halibut fishing in more than one of Areas 3B, 3C, 4B, 4C, 4D, or 4E after 1800 hours of the 16th day of April provided that when Area 3B is open to halibut fishing the master or operator of the vessel shall declare in which one of said areas the vessel intends to fish and provided the master or operator shall report by radio telegraph to the International Pacific Halibut Commission, Seattle, the intention of the vessel to shift its fishing activities into or out of Area 3B to or from another of said areas, the date and approximate time of the shift and the amount of halibut that is on board at the time of shifting, and such radio report shall be recorded at the time in the log book of the vessel.

(r) A halibut license may be valiated for halibut fishing in more than one of Areas 3A and 3B after 1800 hours of the 9th day of May provided that after July 15 the master or operator of the vessel shall report by radio telegraph to the International Pacific Halibut Commission, Seattle, the intention of the vessel to shift its fishing activities to another of said areas, the date and approximate time of the shift and the amount of halibut that is on board at the time of shifting, and such radio report shall be recorded at the time in the log book of the vessel, and except that when Area 3A is closed such validation shall be subject to the conditions contained in paragraphs (e), (f), and (g) of this section and to any other applicable provisions of the regulations in this part.

(s) A halibut license shall not be valid for halibut fishing in any area closed to halibut fishing nor for the possession of halibut in any area closed to halibut fishing except while in actual transit to an area open to halibut fishing, or to or within a port of sale. The said license shall become invalid for the possession of halibut if the licensed vessel is fishing or attempting to fish for any species of fish in any area closed to halibut fishing, or if the vessel has not complied with the provisions of § 301.14, if applicable.

(t) Any vessel which is not required to be licensed for halibut fishing under paragraph (a) of this section shall not possess any halibut of any origin in any area closed to halibut fishing except while in actual transit to or within a port of sale.

(u) A halibut license shall not be valid for halibut fishing in any area in 1966 if the vessel has fished in Areas 4A, 4B, 4C, 4E, and that portion of Area 4D east of 175° W. longitude in 1966 with set lines of the type commonly used in the Pacific Coast halibut fishery during the 48 hours prior to commencement of the halibut fishing season in the aforesaid areas in Bering Sea; and the fishing with set lines shall in said areas and within this 48-hour period be construed to include the setting out of mark buoys.

(v) No person on any vessel which is required to have a halibut license under paragraph (a) of this section shall fish for halibut or have halibut in his possession, unless said vessel has a valid license issued and in force in conformity with the provisions of this section.

§ 301.7 Statistical return by vessels.

(a) Statistical return as to the amount of halibut taken during fishing operations must be made by the master or operator of any vessel licensed under the regulations in this part within 96 hours of landing, sale or transfer of halibut or of first entry thereafter into a port where there is an officer authorized to receive such return.

(b) The statistical return must state the port of landing and the amount of halibut taken within the area or areas defined in the regulations in this part, for which the vessel's license is validated for halibut fishing.

(c) The statistical return must include all halibut landed or transferred to other vessels and all halibut held in possession on board and must be full, true and correct in all respects herein required.

(d) The master or operator or any person engaged on shares in the operation of any vessel licensed under the regulations in this part may be required by the Commission or by any officer of the Governments of Canada or the United States authorized to receive such return to certify to its correctness to the best of his information and belief and to support the certificate by a sworn statement. Validation of a halibut license after such sworn return is made shall be provisional and shall not render the license valid in case the return shall later be shown to be false or fraudulently made.

(e) The master or operator of any vessel holding a license under the regulations in this part shall keep an accurate log of all fishing operations including therein date, locality, amount of gear used, and amount of halibut taken daily in each such locality. This log record shall be retained for a period of 2 years and shall be open to inspection by representatives of the Commission authorized for this purpose.

(f) The master, operator or any other person engaged on shares in the operation of any vessel licensed under the regulations in this part may be required by the Commission or by any officer of the Governments of Canada or the United

States to certify to the correctness of such log record to the best of his information and belief and to support the certificate by a sworn statement.

(g) The master or operator of any vessel holding a license validated for fishing in Areas 3C, 4A, 4B, 4C, 4D, or 4E on entering Sand Point, Alaska, enroute to another port to unload, must report to an authorized representative of the United States or of the Commission the estimated amount of halibut on board that was caught in each regulatory area.

§ 301.8 Statistical return by dealers.

(a) All persons, firms or corporations that shall buy halibut or receive halibut for any purpose from fishing or transporting vessels or other carrier shall keep and on request furnish to customs officers or to any enforcing officer of the Governments of Canada or the United States or to representatives of the Commission, records of each purchase or receipt of halibut, showing date, locality, name of vessel, person, firm or corporation purchased or received from and the amount in pounds according to trade categories of the halibut.

(b) All records of all persons, firms or corporations concerning the landing, purchase, receipt and sale of halibut shall be retained for a period of 2 years and shall be open at all times to inspection by any enforcement officer of the Governments of Canada or the United States or by any authorized representative of the Commission. Such persons, firms or corporations may be required to certify to the correctness of such records and to support the certificate by a sworn statement.

(c) The possession by any person, firm or corporation of halibut which such person, firm or corporation knows to have been taken by a vessel without a valid halibut license is prohibited.

(d) No person, firm or corporation shall unload any halibut from any vessel that has fished for halibut in Areas 3B, 3C, 4A, 4B, 4C, 4D, or 4E after the closure of Area 3A unless the license of said vessel has been validated at Sand Point, Alaska as required in paragraphs (e) and (g) of § 301.6, and unless the vessel has complied with the provisions of § 301.14, or unless permission to unload such halibut has been secured from an enforcement officer of the Governments of Canada or the United States.

§ 301.9 Dory gear prohibited.

The use of any hand gurdy or other appliance in hauling halibut gear by hand power in any dory or small boat operated from a vessel licensed under the provisions of the regulations in this part is prohibited in all convention waters.

§ 301.10 Retention of halibut taken by nets.

(a) It is prohibited to retain halibut taken with a net of any kind or to have in possession any halibut while fishing with any net or nets other than bait nets in any convention waters.

(b) All vessels with any halibut on board are prohibited to use or possess any net or nets other than bait nets.

(c) The character and the use of bait nets referred to in paragraphs (a) and (b) of this section shall conform to the laws and regulations of the country where they may be utilized and shall be of a type commonly used for such purposes and said bait nets shall be utilized for no other purpose than the capture of bait for use of the vessel carrying them.

§ 301.11 Retention of tagged halibut.

Nothing contained in the regulations in this part shall prohibit any vessel at any time from retaining and landing any halibut which bears a Commission tag at the time of capture, provided that such halibut with the tag still attached is reported at the time of landing to representatives of the Commission or to enforcement officers of the Governments of Canada or the United States and is made available to them for examination.

§ 301.12 Responsibility of master.

Wherever in the regulations in this part any duty is laid upon any vessel, it shall be the personal responsibility of the master or operator of said vessel to see that said duty is performed and he shall personally be responsible for the performance of said duty. This provision shall not be construed to relieve any member of the crew of any responsibility with which he would otherwise be chargeable.

§ 301.13 Supervision of unloading and weighing.

The unloading and weighing of the halibut of any vessel licensed under the regulations in this part shall be under such supervision as the customs or other authorized officer may deem advisable in order to assure the fulfillment of the provisions of the regulations in this part.

§ 301.14 Sealing of fishing equipment.

Any fishing vessel, prior to departing from Area 3B into Area 3A with any halibut on board when Area 3A as defined in § 301.1 is closed to halibut fishing, shall be equipped with approved attachments on the chute to permit the securing of a seal or seals, and prior to such departure shall request that said chute or the gurdy used for hauling gear or both chute and gurdy be sealed with such seal or seals as shall be required by any customs or fishery officer or any other duly authorized officer of the Government of the United States. The vessel shall keep such seal or seals intact until removed by a customs or fishery officer of the United States or of Canada and shall not unload any halibut until such time as said officer removes the seal or seals and grants permission to unload.

§ 301.15 Previous regulations superseded.

The regulations in this part shall supersede all previous regulations adopted pursuant to the Convention between Canada and the United States of America for the preservation of the halibut fishery of the Northern Pacific Ocean and Bering Sea, signed March 2, 1953, except as to offenses occurring prior to the approval of the regulations in this part. The regulations in this part shall be effective as to each succeeding year, with the dates herein specified changed accordingly, until superseded by subsequently approved regulations. Any determination made by the Commission pursuant to the regulations in this part shall become effective immediately.

Haakon M. Selvar,
Chairman.
William M. Sprules,
Vice Chairman.
Harold E. Crowther.
Martin K. Eriksen.
L. Adolph Mathisen.
Francis W. Millerd.

HAAKON M. SELVAR,
Chairman.

F. HEWARD BELL,
Secretary.

Approved: March 21, 1966.

LYNDON B. JOHNSON.

[F.R. Doc. 66-12022; Filed, Nov. 3, 1966; 8:49 a.m.]

Title 12—BANKS AND BANKING

Chapter II—Federal Reserve System

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. K]

PART 211—CORPORATIONS ENGAGED IN FOREIGN BANKING AND FINANCING UNDER THE FEDERAL RESERVE ACT

Monthly Average Deposits

§ 211.102 Calculating deposits in determining aggregate liabilities of Edge Corporation.

(a) The question has been raised as to the proper method of calculating deposits in determining aggregate liabilities for the purpose of § 211.9(c), which provides, in part, that "Except with prior Board permission, a Corporation's aggregate outstanding liabilities on account of acceptances, monthly average deposits, borrowings, guarantees, endorsements, debentures, bonds, notes, and other such obligations shall not exceed 10 times its capital and surplus."

(b) The Board has concluded that in determining "monthly average deposits" in calculating the limitation on aggregate outstanding liabilities in § 211.9(c), a Corporation may deduct from the amount of its gross demand deposits the amounts permitted in § 204.2(b) of this chapter (Regulation D).

(12 U.S.C. 615. Interprets or applies 12 U.S.C. 615)

Dated at Washington, D.C., this 25th day of October 1966.

By order of the Board of Governors.

[SEAL] KENNETH A. KENYON,
Assistant Secretary.

[F.R. Doc. 66-12028; Filed, Nov. 3, 1966; 8:46 a.m.]

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Department of Defense

Section 213.3306 is amended to show that the position of Private Secretary to the Assistant Secretary of Defense, Office of the Director of Defense Research and Engineering, is no longer excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, subparagraph (23) of paragraph (a) of § 213.3306 is revoked.

(5 U.S.C. 3301, 3302, E.O. 10577, 19 F.R. 7521, 3 CFR 1954–1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] MARY V. WENZEL,
Executive Assistant to the Commissioners.

[F.R. Doc. 66–12035; Filed, Nov. 3, 1966; 8:47 a.m.]

PART 213—EXCEPTED SERVICE

Housing and Home Finance Agency and Department of Housing and Urban Development

§ 213.3344 [Amended]

1. Section 213.3344 is amended to show that the positions of Assistant Administrator (International Housing) and Special Assistant to the Secretary are no longer excepted under Schedule C. Effective on publication in the FEDERAL REGISTER subparagraphs (4) and (8) of paragraph (a) of § 213.3344 are revoked.

2. Section 213.3384 is amended to show that the positions of Director, Division of International Affairs, and Special Assistant to the Secretary are excepted under Schedule C. Effective on publication in the FEDERAL REGISTER subparagraph (17) is amended and subparagraph (18) is added to paragraph (a) of § 213.3384 as set out below.

§ 213.3384 Department of Housing and Urban Development.

(a) *Office of the Secretary.* * * *

(17) Two Special Assistants to the Secretary.

(18) Director, Division of International Affairs.

* * * * *

(5 U.S.C. 3301, 3302, E.O. 10577, 19 F.R. 7521, 3 CFR 1954–1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] MARY V. WENZEL,
Executive Assistant to the Commissioners.

[F.R. Doc. 66–12036; Filed, Nov. 3, 1966; 8:47 a.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 101—Federal Property Management Regulations

SUBCHAPTER E—SUPPLY AND PROCUREMENT

PART 101–25—GENERAL

Subpart 101–25.1—General Policies

USE OF ANNUAL MAINTENANCE CONTRACTS

Subpart 101–25.1 is amended to provide in § 101–25.106 for certain considerations and a determination to be made prior to the use of annual maintenance contracts or per-call arrangements for servicing of office machines.

The table of contents for Part 101–25 is amended to provide a new entry as follows:

Sec.
101–25.106 Servicing of office machines.

Section 101–25.106 is added as follows:

§ 101–25.106 Servicing of office machines.

(a) The determination as to whether office machines are to be serviced by use of annual maintenance contracts or per-call arrangements shall be made in each case after comparison of the relative cost affecting specific types of equipment in a particular location and consideration of the factors set forth in paragraph (b) of this section.

(b) Prior to making the determination required by paragraph (a) of this section, consideration shall be given to:

(1) Standard of performance required;

(2) Degree of reliability needed;

(3) Environmental factors; i.e., dusty surroundings or other unfavorable conditions;

(4) Proximity to available repair facilities;

(5) Past experience with service facility; i.e., reputation, performance record, quality of work, etc.;

(6) Daily use (heavy or light) and operator's care of machine;

(7) Age and performance record of machine;

(8) Machine inventory in relation to operating needs; i.e., availability of reserve machine in case of breakdown;

(9) Number of machines; including overall frequency of repairs required;

(10) Security restrictions, if any; and

(11) Other pertinent factors.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Effective date. This regulation is effective upon publication in the FEDERAL REGISTER.

Dated: October 31, 1966.

LAWSON B. KNOTT, Jr.,
Administrator of General Services.

[F.R. Doc. 66–12019; Filed, Nov. 3, 1966; 8:46 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Agency

SUBCHAPTER E—AIRSPACE

[Airspace Docket No. 66–AL–1]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Revocation of Control Area Extension, Alteration of Control Zone, and Designation of Transition Area

On September 8, 1966, a notice of proposed rule making was published in the FEDERAL REGISTER (31 F.R. 11760) stating that the Federal Aviation Agency was considering amendments to Part 71 of the Federal Aviation Regulations that would alter the controlled airspace in the vicinity of Cold Bay, Alaska.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. No comments were received.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective January 5, 1967, as hereinafter set forth.

1. In § 71.165 (31 F.R. 2055) the Cold Bay, Alaska, control area extension is revoked.

2. In § 71.171 (31 F.R. 2065) the Cold Bay, Alaska, control zone is amended to read:

COLD BAY, ALASKA

Within a 5-mile radius of Cold Bay Airport (latitude 55°12′ N, longitude 162°43′ W); within 2 miles each side of the Cold Bay VOR 335° radial and 2 miles each side of the Cold Bay ILS localizer N course, extending from the 5-mile radius zone to 12 miles N of the Cold Bay RR.

3. In § 71.181 (31 F.R. 2149) the Cold Bay, Alaska, transition area is added as follows:

COLD BAY, ALASKA

That airspace extending upward from 700 feet above the surface within 2 miles each side of the 041° bearing from the Cold Bay RR, extending from the RR to 6 miles NE of the RR, and within 2 miles each side of the 263° bearing from the Cold Bay RR, extending from the RR to 6 miles W of the RR; and that airspace extending upward from 1,200 feet above the surface within 5 miles SE of the 041° bearing from the Cold Bay RR, extending from the RR to 18 miles NE of the RR; within 5 miles S of the 263° bearing from the Cold Bay RR, extending from the RR to 18 miles W of the RR; and within the arc of an 18-mile radius circle centered on the Cold Bay RR, extending clockwise from the 263° bearing to the 041° bearing from the RR.

(Secs. 307(a), 1110, Federal Aviation Act of 1958; 49 U.S.C. 1348, 1510; E.O. 10854 (24 F.R. 9565))

Issued in Washington, D.C., on October 26, 1966.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 66–12007; Filed, Nov. 3, 1966; 8:45 a.m.]

[Airspace Docket No. 65-CE-124]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Federal Airway

On October 14, 1966, Federal Register Document No. 66-11186 was published in the FEDERAL REGISTER (31 F.R. 13315) and designated a segment of V-430 from Minot, N. Dak., to Devils Lake, N. Dak., effective December 8, 1966. The lateral extent of a portion of this segment was reduced to 3 nautical miles on the south side. It was the intent that the reduced width be on the north side. Corrective action is taken herein.

Since this amendment is editorial in nature, notice and public procedure hereon are impractical and it may be made effective immediately.

In consideration of the foregoing, Federal Register Document No. 66-11186 (31 F.R. 13315) is amended effective immediately as hereinafter set forth.

In the text of V-430 "(4 miles N and 3 miles S of centerline)" is deleted and "(3 miles N and 4 miles S of centerline)" is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Washington, D.C., on October 26, 1966.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 66-12008; Filed, Nov. 3, 1966; 8:45 a.m.]

[Airspace Docket No. 66-CE-54]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

On September 20, 1966, a final rule was published in the FEDERAL REGISTER (31 F.R. 12432) which amended Part 71 of the Federal Aviation Regulations by redesignating the Kansas City, Mo., transition area. The designation contained an incorrect latitude coordinate. The correct designation should have been 39°47'45" instead of 39°48'55".

Since this correction is minor in nature and does not involve an increase in controlled airspace, no additional burden is placed on any person, and notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001 e.s.t. November 10, 1966, concurrently with the originally proposed final rule, as hereinafter set forth:

In § 71.181 (31 F.R. 2149), the Kansas City, Mo., transition area is amended to read:

KANSAS CITY, MO.

That airspace extending upward from 700 feet above the surface within a 10-mile radius of Kansas City Municipal Airport (latitude 39°07'20" N., longitude 94°35'30" W.), within 2 miles each side of the Riverside, Mo., VOR 018° radial and 2 miles W of the Kansas City ILS localizer N course, extending from the 10-mile radius area to 8 miles N of the OM; within an 8-mile radius of the Mid-Continent International Airport (latitude 39°18'05" N., longitude 94°43'36" W.), and within 2 miles each side of the Mid-Continent ILS localizer N and S courses, extending from the 8-mile radius area to 13 miles N of the airport and to 8 miles S of the Mid-Continent OM; within a 7-mile radius of the Sherman AAF (latitude 39°22'05" N., longitude 94°54'45" W.); and that airspace extending upward from 1,200 feet above the surface bounded on the SE by the arc of a 42-mile radius circle centered on the Kansas City Municipal Airport, beginning at the W boundary of V-205 and extending counter-clockwise to the S boundary of V-12 thence along the S boundary of V-12 to longitude 93°30'00" W., thence N along longitude 93°30'00" W. to SE boundary of V-10 thence direct to latitude 39°47'45" N., longitude 93°34'30" W., thence SW along the NW boundary of V-10 to the E boundary of V-161, thence W to latitude 39°44'00" N., longitude 94°43'20" W., thence SW to latitude 39°30'00" N., longitude 94°49'00" W., thence W along latitude 39°30'00" N. to the SW boundary of V-71 thence NW along the SW boundary of V-71 to longitude 95°09'00" W., thence S along longitude 95°09'00" W., to the SE boundary of V-10, thence NE along the SE boundary of V-10 to the arc of a 10-mile radius circle centered on the Kansas City Municipal Airport, thence counter-clockwise to the W boundary of V-205, thence S along the W boundary of V-205 to the point of beginning; and that airspace extending upward from 5,000 feet MSL bounded on the W by longitude 93°30'00" W., on the S by V-4 on the E by V-424 on the N by V-116 and on the NW by V-206; and within an area bounded on the W by longitude 93°30'00" W. on S by V-116 on E by V-206 and on the N by V-10, and within an area bounded on the W by V-161 and the E by V-10 and on the N by V-50.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Kansas City, Mo., on October 19, 1966.

DANIEL E. BARROW,
Acting Director, Central Region.

[F.R. Doc. 66-12009; Filed, Nov. 3, 1966; 8:45 a.m.]

[Airspace Docket No. 66-SW-40]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

On August 31, 1966, a notice of proposed rule making was published in the FEDERAL REGISTER (31 F.R. 11,492) stating that the Federal Aviation Agency proposed to alter the Flippin, Ark., transition area.

Interested persons were afforded an opportunity to participate in the rule making through submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., January 5, 1967, as hereinafter set forth.

In § 71.181 (31 F.R. 2187) the Flippin, Ark., transition area is amended to read:

FLIPPIN, ARK.

That airspace extending upward from 700 feet above the surface within a 10-mile radius of the Flippin Municipal Airport (latitude 36°17'30" N., longitude 92°35'30" W.), within an 8-mile radius of the Twin Lakes Airport (latitude 36°22'00" N., longitude 92°28'00" W.), within 2 miles each side of the Flippin VOR 086° radial extending from the Flippin Municipal Airport 10-mile radius area to 8 miles E of the VOR, and within 2 miles each side of the Flippin VOR 175° radial extending from the Twin Lakes 8-mile radius area to 8 miles S of the VOR; that airspace extending upward from 1,200 feet above the surface within 8 miles N and 5 miles S of the Flippin VOR 086° radial extending from the VOR to 13 miles E, and within 8 miles E and 5 miles W of the Flippin VOR 175° radial extending from the VOR to 12 miles S.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Fort Worth, Tex., on October 25, 1966.

HENRY L. NEWMAN,
Director, Southwest Region.

[F.R. Doc. 66-12010; Filed, Nov. 3, 1966; 8:45 a.m.]

[Airspace Docket No. 66-SO-77]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone and Transition Area

On September 15, 1966, a notice of proposed rule making was published in the FEDERAL REGISTER (31 F.R. 12061) stating that the Federal Aviation Agency was considering amendments to Part 71 of the Federal Aviation Regulations which would alter the Muscle Shoals, Ala., control zone and transition area.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended effective 0001 e.s.t., January 5, 1967 as hereinafter set forth.

In § 71.171 (31 F.R. 2065) the Muscle Shoals, Ala., control zone is amended by deleting:

* * * and within 2 miles each side of the Muscle Shoals VOR 292° radial extending from the 5-mile radius zone to the VOR.

In § 71.181 (31 F.R. 2149) the Muscle Shoals, Ala., 700-foot transition area (31 F.R. 2651, 6960) is amended to read:

MUSCLE SHOALS, ALA.

That airspace extending upward from 700 feet above the surface within an 11-mile radius of the Muscle Shoals Airport (latitude 34°44'41" N., longitude 87°36'39" W.).

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348(a))

Issued in East Point, Ga., on October 25, 1966.

WILLIAM M. FLENER,
Acting Director, Southern Region.

[F.R. Doc. 66-12011; Filed, Nov. 3, 1966; 8:45 a.m.]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

[Reg. Docket No. 7692; Amdt. 508]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

The amendments to the standard instrument approach procedures contained herein are adopted to become effective when indicated in order to promote safety. The amended procedures supersede the existing procedures of the same classification now in effect for the airports specified therein. For the convenience of the users, the complete procedure is republished in this amendment indicating the changes to the existing procedures.

As a situation exists which demands immediate action in the interests of safety in air commerce, I find that compliance with the notice and procedure provisions of the Administrative Procedure Act is impracticable and that good cause exists for making this amendment effective within less than 30 days from publication.

In view of the foregoing and pursuant to the authority delegated to me by the Administrator (24 F.R. 5662), Part 97 (14 CFR Part 97) is amended as follows:

1. By amending the following automatic direction finding procedures prescribed in § 97.11(b) to read:

ADF STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Rockland RBn	Bar Harbor RBn	Direct	2500	T-dn	300–1	300–1	200–½
Augusta VOR	Bar Harbor RBn	Direct	3000	C-dn	600–1	600–1	600–1½
				A-dn	NA	NA	NA

Procedure turn W side of crs, 038° Outbnd, 218° Inbnd, 1900′ within 10 miles.
Minimum altitude over facility on final approach crs, 800′.
Crs and distance, facility to airport, 218°—2 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 2 miles after passing RBn, make right-climbing turn to 1900′, return to Bar Harbor RBn, hold NE, Inbnd 218°, right turns, 1 minute.
NOTES: (1) State-owned facility must be monitored aurally during approach. (2) Use Bangor altimeter setting.
MSA within 25 miles of facility: 000°–090°—2500′; 090°–180°—3000′; 180°–270°—2500′; 270°–360°—2500′.

City, Bar Harbor; State, Maine; Airport name, Bar Harbor; Elev., 84′; Fac. Class., MHW; Ident., BHB; Procedure No. 1, Amdt. 5; Eff. date, 26 Nov. 66; Sup. Amdt. No. 4; Dated, 20 July 63

FAR VOR	LOM	Direct	2300	T-dn	300–1	300–1	200–½
FAR RBn	LOM	Direct	2300	C-dn	500–1	500–1	500–1½
Rice Int	Leslie Int	Direct	2300	S-dn-35	500–1	500–1	500–1
FAR VOR	Leslie Int	Direct	2300	A-dn	800–2	800–2	800–2
Leslie Int	LOM (final)	Direct	2100				

Procedure turn E side of crs, 171° Outbnd, 351° Inbnd, 2300′ within 10 miles.
Minimum altitude over LOM on final approach crs, 2100′.
Crs and distance, facility to airport, 351°—4.1 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.1 miles after passing LOM, climb on crs, 351° from LOM to 2500′ within 10 miles, or when directed by ATC, make left-climbing turn to intercept FAR VOR, R 281°, climb to 2800′ on R 281° within 20 miles of FAR VOR.
MSA within 25 miles of facility: 000°–090°—2700′; 090°–180°—2400′; 180°–270°—2300′; 270°–360°—3200′.

City, Fargo; State, N. Dak.; Airport name, Hector; Elev., 900′; Fac. Class., LOM; Ident., FA; Procedure No. 1, Amdt. 17; Eff. date, 26 Nov. 66; Sup. Amdt. No. 16; Dated, 21 Nov. 64

				T-dn#*	600–1	600–1	600–1
				C-dn#	1100–1½	1100–1½	1100–2
				A-dn	NA	NA	NA

Procedure turn S side of crs, 267° Outbnd, 087° Inbnd, 3500′ within 10 miles.
Minimum altitude over facility on final approach crs, 2300′.
Crs and distance, facility to airport, 087°—2.7 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 2.7 miles after passing LCI RBn, climb on 087° magnetic bearing from LCI RBn to 2000′, then left-climbing turn to 3500′ direct LCI RBn. Hold W of LCI RBn, 1-minute, right turns, 087° Inbnd.
NOTES: (1) Approach from a holding pattern not authorized, procedure turn required. (2) Use Concord altimeter setting. (3) State-owned facility must be monitored aurally during approach.
CAUTION: 1000′ to 2400′ terrain, from 1 to 5 miles, in the southern quadrant of airport.
DEPARTURES: Runway 26 or 35, make right-climbing turn to 2300′ or above direct LCI RBn. Continue climb in holding pattern to MHA 3500′ or MEA, for direction of flight. Runway 8, make left-climbing turn to 2300′ or above direct LCI RBn. Continue climb in holding pattern to MHA 3500′ or MEA, for direction of flight.
#Night operations on Runways 8/26 only.
*No takeoffs on Runway 17.
MSA within 25 miles of facility: 000°–090°—5500′; 090°–180°—3500′; 180°–270°—4000′; 270°–360°—4500′.

City, Lacopia; State, N.H.; Airport name, Laconia Municipal; Elev., 552′; Fac. Class., MHW (State owned); Ident., LCI; Procedure No. 1, Amdt. 4; Eff. date, 26 Nov. 66; Sup. Amdt. No. 3; Dated, 10 June 65

OKC VOR	LOM	Direct	2600	T-dn	300–1	300–1	200–½
Bethany Int	LOM	Direct	2600	C-dn	400–1	500–1	500–1½
Cashion Int	TWO RBn	Direct	3100	S-dn-35L	400–1	400–1	400–1
TWO RBn	LOM	Direct	2600	A-dn	800–2	800–2	800–2
Newcastle Int	LOM (final)	Direct	2400				

Radar available.
Procedure turn E side of crs, 171° Outbnd, 351° Inbnd, 2600′ within 10 miles.
Minimum altitude over LOM Inbnd final, 2400′.
Crs and distance, facility to airport, 351°—3.8 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 3.8 miles after passing LOM, climb to 3100′ on 351° crs within 15 miles, or when directed by ATC, turn left, climb to 2500′ direct to the OKC VOR.
MSA within 25 miles of facility: 315°–045°—3900′; 045°–135°—2900′; 135°–315°—2600′.

City, Oklahoma City; State, Okla.; Airport name, Will Rogers World; Elev., 1284′; Fac. Class., LOM; Ident., OK; Procedure No. 1, Amdt. 14; Eff. date, 26 Nov. 66; Sup. Amdt. No. 13; Dated, 7 May 66

ADF STANDARD INSTRUMENT PROCEDURE—Continued

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
SLN VOR	SL LOM	Direct	3100	T-dn	300-1	300-1	200-½
Lindsborg 19-mile DME Fix, R 175° SLN VOR.	SL LOM (final)	Direct	2900	C-dn	400-1	500-1	500-1½
				S-dn-35	400-1	400-1	400-1
				A-dn	800-2	800-2	800-2

Procedure turn E side of crs, 171° Outbnd, 351° Inbnd, 3100′ within 10 miles.
Minimum altitude over facility on final approach crs, 2900′.
Crs and distance, facility to airport, 351°—5.7 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 5.7 miles after passing LOM, climb to 2900′ on 351° bearing from SL LOM within 15 miles, make right turn and return to LOM, climbing to 3100′ upon reaching LOM, or when directed by ATC, climb to 2900′ on 351° bearing from SL LOM within 15 miles, make right turn and proceed direct to SLN VOR.
CAUTION: Restricted area, 7 miles SW of airport.
MSA within 25 miles of facility: 000°-360°—3000′.

City, Salina; State, Kans.; Airport name, Municipal; Elev., 1271′; Fac. Class., LOM; Ident., SL; Procedure No. 1, Amdt. Orig.; Eff. date, 26 Nov. 66

Coweta Int	TU LOM	Direct	2800	T-dn	300-1	300-1	#200-½
TUL VOR	TU LOM	Direct	2500	C-dn	400-1	500-1	500-1¼
Shell Lake INT	TU LOM	Direct	3100	S-dn-35R	400-1	400-1	400-1
Glenpool Int	TU LOM	Direct	2500	A-dn	800-2	800-2	800-2
Stebbins Int	TU LOM	Direct	2500				
OKM VOR	TU LOM (final)	OKM R 345° and 354° bearing to TU LOM.	2300				

Radar available.
Procedure turn E side crs, 175° Outbnd, 355° Inbnd, 2500′ within 10 miles.
Minimum altitude over T U LOM Inbnd final 2300′.
Crs and distance, facility to airport, 355°—5.4 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 5.4 miles after passing TU LOM, climb to 2500′ on crs, 355° within 15 miles, or when directed by ATC, climb to 2500′ on R 036° TUL VOR within 20 miles.
#300-1 required on runways 3L, 21R, 17R, 35L.
MSA within 25 miles of facility: 000°-090°—2300′; 090°-180°—3600′; 180°-360°—3200′.

City, Tulsa; State, Okla.; Airport name, Tulsa International; Elev., 674′; Fac. Class., LOM; Ident., TU; Procedure No. 1, Amdt. 12; Eff. date, 26 Nov. 66; Sup. Amdt. No. 11; Dated, 3 Apr. 65

2. By amending the following very high frequency omnirange (VOR) procedures prescribed in § 97.11(c) to read:

VOR STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.
If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Binghamton VOR	3-mile DME Fix, R 076° (final)	Direct	2100	T-dn	300-1	300-1	200-½
				C-dn	500-1	500-1	500-1½
				S-dn-10	500-1	500-1	500-1½
				A-dn	800-2	800-2	800-2
				DME minimums—DME equipment required:			
				S-dn-10	400-1	400-1	400-1

Radar available.
Procedure turn S side of crs, 256° Outbnd, 076° Inbnd, 3300′ within 10 miles.
Minimum altitude over facility on final approach crs, 2700′; 3-mile DME Fix, 2120′.
Crs and distance, facility to airport, 076°—7 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 7 miles after passing BGM VOR, climb to 3500′ on R 076° within 10 miles, return to BGM VORTAC. Hold W, 1-minute right turns, Inbnd crs, 076°.
MSA within 25 miles of facility: 270°-090°—3300′; 090°-180°—3600′; 180°-270°—2900′.

City, Binghamton; State, N.Y.; Airport name, Broome County; Elev., 1629′; Fac. Class., L-BVORTAC; Ident., BGM; Procedure No. 1, Amdt. Orig.; Eff. date, 26 Nov. 66

				T-dn	300-1	300-1	200-½
				C-dn	700-1	700-1	700-1½
				S-dn-27*	700-1	700-1	700-1½
				A-dn	800-2	800-2	800-2

Procedure turn N side of crs, 078° Outbnd, 258° Inbnd, 1900′ within 10 miles.
Minimum altitude over facility on final approach crs, 1400′.
Crs and distance, facility to airport, 257°—5.3 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 5.3 miles after passing STX VOR, climb to 2000′ on R 258° within 20 miles of STX VOR.
NOTE: Tower hours of operation 0600-2100.
*Reduction in landing visibility not authorized.
MSA within 25 miles of facility: 000°-090°—1900′; 090°-180°—1900′; 180°-270°—1900′; 270°-360°—2200′.

City, Christiansted; Island, St. Croix; Territory, V.I.; Airport name, Alexander Hamilton; Elev., 60′; Fac. Class., L-BVOR; Ident., STX; Procedure No. 1, Amdt. 3; Eff. date, 26 Nov. 66; Sup. Amdt. No. 2; Dated, 16 Oct. 65

VOR STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
OE LFR	OME VORTAC	Direct	2500	T-dn	300-1	300-1	200-½
				C-dn	500-1	500-1	500-1½
				S-dn-27*	400-1	400-1	400-1
				A-dn	800-2	800-2	800-2

Procedure turn S side of crs, 090° Outbnd, 270° Inbnd, 1600′ within 10 miles.
Nonstandard terrain N.
Minimum altitude over facility on final approach crs, 1100′; over 2-mile DME Fix or OE LFR on final, 650′.
Crs and distance, facility to airport, 270°—4.8 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.8 miles after passing OME VORTAC, turn left, climb to 2100′ on R 090° within 15 miles.
NOTE: When authorized by ATC, DME may be used to position aircraft for final approach at 3000′ between radials 007° clockwise to 048° and at 2500′ between radials 048° clockwise to 138° within 15 miles with the elimination of a procedure turn.
CAUTION: High terrain to 1200′ beyond 3 miles N. Radio tower 284′, 3.3 miles ESE of airport.
*400-½ authorized with operative SALS except for 4-engine turbojets.
*400-¾ authorized with operative REIL and HIRL except for 4-engine turbojets.
MSA within 25 miles of facility: 000°-090°—3300′; 090°-180°—1100′; 180°-270°—2000′; 270°-360°—4000′.

City, Nome; State, Alaska; Airport name, Nome FAA; Elev., 37′; Fac. Class., H-BVORTAC; Ident., OME; Procedure No. 1, Amdt 5; Eff. date, 26 Nov. 66; Sup. Amdt. No. 4; Dated, 4 Dec. 65

17-mile DME Fix, R 299°, OGD VOR	10-mile DME Fix, R 299°, OGD VOR	Direct	6700	T-dn*%	300-1	300-1	200-½
10-mile DME Fix, R 299°, OGD VOR	OGD VOR (final)	Direct	5500	C-dn**	500-1	500-1	500-1½
15-mile DME Fix, R 260°, OGD VOR	13-mile DME Fix, R 260°, OGD VOR	Direct	8200	S-dn-7	400-1	400-1	400-1
13-mile DME Fix, R 260°, OGD VOR	10-mile DME Fix, R 260°, OGD VOR	Direct	6700	A-dn	800-2	800-2	800-2
10-mile DME Fix, R 260°, OGD VOR	10-mile DME Fix, R 299°, OGD VOR	Via 10-mile Arc	6700				

Radar available.
Procedure turn N side of crs, 299° Outbnd, 119° Inbnd, 6700′ within 10 miles. All turns to be made on the N side of the crs; high terrain to S.
Minimum altitude over facility on final approach crs, 5500′.
Crs and distance, facility to airport, 098°—3.7 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 3.7 miles after passing OGD VOR or at 3.7-mile DME Fix, R 098°, make immediate right turn, climb to 9000′ on R 299° within 20 miles.
NOTE: When authorized by ATC, DME may be used within 10 miles at 6700′ between R 159° clockwise to R 328° to position aircraft for final approach with the elimination of procedure turn.
*T-dn Runway 3, 400-1.
**600′ minimum circling altitude S of airport due to 4744′ tower.
%Takeoff all runways, climb on R 260° of OGD VORTAC within 10 miles of VORTAC to minimum crossing altitude required for direction of flight, or as directed by ATC.

Direction of flight	*MCA*
N J-9	7,500
NE V-6	10,000
W V-6	6,000

MSA within 25 miles of facility: 060°-150°—10,800′; 150°-240°—7600′; 240°-330°—8600′; 330°-060°—10,800′.

City, Ogden; State, Utah; Airport name, Ogden Municipal; Elev., 4455′; Fac. Class., H-BVORTAC; Ident., OGD; Procedure No. 1, Amdt. 12; Eff. date, 26 Nov. 66; Sup. Amdt. No. 11; Dated, 3 Oct. 64

				T-d	300-1	NA	NA
				C-d	1000-2	NA	NA
				A-d	NA	NA	NA
				If Richwood Int received the following minimums apply: *			
				C-d	600-1	NA	NA

Radar available.
Procedure turn not authorized. Descend to 2000′ in OOD VOR holding pattern, 1-minute left turns, 031° Inbnd, or descend to 2000′ in OOD VOR holding pattern, 1-minute left turns, 031° Inbnd.
Minimum altitude over facility on final approach crs, 2000′.
Crs and distance, facility to airport, 056°—10.3 miles.
Crs and distance, Richwood Int to airport, 056°—3.7 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 10.3 miles after passing OOD VOR or 3.7 miles after passing Richwood Int, make right-climbing turn to 2000′ returning to OOD VOR. Hold SW, 1-minute left turns, 031° Inbnd.
CAUTION: Radio tower 1049′, 5.5 miles SE of airport.
NOTE: Night operations not authorized.
*Maintain 1100′ until passing Richwood Int.
MSA within 25 miles of the facility: 000°-090°—2400′; 090°-360°—1800′.

City, Pitman; State, N.J.; Airport name, Pitman; Elev., 100′; Fac. Class., L-BVOR; Ident., OOD; Procedure No. 1, Amdt. 2; Eff. date, 26 Nov. 66; Sup. Amdt. No. 1; Dated, 19 Dec. 64

Wheeling LOM	AIR VOR	Direct	3000	T-dn	300-1	300-1	NA
				C-d	700-1	700-1	NA
				C-n	700-2	700-2	NA
				A-dn	NA	NA	NA
				DME minimums—DME equipment required:			
				C-d	600-1	600-1	NA
				C-n	600-2	600-2	NA

Procedure turn S side of crs, 113° Outbnd, 293° Inbnd, 3000′ within 10 miles.
Minimum altitude over facility on final approach crs, 2600′; over 6-mile DME Fix, R 293°, 1900′.
Crs and distance, facility to airport, 293°—7.1 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 7.1 miles after passing AIR VOR, climb to 3000′ and proceed direct to Newcomerstown VOR. Hold SE, 1-minute, right turns, 296° Inbnd.
NOTES: (1) Lights available on request. (2) Rotating beacon on field. (3) No weather service. UNICOM.
CAUTION: 1520′ radio tower, 1.6 miles NE, and 1468′ high-tention line, 2.7 miles SE of airport.
MSA within 25 miles of facility: 000°-090°—3100′; 090°-360°—2700′.

City, St. Clairsville; State, Ohio; Airport name, Alderman Field; Elev., 1195′; Fac. Class., L-BVORTAC; Ident., AIR; Procedure No. 1, Amdt. 5; Eff. date, 26 Nov. 66; Sup. Amdt. No. 4; Dated, 20 Nov. 65

VOR STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
R 262°, SLN VOR clockwise	R 003°, SLN VOR	Via 8-mile DME Arc.	3100	T-dn	300-1	300-1	200-½
R 086°, SLN VOR counterclockwise	R 003°, SLN VOR	Via 8-mile DME Arc.	3100	C-dn	500-1	500-1	500-1½
				S-dn-17	500-1	500-1	500-1
8-mile DME Fix, R 003°, SLN VOR	SLN VOR (final)	Direct	400	A-dn	800-2	800-2	800-2
				Minimums with DME:			
				C-dn	400-1	500-1	500-1½
				S-dn-17	400-1	400-1	400-1

Procedure turn W side of crs, 003° Outbnd, 183° Inbnd, 2900′ within 10 miles.
Minimum altitude over facility on final approach crs, 2400′; 2.5-mile DME Fix (R 183°) 1771′.
Crs and distance, facility to airport 183°—4.2 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.2 miles after passing the SLN VOR, turn left climbing to 2900′ on SLN VOR, R 175° within 15 miles of SLN VOR, make left turn and return to SLN VOR, or when directed by ATC climb to 3100′ and proceed direct of SL LOM.
NOTE: Final approach from holding pattern at SLN VOR not authorized, procedure turn required.
CAUTION: Restricted area 7 miles SW of airport.
MSA within 25 miles of facility: 000°-360°—3000′.

City, Salina; State, Kans.; Airport name, Municipal; Elev., 1271′; Fac. Class., H-BVORTAC; Ident., SLN; Procedure No. 1, Amdt. 2; Eff. date, 26 Nov. 66; Sup. Amdt. No. 1; Dated, 6 Aug. 66

				T-d	300-1	300-1	NA
				C-d	900-1	900-1	NA
				A-d	NA	NA	NA

Procedure turn S side of crs, 260° Outbnd, 080° Inbnd, 2300′ within 10 miles.
Minimum altitude over facility on final approach crs, 2300′.
Crs and distance, facility to airport, 080°—8.3 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 8.3 miles after passing the VOR make climbing right turn to 3000′ return to VORTAC. Hold NE on R 031°, 1-minute right turns, 211° Inbnd.
NOTES: (1) Daylight operations only. (2) Obtain Danville, Va., FSS weather and altimeter setting before conducting IFR approach.
MSA within 25 miles of facility: 000°-270°—1900′; 270°-360°—2300′.

City, South Boston; State, Va.; Airport name, William M. Tuck; Elev., 411′; Fac. Class., L-BVORTAC; Ident., SBV; Procedure No. 1, Amdt. 1; Eff. date, 26 Nov. 66; Sup. Amdt. No. Orig.; Dated, 21 May 66

3. By amending the following terminal very high frequency omnirange (TerVOR) procedures prescribed in § 97.13 to read:

TERMINAL VOR STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.
If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Deer Park VOR	Garden Int (9-mile DME/Radar Fix)	Direct	2000	T-dn	300-1	300-1	200-½
Garden Int (9-mile DME/Radar Fix)	Elmont Int (4-mile DME/Radar Fix)	Direct	912	C-dn	900-1	900-1	900-1½
Elmont Int (4-mile DME/Radar Fix)	JFK VOR (final)	Direct	912	S-dn-22L	900-1	900-1	900-1
				A-dn	900-2	900-2	900-2
				If Elmont Int (4-mile DME/Radar Fix) identified, the following minimums apply:*			
				C-dn	600-1	600-1	600-1½
				S-dn-22L#	500-1	500-1	500-1

Radar available.
Procedure turn not authorized.
Minimum altitude on final approach crs (JFK R 048°) over Garden Int (9-mile DME/Radar Fix)—2000′ over Elmont Int (4-mile DME/Radar Fix)—912′.
Facility on airport. Breakoff point to runway, 222°—1 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished, 1.8 miles after passing Elmont Int, climb straight ahead to JFK VOR, then via JFK R 189° to Channel Int climbing to 2000′. Hold S. 1-minute right turns, Inbnd crs, 009°.
*Aircraft must be equipped with dual VOR receivers, VOR and DME receivers, or position established over Elmont Int by Kennedy Radar.
#500-¾ for HIRL. 500-½ for ALS authorized except for 4-engine turbojet aircraft.
MSA within 25 miles of facility: 000°-090°—1900′; 090°-180°—1400′; 180°-270°—1600′; 270°-360°—2600′.

City, New York; State, N.Y.; Airport name, John F. Kennedy International; Elev., 12′; Fac. Class., H-BVORTAC; Ident., JFK; Procedure No. Ter VOR-22L, Amdt. 11; Eff. date, 26 Nov. 66; Sup. Amdt. No. Ter VOR-22 R/L, 10; Dated, 18 Dec. 65

4. By amending the following very high frequency omnir ange—distance measuring equipment (VOR/DME) procedures prescribed in § 97.15 to read:

VOR/DME STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Boston VORTAC	9-mile DME Fix (BOS VOR, R 030°)	Direct	2000	T-dn	300-1	300-1	300-1
9-mile DME Fix (BOS VOR, R 030°)	12-mile DME Fix (BOS VOR, R 030°) final.	Direct	1100	C-dn	500-1	500-1	500-1½
				S-dn	NA	NA	NA
				A-dn	NA	NA	NA

Radar available.
Procedure turn not authorized.
Minimum altitude over 9-mile DME Fix, BOS R 030°, 2000'; 12-mile DME Fix (BOS R 030°), 1100'.
Crs and distance, facility to airport, 030°—13.7 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished when over the 13.7-mile DME Fix, climb on BOS R 030° to 2500' direct Ipswich Int. Hold NE of Ipswich Int, 1-minute right turns, 212° Inbnd.
NOTES: (1) Use Boston altimeter setting. (2) Monitor Boston TRACON frequency until landing assured.
MSA within 25 miles of facility: 000°–180°—2000'; 180°–360°—2500'.

City, Beverly; State, Mass.; Airport name, Beverly Municipal; Elev., 180'; Fac. Class., H-VORTAC; Ident., BOS; Procedure No. VOR/DME-1, Amdt. Orig.; Eff. date, 26 Nov. 66

PROCEDURE CANCELED, EFFECTIVE 26 NOV. 1966.

City, Binghamton; State, N.Y.; Airport name, Broome County; Elev., 1629'; Fac. Class., BVORTAC; Ident., BGM; Procedure No. VOR/DME No. 1, Amdt. 6; Eff. date, 23 May 64; Sup. Amdt. No. 5; Dated, 18 Aug. 62

OE LFR	OME VORTAC	Direct	2500	T-dn	300-1	300-1	200-½
				C-dn	500-1	500-1	500-1½
				S-dn-9*	400-1	400-1	400-1
				A-dn	800-2	800-2	800-2

Procedure turn S side of crs, 271° Outbnd, 091° Inbnd, 2500' within 10 miles beyond 11-mile DME Fix.
Minimum altitude over 11-mile DME Fix on final approach crs, 2000', over 5-mile DME Fix on final, 437'.
Crs and distance, 11-mile DME Fix to airport, 091°—5.2 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished at 5-mile DME Fix, climb to 2100' on R 091°, OME VORTAC within 15 miles.
NOTE: When authorized by ATC, DME may be used to position aircraft for final approach at 2500' between radials 048° clockwise to 138° and at 2000' between 138° to 271° within 20 miles with the elimination of a procedure turn.
CAUTION: High terrain to 1200' beyond 3 miles N., radio tower 284', 3.3 miles ESE of airport.
*400-¾ authorized with operative REIL and HIRL except for 4-engine turbojets.
MSA within 25 miles of facility: 000°–090°—3300'; 090°–180°—1100'; 180°–270°—2000'; 270°–360°—4000'.

City, Nome; State, Alaska; Airport name, Nome FAA; Elev., 37'; Fac. Class., H-BVORTAC; Ident., OME; Procedure No. VOR/DME-1, Amdt. Orig.; Eff. date, 26 Nov. 66

PROCEDURE CANCELED, EFFECTIVE 26 NOV. 1966.

City, Ogden; State, Utah; Airport name, Ogden Municipal; Elev., 4455'; Fac. Class., BVORTAC; Ident., OGD; Procedure No. VOR/DME No. 1, Amdt. 3; Eff. date, 3 Oct. 64; Sup. Amdt. No. 2; Dated, 18 July 64

Allegheny VORTAC	Manifold Int/DME Fix (final)	Direct	2600	T-dn	300-1	300-1	NA
Wheeling VOR	Manifold Int/DME Fix	Direct	3000	C-dn	800-1	800-1	NA
				A-dn	NA	NA	NA

Radar available.
Procedure turn N side of crs, 059° Outbnd, 239° Inbnd, 3000' within 10 miles of Manifold Int/DME Fix.
Minimum altitude over Manifold Int/DME Fix on final approach crs, 2600'.
Crs and distance, Manifold Int/DME Fix, 239°—4.3 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.3 miles after passing Manifold Int/DME Fix, climb straight ahead to 3000', make right turn and return to Manifold Int/DME Fix. Hold NE, 1-minute right turns, 239° Inbnd. Alternate missed approach procedure: Within 4.3 miles after passing Manifold Int/DME Fix, make climbing right turn to 3000', proceed direct to HLG VOR. Hold SE, 1-minute right turns, 302° Inbnd.
CAUTION: 1707' antenna, 2 miles E of airport.
MSA within 25 miles of facility: 000°–360°—3100'.

City, Washington; State, Pa.; Airport name, Washington County; Elev., 1183'; Fac. Class., H-BVORTAC; Ident., AGC; Procedure No. VOR/DME No. 1, Amdt. 1; Eff. date, 26 Nov. 66; Sup. Amdt. No. Orig.; Dated, 13 Feb. 65

5. By amending the following instrument landing system procedures prescribed in § 97.17 to read:

ILS STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Bangor VORTAC	BG LOM	Direct	2300	T-dn	300-1	300-1	200-½
				C-dn	500-1	500-1	500-1½
				S-dn-33	200-½	200-½	200-½
				A-dn	600-2	600-2	600-2
				With glide slope inoperative:			
				S-dn-33*	400-1	400-1	400-1

Radar available.
Procedure turn S side of crs, 153° Outbnd, 333° Inbnd, 2300′ within 10 miles.
Minimum altitude at glide slope interception Inbnd, 2000′.
Altitude of glide slope and distance to approach end of runway at OM, 1906′—5.9 miles; at MM 396′—0.7 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 5.9 miles after passing BG LOM, make left-climbing turn to 2300′ direct to BG LOM. Hold SE of BG LOM left turns, 1 minute, 333° Inbnd.
NOTE: Approach from a holding pattern not authorized, procedure turn required.
CAUTION: 327′ standpipe, 0.5 mile NE of approach end Runway 33, 632′ antenna, 2.5 miles NE, 882′ antenna located 0.8 mile NE of LOM.
*400-¾ authorized with operative high-intensity runway lights except for 4-engine turbojets. 400-½ authorized with operative ALS except for 4-engine turbojets.

City, Bangor; State, Maine; Airport name, Dow AFB; Elev., 192′: Fac. Class., ILS; Ident., I-BGR; Procedure No. ILS-33, Amdt. 2; Eff. date, 26 Nov. 66; Sup. Amdt. No. 1; Dated, 9 July 66

Fargo VOR	LOM	Direct	2300	T-dn%	300-1	300-1	200-½
Fargo RBn	LOM	Direct	2300	C-dn	500-1	500-1	500-1½
Rice Int	Leslie Int	Direct	2300	S-dn-35*#	200-½	200-½	200-½
FAR VOR	Leslie Int	Direct	2300	A-dn	600-2	600-2	600-2
Leslie Int	LOM (final)	Direct	2100				

Procedure turn E side of crs, 171° Outbnd, 351° Inbnd, 2300′ within 10 miles.
Minimum altitude at glide slope interception Inbnd, 2100′.
Altitude of glide slope and distance to approach end of runway at OM, 2092′—4.1 miles, at MM, 1105′—0.6 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.1 miles after passing LOM climb on N crs, Fargo ILS to 2500′ within 10 miles, or when directed by ATC, make left-climbing turn to intercept FAR VOR, R 281°, climb to 2800′ within 20 miles of FAR VOR.
%RVR 2400′ authorized Runway 35.
*400-¾ required when glide slope not utilized and 400-½ authorized with operative ALS except for 4-engine turbojets.
#RVR 2400′. Descent below 1100′ not authorized unless approach lights are visible.

City, Fargo; State, N. Dak.; Airport name, Hector; Elev., 900′; Fac. Class., ILS; Ident., I-FAR; Procedure No. ILS-35, Amdt. 18; Eff. date, 26 Nov. 66; Sup. Amdt. No. 17; Dated, 10 July 65

Southgate Int$	W crs ILS and 10-mile DME Fix	12-15 arc	2200	T-dn%	300-1	300-1	200-½
Honolulu VOR	LOM	Direct	3600	C-dn**	500-1	500-1	500-1½
Breakers Int	W crs ILS and 10-mile DME Fix	Via W crs ILS	2200	S-dn-8*	300-¾	300-¾	300-¾
W crs ILS and 10-mile DME Fix	LOM (final)	Direct	2200	A-dn	600-2	600-2	600-2

Radar available.
Procedure turn S side crs, 259° Outbnd, 079° Inbnd, 3600′ within 10 miles.
Minimum altitude at glide slope interception Inbnd, #2200′.
Altitude at glide slope and distance to approach end of Runway at OM, 1961′—5.9 miles; at MM, 247′—0.5 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0 mile after passing MM, make right turn, climb to 2900′ and proceed to Southgate VHF Int via HNL VOR, R 168°.
CAUTION: (1) Terrain rises sharply on N side final approach crs; within 2.2 miles, 1000′; 4.1 miles, 2566′; 5.4 miles, 3098′. (2) ILS unusable from MM Inbnd.
%500-1 required Runway 4. Right turn required to 150° for Runways 4 and 8. Left turn as soon as practical for Runway 26.
#Do not descend below 2200′ until intercepting glide slope due NAS Barber's Point 1500′ jet traffic pattern.
*400-¾ required when glide slope not utilized. *300-½ authorized with operative ALS except for 4-engine turbojets.
**Circling N of airport not authorized because of terrain 385′, 1.5 miles N, and 524′, 2 miles NE.
$When authorized by ATC.

City Honolulu; State, Hawaii; Airport name, Honolulu International; Elev., 13′; Fac. Class., ILS; Ident., I-HNL; Procedure No. ILS-8, Amdt. 5; Eff. date. 26 Nov. 66; Sup. Amdt. No. 4; Dated, 19 Mar. 66

				T-dn	300-1	300-1	200-½
				C-dn	700-1	700-2	700-2
				S-dn-13	600-1	600-2	600-2
				A-dn	800-2	800-2	800-2

Radar required.
Procedure turn not authorized.
Minimum altitude over radar fix/Palisades Park MHW on final approach crs, 1600′.
Crs and distance radar fix/Palisades Park MHW to airport, 134°—5.4 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.4 miles after leaving radar fix/Palisades Park MHW or crossing the 233° bearing from the UR LOM, make climbing left turn to 4000′ on LGA VOR, R 045° to Stamford VHF Int, cross Scarsdale VHF Int at 3000′ or above. Hold NE Stamford, 1-minute left turns, Inbnd crs, 225°.
AIR CARRIER NOTE: Sliding scale not authorized for landings.
NOTE: Localizer procedure only: No glide slope.

City, New York; State, N.Y.; Airport name, La Guardia; Elev., 21′; Fac. Class., ILS; Ident., I-GDI; Procedure No. ILS-13, Amdt. 2; Eff. date, 26 Nov. 66; Sup. Amdt. No. 1; Dated, 27 Mar. 65

ILS STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
OKC VOR	LOM	Direct	2600	T-dn	300–1	300–1	*200–½
Bethany Int	LOM	Direct	2600	C-dn	400–1	500–1	500–1½
Cashion Int	TWO RBn	Direct	3100	S-dn-35L#	300–½	200–½	200–½
TWO RBn	LOM	Direct	2600	A-dn	600–2	600–2	600–2
Newcastle Int	LOM (final)	Direct	2400				

Radar available.
Procedure turn E side of crs, 171° Outbnd, 351° Inbnd, 2600′ within 10 miles.
Minimum altitude at glide slope interception Inbnd, 2400′.
Altitude of glide slope and distance to approach end of runway at OM, 2337′—3.8 miles; at MM, 1466′—0.6 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 3.8 miles after passing LOM, climb to 3100′ on N crs, ILS within 20 miles, or when directed by ATC, turn left, climb to 2500′ direct to the OKC VOR.
NOTE: Glide slope unusable below 1417′.
*RVR 2400′ authorized Runway 35L.
#RVR 2400′. Descent below 1484′ not authorized unless approach lights are visible.
#300–½ (RVR 2400) authorized without glide slope and with operative ALS except for 4-engine turbojets.

City, Oklahoma City; State, Okla.; Airport name, Will Rogers World; Elev., 1284′; Fac. Class., ILS; Ident., I–OKC; Procedure No. ILS–35L, Amdt. 12; Eff. date, 26 Nov. 66; Sup. Amdt. No. 11; Dated, 7 May 66

SLN VOR	SL LOM	Direct	3100	T-dn	300–1	300–1	200–½
Lindsborg 19-mile DME Fix, R 175°, SLN VOR.	SL LOM (final)	Direct	3100	C-dn	400–1	500–1	500–1½
				S-dn-35@	300–¾	300–¾	300–¾
				A-dn	600–2	600–2	600–2

Procedure turn E side of crs, 171° Outbnd, 351° Inbnd, 3100′ within 10 miles.
Minimum altitude at glide slope interception Inbnd, 3100′.
Altitude of glide slope and distance to approach end of runway at OM, 3032′—5.7 miles; at MM, 1538′—0.7 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 5.7 miles after passing SL LOM, climb to 2900′ on N crs, SLN ILS within 15 miles, make right turn and return to SLN VOR, or when directed by ATC, climb to 2900′ on N crs, SLN ILS within 15 miles, make right turn and return to LOM, climbing to 3100′ upon reaching LOM.
CAUTION: Restricted area 7 miles SW of airport.
@400–1 required when glide slope not utilized, and 400–¾ authorized with operative ALS or HIRL, except for 4-engine turbojets.

City, Salina; State, Kans.; Airport name, Municipal; Elev., 1271′; Fac. Class., ILS; Ident., I–SLN; Procedure No. ILS–35, Amdt. Orig.; Eff. date, 26 Nov. 66

Shell Lake INT	LOM	Direct	3100				
Coweta Int	LOM	Direct	2800	T-dn	300–1	300–1	#200–½
Glenpool Int	LOM	Direct	2500	C-dn	400–1	500–1	500–1½
TUL VOR	LOM	Direct	2500	S-dn-35R*%	200–½	200–½	200–½
Stebbins Int	LOM	Direct	2500	A-dn	600–2	600–2	600–2
OKM VOR	LOM (final)	Via OKM R 346° and TUL ILS S crs.	2500				

Radar available.
Procedure turn E side of S crs, 175° Outbnd, 355° Inbnd, 2500′ within 10 miles.
Minimum altitude at glide slope interception Inbnd, 2500′.
Altitude of glide slope and distance to approach end of runway at OM, 2164′—5.4 miles; at NM, 828′—0.5 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished, climb to 2500′ on N crs, ILS (355°) within 20 miles, or when directed by ATC, climb to 2500′ on R 036°, TUL VOR within 20 miles.
#300–1 required on Runways 3L, 21R, 17R, 35L. RVR 2400′ authorized Runway 35R.
*400–¾ RVR 4000′ required when glide slope inoperative. 400–½ RVR 2400′ authorized with operative ALS except for 4-engine turbojets.
%RVR 2400′. Descent below 874′ not authorized unless approach lights are visible.

City, Tulsa; State, Okla.; Airport name, Tulsa International; Elev., 674′; Fac. Class., ILS; Ident., I–TUL; Procedure No. ILS–35R, Amdt. 14; Eff. date, 26 Nov. 66; Sup. Amdt. No. 13; Dated, 17 Apr. 65

6. By amending the following radar procedures prescribed in § 97.19 to read:

RADAR STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet, MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If a radar instrument approach is conducted at the below named airport, it shall be in accordance with the following instrument procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitude(s) shall correspond with those established for en route operation in the particular area or as set forth below. Positive identification must be established with the radar controller. From initial contact with radar to final authorized landing minimums, the instructions of the radar controller are mandatory except when (A) visual contact is established on final approach at or before descent to the authorized landing minimums, or (B) at pilot's discretion if it appears desirable to discontinue the approach, except when the radar controller may direct otherwise prior to final approach, a missed approach shall be executed as provided below when (A) communication on final approach is lost for more than 5 seconds during a precision approach, or for more than 30 seconds during a surveillance approach; (B) directed by radar controller; (C) visual contact is not established upon descent to authorized landing minimums; or (D) if landing is not accomplished.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
000°	360°	Within:	9300		Precision approach		
				T-dn%	300-1	300-1	200-½
				C-dn	800-1	800-1	800-1½
				S-dn-14/32#	300-¾	300-¾	300-¾
				A-dn	1000-2	1000-2	1000-2

If visual contact not established upon descent to authorized landing minimums or if landing not accomplished—Runway 32: Climb direct to LMT VOR thence, turn left, climb to 8000' in a 1-minute left turn holding pattern on R 256° of LMT VOR. Runway 14: Climb to 7500' direct to LFA RBn, or when directed by ATC, climb direct to LMT VOR, thence turn right, climb to 8000' in a 1-minute left turn holding pattern on R 256° of LMT VOR.

CAUTION: High terrain all quadrants. PAR moitored ILS approaches not approved.

%Takeoffs all runways: Climb via LMT ILS localizer SE crs/LMT VORTAC, R 140° to 6000', then turn right heading 250° to intercept and proceed via LMT VOR, R 162° to cross the LMT VOR at or above 7000'.

%200-½ authorized only on Runways 14 and 32.

#AIR CARRIER NOTE: Sliding scale for landing not authorized. Visibility reduction not authorized.

City, Klamath Falls; State, Oreg.; Airport name, Kingsley Field; Elev., 4092'; Fac. Class., and Ident., Klamath Falls Radar; Procedure No. 1, Amdt. Orig.; Eff. date, 26 Nov. 66

These procedures shall become effective on the dates specified therein.

(Secs. 307(c), 313(a), 601, Federal Aviation Act of 1958; 49 U.S.C. 1348(c), 1354(a), 1421; 72 Stat. 749, 752, 775)

Issued in Washington, D.C., on October 20, 1966.

W. E. ROGERS,
Acting Director, Flight Standards Service.

[F.R. Doc. 66-11699; Filed, Nov. 3, 1966; 8:45 a.m.]

Title 35—PANAMA CANAL

Chapter I—Canal Zone Regulations

PART 119—LICENSING OF OFFICERS

Qualification Requirements for Panama Canal Pilots

Effective December 16, 1966, § 119.141 of Title 35 of the Code of Federal Regulations is revised to read as follows:

§ 119.141 Pilot, Panama Canal; qualifications.

(a) The minimum requirements to qualify an applicant for a license as Panama Canal Pilot are as follows:

(1) He must not have reached his 40th birthday at the time of his employment as Pilot-in-Training by the Panama Canal Company;

(2) He must hold a license issued by the U.S. Coast Guard as Master of Steam or Motor Vessels, Any Gross Tons, Any Ocean;

(3) He must have served at least 6 months as Chief Mate of Ocean, Steam or Motor Vessels of 1,000 gross tons or over;

(4) Prior to receiving a license as Pilot an applicant must pass the prescribed examination. In addition, the applicant must satisfactorily complete the following experience requirements:

(i) For a license as Pilot, Limited to vessels not over 225 feet in length, he must have been employed as Pilot-in-Training by the Panama Canal Company for at least four (4) months;

(ii) For a license as Pilot, Limited to vessels not over 526 feet in length, he must have been employed by the Panama Canal Company as Pilot-in-Training and Pilot, Limited to vessels not over 225 feet, for at least seven (7) months; and

(iii) For a license as Pilot, Panama Canal, of Vessels of Any Tonnage upon All Canal Zone Waters, he must have been employed by the Panama Canal Company as Pilot, Limited to vessels not over 526 feet, for at least twelve (12) months.

(b) Whenever qualified applicants meeting the age criteria specified in subparagraph (1) of paragraph (a) of this section are not available in sufficient numbers to meet the need for pilot trainees, the Marine Director may waive the age requirement in individual cases where the applicant otherwise fully meets the requirements but in no case may an applicant be employed after he has reached his 45th birthday.

(c) In the case of a pilot who has had any minimum-employment period specified in paragraph (a)(4) of this section extended, any subsequent employment period may be shortened, in any amount not exceeding the period of such prior extension, upon recommendation of the Marine Director approved by the Governor.

(2 C.Z.C. 1331(4), 76A Stat. 39; 35 CFR 3.3(a)(4) as added by E.O. 11305 of Sept. 14, 1966, 31 F.R. 12007)

Dated: October 25, 1966.

[SEAL] ROBERT J. FLEMING, Jr.,
Governor.

[F.R. Doc. 66-12051; Filed, Nov. 3, 1966; 8:49 a.m.]

Proposed Rule Making

FEDERAL AVIATION AGENCY

[14 CFR Part 73]

[Airspace Docket No. 65-WA-51]

RESTRICTED AREAS

Proposed Alteration

The Federal Aviation Agency is considering amendments to Part 73 of the Federal Aviation Regulations that would alter Restricted Areas R-2906 Rodman, Fla., R-2907 Lake George, Fla., and R-2910 Pinecastle, Fla.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Attention: Chief, Air Traffic Division, Federal Aviation Agency, Post Office Box 20636, Atlanta, Ga. 30320. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Agency, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20553. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The Department of the Navy has stated in a request to modify these restricted areas that due to the use of new and faster aircraft, advanced weapons systems and changed ordnance delivery techniques, the three restricted areas should be modified to provide the airspace required to contain the training activities. Changes in use made of the three targets also require alteration of the areas.

The activities to be contained in the restricted areas include dive bombing, glide bombing, low level delivery tactics, slant range strafing, loft, high altitude and night flare bombing, rocket delivery, mine drops, close air support, bull-pup delivery, and air burst weapon deliveries.

Highways, waterways, and scattered housing can be found within these restricted areas, but they are not close to impact areas. In view of this situation, if these proposals are adopted, the rule designating these restricted areas would expressly withhold any exemption for the user from the requirements of § 91.79 of the Federal Aviation Regulations, so that the Navy would be required to observe the minimum safe altitudes specified in that section over any congested area, person, vessel, vehicle, or structure on the surface, not owned, operated or leased by the Navy, while operating within these restricted areas. The Navy has agreed to this requirement.

All these areas are joint use restricted areas and are available to the public when not activated by the user.

The proposed changes to the present designations of R-2906, R-2907 and R-2910 would be as follows:

R-2906 RODMAN, FLA.

Boundaries: A 5-nautical-mile radius of latitude 29°29'00" N., longitude 81°46'00" W., excluding the area within a 2,000-foot radius of Welaka, Fla.

Designated altitudes: Surface to 14,000 feet MSL.

Time of designation: Continuous.

R-2907 LAKE GEORGE, FLA.

SUBAREA A

Boundaries: Beginning at latitude 29°23'-00" N., longitude 81°31'10" W., to latitude 29°12'30" N., longitude 81°30'00" W., to latitude 29°12'30" N., longitude 81°38'30" W., to latitude 29°15'05" N., longitude 81°40'00" W., to latitude 29°20'30" N., longitude 81°-40'00" W., to latitude 29°23'00" N., longitude 81°40'00" W., to latitude 29°23'00" N., longitude 81°39'10" W., thence via a 5-nautical-mile arc centered at latitude 29°19'11" N., longitude 81°35'15" W., to point of beginning.

Designated altitudes: Surface to FL 240.

Time of designation: Continuous.

Controlling agency: FAA, Jacksonville, ARTC Center.

Using agency: Commander, Fleet Air, Jacksonville NAS, Jacksonville, Fla.

SUBAREA B

Boundaries: Beginning at latitude 29°20'-05" N., longitude 81°40'00" W., to latitude 29°15'05" N., longitude 81°40'00" W., to latitude 29°15'05" N., longitude 82°03'00" W., to latitude 29°20'05" N., longitude 82°03'00" W., to point of beginning.

Designated altitudes: Surface to 9,000 feet MSL from a line of longitude 81°40'00" W., to a line of longitude 81°42'55" W.; surface to 6,000 MSL feet from a line of longitude 81°-42'55" W., to a line of longitude 81°51'50" W., 1,000 feet MSL to 2,000 feet MSL from a line of longitude 81°51'50" W. to a line of longitude 82°03'00" W.

Time of designation: Continuous.

Controlling agency: FAA, Jacksonville ARTC Center.

Using agency: Commander, Fleet Air, Jacksonville NAS, Jacksonville, Fla.

SUBAREA C

Boundaries: Beginning at latitude 29°23'-00" N., longitude 81°40'00" W., to latitude 29°17'10" N., longitude 81°40'00" W., to latitude 29°22'00" N., longitude 81°50'55" W., to latitude 29°26'20" N., longitude 81°48'25" W., to point of beginning.

Designated altitudes: Surface to 9,000 feet MSL beginning at latitude 29°23'00" N., longitude 81°40'00" W., to latitude 29°17'10" N., longitude 81°40'00" W., to latitude 29°-18'31" N., longitude 81°42'55" W., to latitude 29°20'05" N., longitude 81°42'55" W., to latitude 29°23'02" N., longitude 81°40'07" W., to latitude 29°23'00" N., longitude 81°40'00" W. Surface to 6,000 feet MSL beginning at latitude 29°23'02" N., longitude 81°40'07" W., to latitude 29°20'05" N., longitude 81°-42'55" W., to latitude 29°18'31" N., longitude 81°42'55" W., to latitude 29°22'00" N., longitude 81°50'55" W., to latitude 29°26'20" N., longitude 81°48'25" W., to latitude 29°-23'02" N., longitude 81°40'07" W.

Time of designation: Continuous.

Controlling agency: FAA, Jacksonville ARTC Center.

Using agency: Commander, Fleet Air, Jacksonville NAS, Jacksonville, Fla.

R-2910 PINECASTLE, FLA.

Boundaries: Beginning at latitude 29°14'-00" N., longitude 81°45'50" W., to latitude 29°11'50" N., longitude 81°43'00" W., clockwise along an arc of a circle 5 nautical miles in radius centered at latitude 29°06'52" N., longitude 81°42'55" W., to latitude 29°10'05" N., longitude 81°38'50" W., to latitude 28°57'55" N., longitude 81°28'25" W., to latitude 28°53'50" N., longitude 81°33'45" W., to latitude 29°03'05" N., longitude 81°47'00" W., clockwise along an arc of a circle 5 nautical miles in radius centered at latitude 29°06'52" N., longitude 81°42'55" W., to latitude 29°07'55" N., longitude 81°48'20" W., to latitude 29°10'00" N., longitude 81°50'35" W., to point of beginning.

Designated altitudes: Surface to FL 240 within the circle of 5 nautical miles in radius centered at latitude 29°06'52" N., longitude 81°42'55" W. Surface to 9000 feet, MSL beginning at latitude 29°14'00" N., longitude 81°45'50" W., to latitude 29°11'50" N., longitude 81°43'00" W., counterclockwise along an arc of a circle 5 nautical miles in radius centered at latitude 29°06'52" N., longitude 81°42'55" W., to latitude 29°07'55" N., longitude 81°48'20" W., to latitude 29°10'00" N., longitude 81°50'35" W., to latitude 29°14'00" N., longitude 81°45'50" W. Surface to 9000 feet MSL beginning at latitude 29°10'05" N., longitude 81°38'50" W., to latitude 29°04'25" N., longitude 81°33'55" W., to latitude 28°58'50" N., longitude 81°40'30" W., to latitude 29°03'05" N., longitude 81°47'00" W., counterclockwise along an arc of a circle 5 nautical miles in radius centered at latitude 29°06'52" N., longitude 81°42'55" W., to latitude 29°10'05" N., longitude 81°38'50" W. Surface to 6000 feet MSL beginning at latitude 29°04'25" N., longitude 81°33'55" W., to latitude 28°57'55" N., longitude 81°28'25" W., to latitude 28°53'50" N., longitude 81°33'45" W., to latitude 28°58'50" N., longitude 81°40'30" W., to latitude 29°04'25" N., longitude 81°33'55" W.

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued in Washington, D.C., on October 26, 1966.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 66-12012; Filed, Nov. 3, 1966; 8:45 a.m.]

Notices

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

SALES OF CERTAIN COMMODITIES

November Sales List

Notice to buyers. Pursuant to the policy of Commodity Credit Corporation issued October 12, 1954 (19 F.R. 6669), and subject to the conditions stated therein as well as herein, the commodities listed below are available for sale and, where noted, for redemption of payment-in-kind certificates on the price basis set forth.

The U.S. Department of Agriculture announced the prices at which CCC commodity holdings are available for sale beginning at 3 p.m., e.s.t., on October 31, 1966, and, subject to amendment, continuing until superseded by the December Monthly Sales List. The following commodities are available: Cotton (upland and extra long staple), wheat, corn, oats, barley, rye, rice, grain sorghum, peanuts, flax, linseed oil, and tung oil.

For November there is no change in commodities listed.

Corn, oats, barley or grain sorghum, as determined by CCC, will be sold for unrestricted use for "Dealers' Certificates" issued under the emergency livestock feed program. Grain delivered against such certificates will be sold at the applicable current market price, determined by CCC.

In the following listing of commodities and sales prices or method of sales, "unrestricted use" applies to sales which permit either domestic or export use and "export" applies to sales which require export only. CCC reserves the right to determine the class, grade, quality and available quantity of commodities listed for sale.

The CCC Monthly Sales List, which varies from month to month as additional commodities become available or commodities formerly available are dropped, is designed to aid in moving CCC's inventories into domestic or export use through regular commercial channels.

If it becomes necessary during the month to amend this list in any material way—such as by the removal or addition of a commodity in which there is general interest or by a significant change in price or method of sale—an announcement of the change will be sent to all persons currently receiving the list by mail from Washington. To be put on this mailing list, address: Director, Procurement and Sales Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250.

Interest rates per annum under the CCC Export Credit Sales Program (Announcement GSM-3) for November 1966 are 6 percent for U.S. bank obligations and 7 percent for foreign bank obligations, without regard to credit periods involved up to a maximum of 36 months. CCC-owned commodities currently available for export sale under the CCC Export Credit Sales Program are: Wheat, grain sorghum, barley, oats, rye, rice, flaxseed, extra long staple cotton, plus tobacco from CCC loan stocks. Commodities from private stocks now eligible for financing under the CCC Export Credit Sales Program include wheat, wheat flour, barley, bulgur, corn, cornmeal, grain sorghum, upland and extra long staple cotton, tobacco, milled and brown rice, cottonseed oil, soybean oil, and dairy products.

Information on commodities available under Title IV, P.L. 480, private trade agrements, and current information on interest rates and other phases of the program may be obtained from the Office of the General Sales Manager, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, D.C. 20250.

The following commodities are currently available for new and existing barter contracts: Oats, cotton (upland and extra long staple), and tobacco. Wheat and grain sorghum are also available under conditions noted in the individual commodity listings. (In addition, free market stocks of corn, grain sorghum, wheat, wheat flour, tobacco, cottonseed, and soybean oils are eligible for barter programing under barter contracts covering procurements for Federal agencies that will reimburse CCC except that hard red winter, hard red spring, and durum wheats, and flour produced from those wheats, may not be exported through west coast ports.) This list is subject to change from time to time.

The CCC will entertain offers from responsible buyers for the purchase of any commodity on the current list. Offers accepted by CCC will be subject to the terms and conditions prescribed by the Corporation. These terms include payment by cash or irrevocable letter of credit before delivery of the commodity, and the conditions require removal of the commodity from CCC stocks within a reasonable period of time. Where sales are for export, proof of exportation is also required, and the buyer is responsible for obtaining any required U.S. Government export permit or license. Purchases from CCC shall not constitute any assurance that any such permit or license will be granted by the issuing authority.

Applicable announcements containing all terms and conditions of sale will be furnished upon request. For easy reference a number of these announcements are identified by code number in the following list. Interested persons are invited to communicate with the Agricultural Stabilization and Conservation Service, USDA, Washington, D.C. 20250, with respect to all commodities or—for specified commodities—within the designated ASCS Commodity Office.

Commodity Credit Corporation reserves the right to amend from time to time, any of its announcements. Such amendments shall be applicable to and be made a part of the sale contracts thereafter entered into.

CCC reserves the right to reject any or all offers placed with it for the purchase of commodities pursuant to such announcements.

CCC reserves the right to refuse to consider an offer, if CCC does not have adequate information of financial responsibility of the offerer to meet contract obligations of the type contemplated in this announcement. If a prospective offerer is in doubt as to whether CCC has adequate information with respect to his financial responsibility, he should either submit a financial statement to the office named in the invitation prior to making an offer, or communicate with such office to determine whether such a statement is desired in his case. When satisfactory financial responsibility has not been established, CCC reserves the right to consider an offer only upon submission by offerer of a certified or cashier's check, a bid bond, or other security, acceptable to CCC, assuring that if the offer is accepted, the offerer will comply with any provisions of the contract with respect to payment for the commodity and the furnishing of performance bond or other security acceptable to CCC.

Disposals and other handling of inventory items often result in small quantities at given locations or in qualities not up to specifications. These lots are offered by the appropriate ASCS office promptly upon appearance and therefore, generally, they do not appear in the Monthly Sales List.

On sales for which the buyer is required to submit proof to CCC of exportation, the buyer shall be regularly engaged in the business of buying or selling commodities and for this purpose shall maintain a bona fide business office in the United States, its territories or possessions and have a person, principal or resident agent upon whom service of judicial process may be had.

The Department of Commerce, Bureau of International Commerce, pursuant to regulations under the Export Control Act of 1949, prohibits the exportation or reexportation by anyone of any commodities under this program to Cuba, the Soviet Bloc or Communist-controlled areas of the Far East including Communist China, North Korea, and the Communist-controlled area of Viet-Nam except under validated license issued by

the U.S. Department of Commerce, Bureau of International Commerce.

For all exportations, one of the destination control statements specified in Commerce Department Regulations (Comprehensive Export Schedule § 379.10(c)) is required to be placed on all copies of the shipper's export declaration, all copies of the bill of lading, and all copies of the commercial invoices. For additional information as to which destination control statement to use, the exporter should communicate with the Bureau of International Commerce or one of the field offices of the Department of Commerce.

Exporters should consult the applicable Commerce Department regulations for more detailed information if desired and for any changes that may be made therein.

SALES PRICE OR METHOD OF SALE

WHEAT, BULK

Unrestricted use.

A. *Storable.* All classes of wheat in CCC inventory are available for sale at market price but not below 108 percent of the 1966 support price for the class, grade, and protein of the wheat plus the markup shown in C below applicable to the type of carrier involved.

B. *Nonstorable.* At not less than market price, as determined by CCC.

C. *Markup and examples (dollars per bushel—in store).*

Markup in-store received by—		Examples—Agricultural Act of 1949; Stat. minimum
Truck	Rail or barge	
$0.11	$0.07¾	Minneapolis—No. 1 DNS ($1.56) 108 percent +$0.07¾; $1.76¾. Portland—No. 1 SW ($1.46) 108 percent +$0.07¾; $1.65¾. Kansas City—No. 1 HRW ($1.43) 108 percent +$0.07¾; $1.62¾. Chicago—No. 1 RW ($1.49) 108 percent +$0.07¾; $1.68¾.

D. *Availability information.* Contact the Evanston, Kansas City, Minneapolis, or Portland ASCS grain offices shown at the end of this sales list.

Export.

All classes of wheat are available for export sale at all U.S. coasts including the Great Lakes and St. Lawrence ports, however, sales at east and west coast ports are subject to the exceptions for the various programs as follows:

A. Announcement GR–345 (Revision III, July 6, 1962, as amended), wheat export program. Hard Red Winter and Hard Red Spring wheat will not be sold at west coast ports. For Durum wheat offered for sale under this announcement at west coast ports buyer must show export from west coast ports and shipment into a dollar market (including shipment under CCC approved credit sale—non-P.L. 480) to a destination west of the 170 meridian, west longitude and east of the 60th meridian, east longitude, or to countries on the west coast of Central and South America. Hard Red Spring wheat will not be sold at east coast ports.

B. Announcement GR–346 (Revision I, June 23, 1960, as amended), for export as flour.

C. Announcement GR–261 (Revision II, Jan. 9, 1961, as amended and supplemented) for export as wheat as follows:

(1) All classes will be sold for application to barter contracts except that wheat of the classes Hard Red Winter, Hard Red Spring, and Durum will not be sold for barter at west coast ports nor will evidence of export at west coast ports be acceptable under a sale for barter;

(2) All classes will be sold for application to approved CCC credit sales except that (a) in the case of Hard Red Winter and Hard Red Spring wheat sold at west coast ports, buyers must show export from a west coast port to a destination within the geographical area described in A above, and (b) Durum wheat will not be sold at west coast ports for application to credit sales nor will evidence of export from west coast ports be acceptable under a sale of Durum for application to a credit transaction;

(3) Hard Red Winter and Hard Red Spring wheat will be sold at west coast ports for export commodity certificates to fill a dollar market sale and buyer must show export from west coast port to a destination within the geographical area described in A above. Hard Red Spring wheat will be sold at east coast ports for export commodity certificates and buyer must show export from an east coast port.

D. Announcement GR–262 (Revision II, Jan. 9, 1961, as amended), for export as flour as follows: All classes will be sold for application to barter and approved CCC credit transactions except that sales for barter will not be made at west coast ports nor will evidence of export from west coast ports be acceptable under a sale for barter pursuant to this announcement.

E. *Available.* Evanston, Kansas City, Minneapolis, and Portland ASCS offices.

CORN, BULK

Unrestricted use.

A. *Redemption of domestic payment-in-kind certificates.* Such CCC dispositions of corn as CCC may designate will be in redemption of certificates or rights represented by pooled certificates under a feed grain program. The price at which corn shall be valued for such dispositions shall be the market price as determined by CCC, but not less than the payment-in-kind formula price for such redemptions. Such formula price shall be the applicable 1966 price-support loan rate for the class, grade, and quality of the corn plus the markup shown in C of this unrestricted use section.

B. *General sales.*

1. *Storable.* Such CCC dispositions of storable corn as CCC may designate as general sales will be made during the month at market price, as determined by CCC, but not less than the Agricultural Act of 1949 formula minimum price for such sales which is 105 percent of the applicable 1966 price support rate [2] (published loan rate plus 19 cents per bushel) for the class, grade, and quality of the corn, plus the markup shown in C of this unrestricted use section.

2. *Nonstorable.* At not less than market price as determined by CCC.

C. *Markups and examples (dollars per bushel in-store [1] basis No. 2 Yellow Corn 14 percent M.T. 2 percent F.M.).*

Markup in-store received by—	Examples
Truck	
$0.05¾	Feed grain program domestic PIK certificate minimums: McLean County, Ill. ($1.01+$0.03 +$0.05¾); $1.09¾. Agricultural Act of 1949 stat. minimums: McLean County, Ill. ($1.01+$0.19 +$0.03); 105 percent +$0.05¾; $1.35¾.

D. *Availability information.* For information on CCC corn sales and payments-in-kind from bin sites, contact ASCS State or county offices. For information on the disposition of corn from other locations, contact the Evanston, Kansas City, Minneapolis, or Portland ASCS grain offices shown at the end of this sales list.

Export.

Corn from CCC inventory is not available for export sale.

GRAIN SORGHUM (BULK)

Unrestricted use.

A. *Redemption of domestic payment-in-kind certificates.* Such CCC dispositions of grain sorghum as CCC may designate will be in redemption of certificates or rights represented by pooled certificates under a feed grain program. The minimum price at which grain sorghum shall be valued for such dispositions shall be market price, as determined by CCC, but not less than the payment-in-kind formula price for such redemption. Such formula price shall be the applicable 1966 price-support loan rate for the class, grade, and quality of the grain sorghum, plus the markup shown in C of this unrestricted use section applicable to the type of carrier involved.

B. *General sales.*

1. *Storable.* Such CCC dispositions of storable grain sorghum as CCC may designate as general sales will be made during the month at market price, as determined by CCC, but not less than the Agricultural Act of 1949 formula minimum price for such sales which is 105 percent of the applicable 1966 price-support rate [2] (published loan rate plus 34 cents per hundredweight) for the class, grade, and quality of the grain sorghum, plus the markup shown in C of this unrestricted use section applicable to the type of carrier involved.

2. *Nonstorable.* At not less than market price as determined by CCC.

C. *Markups and examples (dollars per hundredweight in-store [1] No. 2 or better).*

Markup in-store received by—		Examples
Truck	Rail or barge	
$0.11½	$0.05¾	Feed grain program domestic PIK certificate minimums: Hale County, Tex. ($1.50+$0.11½); $1.61½. Kansas City, Mo. (ex-rail) ($1.78+ $0.05¾); $1.84¼. Agricultural Act of 1949; stat. minimums: Hale County, Tex. ($1.50+$0.34); 105 percent +$0.11½; $2.05½. Kansas City, Mo. (ex-rail) ($1.78+ $0.34); 105 percent +$0.05¾; $2.28¾.

D. *Availability information.* For information on CCC grain sorghum sales and payments-in-kind from bin sites, contact ASCS State or county offices. For information on the disposition of grain sorghum from other locations, contact the Kansas City, Evanston, Portland, or Minneapolis ASCS grain offices shown at the end of this sales list.

Export.

Sales are made at the applicable export market price, as determined by CCC; export payment rates, if any, are deducted in arriving at barter and credit sales prices. The statutory minimum price referred to in the price adjustment provisions of the following export sales announcements is 105 percent of the applicable price-support rate plus the markup referred to in C of the unrestricted use section for grain sorghum. Sales will be made pursuant to the following announcements:

A. Announcement GR–368 (Revision 2, Mar. 1, 1965, as amended), feed grain export program.

B. Announcement GR–212 (Revision 2, Jan. 9, 1961), for application to barter contracts entered into pursuant to invitations for barter offers dated prior to 3:30 p.m., e.d.t., on August 26, 1966, and to approved CCC credit sales.

C. Available: Evanston, Kansas City, Minneapolis, and Portland ASCS grain offices.

BARLEY, BULK

Unrestricted use.

A. *Redemption of domestic payment-in-kind certificates.* Such CCC dispositions of barley as CCC may designate will be in redemption of certificates or rights represented by pooled certificates under a feed grain program. The minimum price at which barley shall be valued for such dispositions shall be market price, as determined by CCC, but not less than the payment-in-kind formula price for such redemptions. Such formula price shall be the applicable 1966 price-support loan rate for the class, grade, and quality of the barley, plus the markup shown in C of this unrestricted use section applicable to the type of carrier involved.

B. *General sales.*

1. *Storable.* Such CCC dispositions of storable barley as CCC may designate as general sales will be made during the month at market price, but not less than the Agricultural Act of 1949 formula minimum price for such sales which is 105 percent of the applicable 1966 price-support rate[2] (published loan rate plus 13 cents per bushel) for the class, grade, and quality of the barley, plus the markup shown in C of this unrestricted use section, applicable to the type of carrier involved.

2. *Nonstorable.* At not less than market price as determined by CCC.

C. *Markups and examples (dollars per bushel in-store[1] No. 2 or better).*

Markup in-store received by—		Examples
Truck	Rail or barge	
$0.10¼	$0.07¾	Feed grain program domestic PIK certificate minimums: Cass County, N. Dak. ($0.76+$0.10¼); $0.86¼. Minneapolis, Minn. (ex-rail) ($0.99+$0.07¾); $1.06¾. Agricultural Act of 1949; statutory minimums: Cass County, N. Dak. ($0.76+$0.13); 105 percent +$0.10¼; $1.04¼. Minneapolis, Minn. (ex-rail) ($0.99+$0.13); 105 percent +$0.07¾; $1.25¾.

D. *Availability information.* For information on CCC barley sales from bin sites, contact ASCS State or county offices. For information on the disposition of barley from other locations, contact the Kansas City, Evanston, Minneapolis, or Portland ASCS grain offices shown at the end of this sales list.

Export.

Sales are made at the applicable export market price, as determined by CCC; export payment rates, if any, are deducted in arriving at credit sales prices. The statutory minimum price referred to in the price adjustment provisions of the following export sales announcements is 105 percent of the applicable price-support rate plus the markup referred to in C of the unrestricted use section for barley. Sales will be made pursuant to the following announcements.

A. Announcement GR–368 (Revision 2, Mar. 1, 1965, as amended), feed grain export program.

B. Announcement GR–212 (Revision 2, Jan. 9, 1961), for application to approved CCC credit sales.

C. *Available.* Kansas City, Evanston, and Minneapolis ASCS grain offices.

OATS, BULK

Unrestricted use.

A. Market price, as determined by CCC, but not less than the Agricultural Act of 1949 formula price which is 105 percent of the applicable 1966 price-support rate[2] for the class, grade, and quality of the oats plus the markup shown in B below.

B. *Markups and examples (dollars per bushel in-store[1] basis No. 2 XHWO).*

Markup in-store received by—	Examples—Agricultural Act of 1949; Stat. minimum
Truck	
$0.08¾	Redwood County, Minn. ($0.56+$0.03 quality differential); 105 percent +$0.08¾; $0.70¾.

C. *Nonstorable.* At not less than the market price as determined by CCC.

D. *Availability information.* Sales at bin sites are made through the ASCS county offices; at other locations through the Evanston, Kansas City, Minneapolis, or Portland ASCS grain offices.

Export.

Sales are made at the applicable export market price, as determined by CCC; export payment rates, if any, are deducted in arriving at barter and credit sales prices. The statutory minimum price referred to in the price adjustment provisions of the following export sales announcements is 105 percent of the applicable price-support rate plus the markup referred to in B of the unrestricted use section for oats. Sales will be made pursuant to the following announcements:

A. Announcement GR–368 (Revision 2, Mar. 1, 1965, as amended), feed grain export program.

B. Announcement GR–212 (Revision 2, Jan. 9, 1961), for application to barter contracts and to approved CCC credit sales.

C. *Available.* Kansas City, Evanston, Minneapolis, and Portland ASCS grain offices.

RYE, BULK

Unrestricted use.

A. *Storable.* Market price, as determined by CCC, but not less than the Agricultural Act of 1949 formula price which is 105 percent[2] of the applicable 1966 price-support rate for the class, grade, and quality of the grain plus the markup shown in B below applicable to the type of carrier involved.

B. *Markups and examples (dollars per bushel in-store[1] No. 2 or better).*

Markup in-store received by—		Examples—Agricultural Act of 1949; Stat. minimum
Truck	Rail or barge	
$0.11	$0.07¾	Rolette County, N. Dak. ($0.89); 105 percent +$0.11; $1.05. Minneapolis, Minn. (ex-rail) ($1.23); 105 percent +$0.07¾; $1.37¾.

C. *Nonstorable.* At not less than market price as determined by CCC.

D. *Availability information.* Sales at bin sites are made through ASCS county offices; at other locations through the Evanston, Kansas City, Minneapolis, or Portland ASCS grain offices.

Export.

Sales are made at the applicable export market price, as determined by CCC; export payment rates, if any, are deducted in arriving at credit sales prices. The statutory minimum price referred to in the price adjustment provisions of the following export sales announcements is 105 percent of the applicable price-support rate plus the markup referred to in B of the unrestricted use section for rye. Sales will be made pursuant to the following announcements:

A. Announcement GR–368 (Revision 2, Mar. 1, 1965, as amended), feed grain export program.

B. Announcement GR–212 (Revision 2, Jan. 9, 1961), for application to approved CCC credit sales.

C. *Available.* Evanston, Kansas City, Portland, and Minneapolis ASCS grain offices.

RICE, ROUGH

Unrestricted use.

Market price but not less than 1966 loan rate plus 5 percent, plus 22 cents per hundredweight, basis in store.

Export.

As milled or brown under Announcement GR–369 (Revision III, as amended), rice export program—and under GR–379 (Revision I), for approved credit sales.

Prices, quantities, and varieties of rough rice available from Kansas City ASCS Commodity Office.

COTTON, UPLAND

Unrestricted use.

A. Competitive offers under the terms and conditions of Announcement NO–C–32 (Sale of Upland Cotton for Unrestricted Use). Under this announcement, upland cotton acquired under price-support programs will be sold at the highest price offered but in no event at less than the higher of (a) 110 percent of the current loan rate for such cotton, or (b) the market price for such cotton, as determined by CCC.

B. Competitive offers under the terms and conditions of Announcement NO–C–31 (Disposition of Upland Cotton—In Redemption of Payment-In-Kind Certificates or Rights in Certificate Pools, In Redemption of Export Commodity Certificates, Against the "Shortfall," and Under Barter Transactions), as amended. Cotton may be acquired at its current market price, which shall be the highest price offered but not less than the minimum determined by CCC, and in no event at less than the loan rate for such cotton.

Export.

CCC disposals for barter (1966–67 marketing year). Competitive offers under the terms and conditions of Announcements CN–EX–28 (Acquisition of Upland Cotton for Export under the Barter Program) and NO–C–31 (described above), as amended.

COTTON, EXTRA LONG STAPLE

Unrestricted use.

Competitive offers under the terms and conditions of Announcements NO–C–6 (Revised July 22, 1960), as amended, and NO–C–10, as amended. Under these announcements extra long staple cotton (domestically grown) will be sold at the highest price offered but in no event at less than the higher of (a) 115 percent of the current support price for such cotton plus reasonable carrying charges, or (b) the domestic market price as determined by CCC.

Export.

A. *CCC sales for export.* Competitive offers under the terms and conditions of Announcements CN–EX–20 (Foreign-Grown Extra Long Staple Cotton Export Program) and NO–C–23 (Sale of Foreign-Grown Extra Long Staple Cotton), as amended.

Competitive offers under the terms and conditions of Announcements CN–EX–22 (Extra Long Staple Cotton Export Program) and NO–C–27 (Sale of Extra Long Staple Cotton), as amended.

B. *CCC credit sales and barter.* Competitive offers under the terms and conditions of Announcements CN–EX–26 (Purchase of Extra Long Staple Cotton for Export under the Export Credit Sales Program), or CN–EX–27 (Acquisition of Extra Long Staple Cotton for Export under the Barter Program), and NO–C–27 (Sale of Extra Long Staple Cotton), as amended.

Availability information. Sale of cotton will be made by the New Orleans ASCS Commodity Office and catalogs for upland cotton and extra long staple cotton showing quantities, qualities, and location may be obtained for a nominal fee from that office.

PEANUTS, SHELLED

A. *Domestic crushing or export.*

1. Shelled peanuts of less than U.S. No. 1 grades may be purchased for foreign or domestic crushing.

2. U.S. Medium—Virginia type—for export.

3. Terms and conditions of sales as set forth in Peanut Announcement PR–1 effective July 1, 1966, Amendment 1, and the lot list.

B. When stocks of any of the above categories are available in their area of responsibility, weekly lot lists are issued by the following:

GFA Peanut Association, Camilla, Ga.

Peanut Growers Cooperative Marketing Association, Franklin, Va.

Southwestern Peanut Growers' Association, Gorman, Tex.

All sales are made on the basis of competitive bids submitted each Wednesday to the Producer Associations Division, Agricultural Stabilization and Conservation Service, Washington, D.C.

TUNG OIL

Domestic or export.

Sales are made periodically on a competitive bid basis. Bids are submitted to the Producer Associations Division, Agricultural Stabilization and Conservation Service, Washington, D.C.

The quantity offered and the date bids are to be received are announced to the trade in notices of invitation to bid, issued by the National Tung Oil Marketing Cooperative, Inc., Poplarville, Miss.

Terms and conditions of sale are as set forth in Announcement NTOM–PR–3, effective September 26, 1966, and the applicable invitation to bid.

Copies of the Announcement or the Invitation may be obtained from the Cooperative or Producer Associations Division, ASCS, Telephone Washington, D.C., area code 202, DUpont 8–3901 or DUpont 8–2967.

FLAXSEED, BULK

Unrestricted use.

A. *Storable.* Market price but not less than the applicable 1966 support price for the class, grade, and quality of flaxseed plus 14½ cents per bushel, and plus the respective markup shown in B below applicable to the type of carrier involved.

B. *Markups and examples (dollars per bushel in-store* [1]).

Markup per bushel received by—		Examples of minimum prices (ex-rail or barge)		
Truck	Rail or barge	Terminal	Class and grade	Price
Cents $0.12½	*Cents* $0.08	Minneapolis..	No. 1.....	$3.37½

C. *Nonstorable.* At not less than market price as determined by CCC.

D. *Available.* Through the Minneapolis Grain Merchandising ASCS Office.

Export.

A. Announcement PS–GR–4, Revision 1, as amended, dispositions of flaxseed, as designated by CCC, will be in redemption of export commodity certificates at the domestic market price as determined by CCC.

B. Announcement GR–212 (Revision 2, Jan. 9, 1961), for application to approved CCC credit sales. Such sales will be at the domestic market price as determined by CCC less the applicable export payment allowance. The flaxseed to be exported shall be No. 2 grade, or better.

C. *Available.* Through the Minneapolis Grain Merchandising ASCS Office.

LINSEED OIL, RAW (BULK)

Export.

Under Announcement PS–GR–4, Revision 1, as amended, dispositions of raw linseed oil, as designated by CCC, will be in redemption of export commodity certificates at the domestic market price as determined by CCC.

Available. Through the Minneapolis ASCS Commodity Office.

DAIRY PRODUCTS

Sales are in carlots only in-store at storage location of products.

Submission of offers.

Submit offers to the Minneapolis ASCS Commodity Office.

NONFAT DRY MILK

Unrestricted use.

Announced prices, under MP–14: Spray process, U.S. Extra Grade, 21.60 cents per pound.

Export.

Competitive bid, under MP–10, pursuant to invitation to bid to be issued by Minneapolis ASCS Commodity Office. Sales under this announcement may be made for application to barter and approved CCC credit.

Any nonfat dry milk offered but not sold under the invitation to bid issued pursuant to MP–10 will be offered for sale through the following Monday noon at prices announced by press release from the Minneapolis ASCS Commodity Office each Wednesday.

BUTTER

Unrestricted use.

Announced prices, under MP–14: 70.5 cents per pound—New York, Pennsylvania, New Jersey, New England, and other States bordering the Atlantic Ocean and Gulf of Mexico. 69.75 cents per pound—Washington, Oregon, and California. All other States 69.50 cents per pound.

Export.

Competitive bid under Announcement MP–10, pursuant to invitations to bid to be issued by Minneapolis ASCS Commodity Office. Sales under this announcement may be made for application to barter and CCC credit.

Any butter offered but not sold under the invitation to bid issued pursuant to MP–10 will be offered for sale through the following Monday noon at prices announced by press release from the Minneapolis ASCS Commodity Office each Wednesday.

CHEDDAR CHEESE (STANDARD MOISTURE BASIS)

Unrestricted use.

Announced prices, under MP–14: 49 cents per pound—New York, Pennsylvania, New England, New Jersey, and other States bordering the Atlantic Ocean and Pacific Ocean and the Gulf of Mexico. All other States 48 cents per pound.

Export.

Competitive bid under Announcement MP–10, pursuant to invitation to bid to be issued by Minneapolis ASCS Commodity Office. Announced prices under MP–10. Sales under this announcement may be made for application to CCC credit.

Any cheese offered but not sold under the invitation to bid issued pursuant to MP–10 will be offered for sale through the following Monday noon at prices announced by press release from the Minneapolis ASCS Commodity Office each Wednesday.

FOOTNOTES

[1] The formula price delivery basis for bin site sales will be f.o.b.

[2] To compute, multiply applicable support price by 1.05 round product up to nearest whole cent and add amount shown in the appropriate table and any applicable freight and handling charges.

USDA AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE OFFICES

GRAIN OFFICES

Kansas City ASCS Commodity Office, 8930 Ward Parkway (Post Office Box 205), Kansas City, Mo. 64141. Telephone: Emerson 1–0860.

Alabama, Alaska, Arkansas, Colorado, Florida, Georgia, Hawaii, Kansas, Louisiana, Mississippi, Missouri, Nebraska, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, and Wyoming.

Branch Office—Evanston ASCS Branch Office, 2001 Howard Street, Evanston, Ill. 60202. Telephone: Long Distance—University 9–0600 (Evanston Exchange). Local—Rogers Park 1–5000 (Chicago, Ill.).

Connecticut, Delaware, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Virginia, Vermont, and West Virginia.

Branch Office—Minneapolis ASCS Branch Office, 310 Grain Exchange Building, Minneapolis, Minn. 55415. Telephone: 334–2051.

Minnesota, Montana, North Dakota, South Dakota, and Wisconsin.

Branch Office—Portland ASCS Branch Office, 1218 Southwest Washington Street, Portland, Oreg. 97205. Telephone: 226–3361.

Idaho, Nevada, Oregon, Utah, and Washington (Domestic & Export Sales), Arizona and California (export sales only).

Branch Office—Berkeley ASCS Branch Office, 2020 Milvia Street, Berkeley, Calif. 94704. Telephone: Thornwall 1–5121.

Arizona and California (domestic sales only).

PROCESSED COMMODITIES OFFICE (ALL STATES)

Minneapolis ASCS Commodity Office, 6400 France Avenue South, Minneapolis, Minn. 55435. Telephone: 334–3200.

COTTON OFFICES—(ALL STATES)

New Orleans ASCS Commodity Office, Wirth Building, 120 Marais Street, New Orleans, La. 70112. Telephone: 527–7766.

GENERAL SALES MANAGER OFFICES

Representative of General Sales Manager, New York Area: Joseph Reidinger, 80 Lafayette Street, New York, N.Y. 10013. Telephone: 264–8439, 8440, 8441.

Representative of General Sales Manager, West Coast Area: Callan B. Duffy, Appraisers' Building, Room 802, 630 Sansome Street, San Francisco, Calif. 94111. Telephone: 556–6185.

(Sec. 4, 62 Stat. 1070, as amended; 15 U.S.C. 714b. Interpret or apply sec. 407, 63 Stat. 1066; sec. 105, 63 Stat. 1051, as amended by 76 Stat. 612; secs. 303, 306, and 307, 76 Stat. 614–617; 7 U.S.C. 1441 (note))

Signed at Washington, D.C., on November 1, 1966.

H. D. GODFREY,
Executive Vice President,
Commodity Credit Corporation.

[F.R. Doc. 66-12039; Filed, Nov. 3, 1966; 8:47 a.m.]

DEPARTMENT OF COMMERCE

Bureau of the Census

RETAILERS' INVENTORIES, SALES, NUMBER OF ESTABLISHMENTS, MERCHANDISE LINES

Notice of Consideration To Continue Survey

Notice is hereby given that the Bureau of the Census is considering a proposal to repeat in 1967 the Annual Retail Trade Survey which has been conducted each year under Title 13 U.S.C. 181, 224, and 225 to collect data covering yearend inventories, annual sales, and number of retail stores operated as of the end of the year. This survey, covering 1966, which provides important information on retail inventories and sales-inventory ratios, is the only continuing source available on a comparable classification basis and on a sufficiently timely basis for use as the benchmark for monthly inventory estimates. It also assists in establishing a benchmark for the geographic area distribution of sales. This year the survey will also include merchandise lines data by kind of business.

On the basis of information and recommendations received by the Bureau of the Census, the data will have significant application to the needs of the public, the distributive trades, and governmental agencies, and are not publicly available from nongovernmental or other governmental sources.

Such a survey, if conducted, shall begin not earlier than 30 days after the publication of this notice in the FEDERAL REGISTER.

Reports will be required only from a selected sample of retail establishments in the United States. The sample will provide, with measurable reliability, statistics on the subjects specified above. Reports will be requested from sampled stores on the basis of their sales size and/or location in Census Sample Areas. A group of the largest firms, in terms of number of retail stores, will be requested to report their sales and number of stores by county; but those firms which are participating monthly in the Bureau's geographic area survey will be asked to report at the national level only.

Copies of the proposed forms and a description of the collection methods are available on request to the Director, Bureau of the Census, Washington, D.C. 20233.

Any suggestions or recommendations concerning the subject matter of the proposed survey should be submitted in writing to the Director of the Bureau of the Census within 30 days after the date of this publication and will receive consideration.

Dated: October 24, 1966.

A. ROSS ECKLER,
Director, Bureau of the Census.

[F.R. Doc. 66-12004; Filed, Nov. 3, 1966; 8:45 a.m.]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

ASSISTANT REGIONAL ADMINISTRATOR FOR PROGRAM COORDINATION AND SERVICES, REGION V (FORT WORTH)

Redelegation of Authority With Respect to Urban Planning Assistance Program

NOVEMBER 1, 1966.

The Assistant Regional Administrator for Program Coordination and Services, Region V (Fort Worth), Department of Housing and Urban Development, is hereby authorized within his jurisdiction as modified at 30 F.R. 14176, November 10, 1965, and at 31 F.R. 9471, July 12, 1966, to exercise the authority redelegated to the Regional Administrator and the Deputy Regional Administrator by the Assistant Secretary for Metropolitan Development (31 F.R. 7359, May 20, 1966) with respect to the Urban Planning Assistance Program authorized under section 701 of the Housing Act of 1954, as amended (40 U.S.C. 461), except those authorities which under section C of such redelegation may not be redelegated.

So much of the redelegation of authority (30 F.R. 14580, Nov. 23, 1965) to the Regional Director of Urban Renewal, Region V (Fort Worth), as related to the Urban Planning Program authorized under section 701 of the Housing Act of 1954, as amended (40 U.S.C. 461), is hereby superseded.

(Assistant Secretary's redelegation effective May 18, 1966, 31 F.R. 7359, May 20, 1966)

Effective date. This redelegation of authority shall be effective as of October 10, 1966.

W. W. COLLINS,
Regional Administrator,
Region V (Fort Worth).

[F.R. Doc. 66-12029; Filed, Nov. 3, 1966; 8:47 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 16236; Order E-24341]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Specific Commodity Rates

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 31st day of October 1966.

Agreement adopted by Traffic Conference 1 of the International Air Transport Association relating to specific commodity rates; Docket 16236, Agreement CAB 19054, R-3 and R-4.

An agreement has been filed with the Board, pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's economic regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of Traffic Conference 1 of the International Air Transport Association (IATA), and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

The agreement, adopted pursuant to unprotested notices to the carriers and promulgated in an IATA letter dated October 19, 1966,[1] names rates under existing commodity descriptions as set forth in the attachment hereto.[2] The new rates reflect reductions of 37.3 and 59.7 percent, respectively, and are consistent with the present level of specific commodity rates within the applicable area.

The Board, acting pursuant to sections 102, 204(a), and 412 of the Act, does not find the subject agreement to be adverse to the public interest or in violation of the Act, provided that approval thereof is conditioned as hereinafter ordered.

Accordingly, it is ordered, That Agreement CAB 19054, R-3 and R-4, be approved, provided that approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publication.

Any air carrier party to the agreement, or any interested person, may, within 15 days from the date of service of this order, submit statements in writing containing reasons deemed appropriate, together with supporting data, in support of or in opposition to the Board's action herein. An original and 19 copies of the statements should be filed with the Board's Docket Section. The Board may, upon consideration of any such statements filed, modify or rescind its action herein by subsequent order.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 66-12030; Filed, Nov. 3, 1966; 8:47 a.m.]

[Docket No. 17881]

EL AL ISRAEL AIRLINES, LTD.

Notice of Prehearing Conference

Notice is hereby given that a prehearing conference on the above-entitled application is assigned to be held on November 9, 1966, at 10 a.m., e.s.t., in Room 701, Universal Building, 1825 Connecticut

[1] Received in the Board Oct. 24, 1966.
[2] Attachment filed as part of original document.

Avenue NW., Washington, D.C., before Examiner Leslie G. Donahue.

Dated at Washington, D.C., October 31, 1966.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 66-12031; Filed, Nov. 3, 1966; 8:47 a.m.]

[Docket No. 16909]

MONTREAL-TAMPA/MIAMI CASE

Notice of Postponement of Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in the above-entitled case now assigned to be heard on November 10, 1966, is postponed to November 30, 1966, 10 a.m., e.s.t., Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before the Board.

Dated at Washington, D.C., October 31, 1966.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 66-12032; Filed, Nov. 3, 1966; 8:47 a.m.]

FEDERAL MARITIME COMMISSION

[H.R. 10327]

OPERATORS OF PASSENGER VESSELS EMBARKING PASSENGERS AT U.S. PORTS

Notice of Request for Information

The Federal Maritime Commission is to be charged with the administration of sections 2 and 3 of H.R. 10327, a bill to require operators of passenger vessels embarking passengers at U.S. ports to file evidence of financial security and other information. The Commission, in an attempt to obtain information needed to draft rules to implement this legislation, has sent the following letter to the persons and firms listed below who are believed to own passenger vessels subject to the bill.

GENTLEMEN: For some time there has been pending in the U.S. Congress legislation requiring operators of passenger vessels embarking passengers at U.S. ports to file evidence of financial security and other information. This bill (H.R. 10327) has now passed both houses of Congress and is awaiting the signature of the President to enact the bill into law. Enclosed is a copy of the text of this bill as passed by Congress.

Sections 2 and 3 of the legislation will be administered by the Federal Maritime Commission. Section 2 will require each owner or charterer of a vessel having berth or stateroom accommodations for 50 or more passengers and embarking passengers at U.S. ports, to satisfy the Federal Maritime Commission as to its financial responsibility for liability it may incur for death or injury to any person. The bill provides the following methods for establishing the required financial responsibility: (1) policies of insurance, (2) surety bonds, (3) qualifications as a self-insurer, or (4) other evidence of financial responsibility.

The total amount of financial responsibility for your company would be based on the vessel accommodating the largest number of passengers and would be computed on a sliding scale basis as follows:

$20,000 for each passenger accommodition up to and including 500; plus

$15,000 for each additional passenger accommodation between 501 and 1,000; plus

$10,000 for each additional passenger accommodation between 1,001 and 1,500; plus

$5,000 for each passenger accommodation in excess of 1,500.

Section 3 of the bill would require any person arranging, offering, advertising, or providing passage on vessels having berth or stateroom accommodations for 50 or more passengers and embarking passengers at a U.S. port to establish to the satisfaction of the Federal Maritime Commission that sufficient funds are available, by bond or otherwise, to indemnify passengers for nonperformance of the transportation offered. The bond or other security used to satisfy this section must equal the estimated total revenue of the particular transportation.

In order that this Commission may draft appropriate rules and regulations necessary to carry out the provisions of this bill, we are interested in obtaining from you the following information:

1. Whether you plan to operate passenger vessels covered by the new legislation during 1967;

2. If so, the number of vessels you plan to operate; the names of the vessels; the number of passengers which each of these vessels accommodate; the itinerary of the vessel;

3. Tentatively, how you plan to comply with the financial responsibility provisions of the Act (sections 2 and 3 thereof);

4. The name of the person or firm in the United States authorized to act as owner's agent with respect to qualifying under the new legislation;

5. Whether the vessel will be operated by the owner or on a charter basis;

6. A sample of the tickets or other contract of passage offered; and

7. Any other information or comments you wish to make concerning this matter.

There is a limited amount of time available before the effective date of this legislation. Therefore, we would appreciate your cooperation in returning the requested information to us without delay.

A notice of the proposed rules will be published in the FEDERAL REGISTER at a later date, and all interested parties will be given the opportunity to comment thereon and to participate in the rulemaking proceeding.

If you do not intend to operate passenger vessels subject to the above-mentioned Act, your response to that effect will also be appreciated.

A copy of this letter has been mailed to all persons and firms known by this Bureau to own vessels embarking passengers at U.S. ports. In addition, the contents of this letter will be published in the FEDERAL REGISTER as a means of soliciting responses from other interested parties.

Very truly yours,
(Signed) JAMES E. MAZURE,
Director,
Bureau of Domestic Regulation.

Enclosure: The reporting and/or recordkeeping requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942. Approval No. 118-66002

ADDRESSES

Alaska Cruise Lines, Ltd.
American Export Isbrandtsen Lines, Inc.
American President Lines, Ltd.
Ariadne Shipping Co., Ltd.
Bergenske Dampskibsselskab, Det
Blue Steamship Co.
Calypso Lines, Ltd.
Canadian Pacific Railway Co.
Companhia Colonial de Navegacao
Compagnie General Transatlantique
Compania Transatlantica Espanola, S.A.
Cunard Steam-Ship Co., Ltd.
Delta S.S. Lines, Inc.
Einar Hansen Rederi A/B Clipper
Evangeline Steamship Co.
Furness, Withy & Co., Ltd.
Grace Line, Inc.
Holland America Line
Home Lines, Inc.
"Italia" Societa Pep Azioni Di Navigazione
Jugoslavenska Linijska Plovidba (Yugoslav Line)
Matson Navigation Co.
Moore-McCormack Lines, Inc.
New Zealand Shipping Co., Ltd.
Nihon Ijusen K.K.
Norddeutsche Immobilien & Verwaltungs G.M.B.H.
Norddeutscher Lloyd
Norske Amerikalinje A/S, Den
Oceanic Steamship Co., Inc.
Okeania, S.A.
Otaru Municipal Office
P. & O. Steam Navigation Co.
Panama Canal Co.
Polish Ocean Lines
Royal Mail Lines, Ltd.
Shaw Savill & Albion Co., Ltd.
"Sitmar" Societa Italiana Transporti Marittimi
A/B Svenska Amerika Linien Wijk, Erik
Themistocles Navegacion, S.A.
Transatlantic Shipping Corp.
United States Lines Co.
Victoria Steamship Co., Ltd.
William Shipping Co., Inc.
Yarmouth Steamship Co., Inc.
Ybarra & Cia., S.A.
Zim Israel Navigation Co., Ltd.
Arcadia Steamship Co.
Government of Canada
Europa—Canada Line G.M.B.H.
Koninklijke Rotterdamsche Lloyd N.V.
John S. Latsis
Nili-Somerfin Car Ferries, Ltd.
Sigship, S/S
Transoceanic Navigation Corp.

This notice is published as an additional request for comments from all interested parties. Comments should be submitted to the Director, Bureau of Domestic Regulation, Federal Maritime Commission, Washington, D.C. 20573.

Dated: November 1, 1966.

THOMAS LISI,
Secretary.

[F.R. Doc. 66-12037; Filed, Nov. 3, 1966; 8:47 a.m.]

THAILAND/UNITED STATES ATLANTIC & GULF RUBBER POOL

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at

the office of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. Elkan Turk, Jr., Burlingham, Underwood, Barron, Wright & White, 25 Broadway, New York, N.Y. 10004.

Agreement 8061–11 modifies the basic agreement (8061) of the Thailand/United States Atlantic & Gulf Rubber Pool so that the member lines may, at their discretion, disband their jointly established Haadyai Office and delegate its management and control functions to an independent person, firm, company, or corporation, which will be subject to supervision and control by the Supervisory Committee at Singapore.

Dated: November 1, 1966.

By the Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 66–12038; Filed, Nov. 3, 1966; 8:47 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 70–4425]

PENNZOIL CO.

Notice of Filing Regarding Issuance and Sale of Notes by Holding Company and Application for Exemption From Competitive Bidding

OCTOBER 31, 1966.

Notice is hereby given that Pennzoil Co. ("Pennzoil"), a registered holding company, 900 Southwest Tower, Houston, Tex. 77002, has filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") and has designated sections 6 and 7 of the Act and Rule 50 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to said application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Pennzoil has outstanding $214,975,000 principal amount of promissory notes due December 31, 1966 ("Old Notes"), and now held by 26 banks ("Banks") in respective amounts set forth in Holding Company Act Release No. 15493 (June 2, 1966). The Old Notes originally were issued by Pennzoil to these Banks on December 20, 1965, immediately prior to Pennzoil's registration as a holding company under the Act; and, pursuant to Commission authorization, their maturity was subsequently extended to December 31, 1966. (See Holding Company Act Release No. 15514 (June 23, 1966).)

In order to refund the Old Notes, Pennzoil proposes to issue and sell to the public up to $215 million aggregate amount of its —— percent notes ("Interim Notes"), each of which will mature June 30, 1968, or, at the option of the holder thereof, December 31, 1967. All Interim Notes will be publicly offered through underwriters, partly on a firm basis and the balance on a best efforts basis. The amounts to be thus underwritten will be determined by negotiation.

An amount equal in aggregate principal amount of Interim Notes sold will be applied, pro rata, to the prepayment of the Old Notes. Accrued interest on the Old Notes will be paid with funds from other sources.

To retire the balance of unpaid principal amount of the Old Notes, Pennzoil, pursuant to an agreement with the Banks ("New Agreement"), will issue to the Banks promissory notes ("New Notes") of equal aggregate principal amount. Each of such New Notes (a) will be made payable to the order of the Bank to which it is issued, (b) will be payable on or before July 31, 1968, and (c) will bear interest, payable quarterly, at a rate per annum (computed on a daily basis of a year of 365 days) which shall be the greater of (i) the annual rate of interest payable on the Interim Notes or (ii) one-fourth of 1 percent above the prime commercial loan rate at the Mellon National Bank & Trust Co. for unsecured loans prevailing from time to time while such New Note is outstanding.

The exchange of the Old Notes for the New Notes will be made on a date ("Closing Date") specified by prior notice, which date shall be the same as the date of closing of the sale of the Interim Notes. If Pennzoil fails to specify a Closing Date prior to December 25, 1966, the New Agreement will terminate.

Pursuant to the New Agreement Pennzoil proposes to issue from time to time after the Closing Date to and including June 30, 1968, additional New Notes in aggregate principal amount of all Interim Notes which may from time to time be retired. The aggregate principal amount of Pennzoil's obligations on Old and New Notes to the Banks and on Interim Notes will not exceed $215 million at any one time outstanding.

Each borrowing, for which additional New Notes are to be issued, will be made from the Banks pro rata according to the respective amounts of the Old Notes presently held by the Banks. Pennzoil will pay a commitment fee on the daily average unused amount of the commitment of each of the Banks, computed at a rate of one-fourth of 1 percent per annum until December 31, 1967, and at a rate of one-half of 1 percent per annum thereafter.

The New Notes will be subject to pro rata prepayment at the option of Pennzoil, in whole or in part, in the principal amount of $1 million or an integral multiple thereof. Each such prepayment may be made without premium or penalty, except that, if any such prepayment is made directly or indirectly from the proceeds or in contemplation of bank borrowings other than from the Banks, Pennzoil is to pay a premium on that portion of the principal amount prepaid at the rate of one-fourth of 1 percent per annum from the date of prepayment to the maturity date of the amount prepaid.

Pennzoil requests an exemption from the competitive bidding requirements of Rule 50 for the issuance and sale of its Interim Notes. It is stated that the Interim Notes, with a maturity date of eighteen months, are not the type of security appropriate to competitive bidding, especially in view of the size of the proposed issue under present conditions in the money market. It is further stated that, unless a significant amount of Interim Notes, sufficient to permit a substantial prepayment of the Old Notes, can be underwritten at a reasonable cost, the proposed transaction would not be justified; that the amount of Interim Notes which may be firmly underwritten without excessive cost cannot be determined except by negotiation; and that, since only a part of the issue of Interim Notes will be firmly underwritten, it might not be feasible to evaluate competitive bids if they should differ as to amounts to be thus underwritten.

It is stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions. Information respecting the fees and expenses to be incurred in connection with the proposed transactions is to be submitted by amendment.

Notice is further given that any interested person may, not later than November 14, 1966, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed contemporaneously with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 66–12021; Filed, Nov. 3, 1966; 8:46 a.m.]

FEDERAL TRADE COMMISSION

CIGARETTES AND RELATED MATTERS

Methods To Be Employed in Determining Tar and Nicotine Content; Notice of Public Hearing

Notice is hereby given that the Federal Trade Commission will hold a public hearing before the full Commission on November 30, 1966, commencing at 10 a.m., e.s.t., in Room 532, Federal Trade Commission Building, Sixth Street and Pennsylvania Avenue NW., Washington, D.C., at which time and place all interested and affected parties may verbally present data, views, arguments and suggestions relevant to the manner of testing cigarettes to determine their tar and nicotine content and the reporting of the results of such tests. Written data, views, arguments and suggestions will also be made a part of the public record and considered if mailed to Mr. Joseph W. Shea, Secretary, Federal Trade Commission, Sixth Street and Pennsylvania Avenue NW., Washington, D.C. 20580, on or before November 30, 1966. Persons submitting written presentations exceeding two pages should file 12 copies thereof, and any person desiring to make oral presentation at the hearing on November 30, 1966, should notify the Secretary of the Commission to this effect, with an estimate of the time required for his presentation, not later than November 21, 1966.

The purpose of this hearing is to establish a public record to assist the Commission in determining what action, if any, should be taken in the public interest with respect to modifying or amplifying the Cambridge Filter Method, as described in an article entitled "Determination of Particulate Matter and Alkaloids (as Nicotine) in Cigarette Smoke," by C. L. Ogg, which appeared in the Journal of the Association of Official Agricultural Chemists, Vol. 47, No. 2, 1964, to determine tar and nicotine yields of cigarette smoke, and the form in which test results should be expressed in the public interest. This method was specified by the Commission on March 25, 1966, as that to be used to support any factual statements of tar and nicotine content of the mainstream smoke of cigarettes. The public record to be established will assist the Commission in reaching informed determinations with respect to the manner in which its laboratory will be operated, and related questions.

The Commission solicits information and suggestions on the following questions:

1. Whether the butt-length to which test cigarettes are smoked should be 23 mm for nonfilter cigarettes, and the length of the filter and overwrap plus 3 mm for filter cigarettes if such combined length is more than 23 mm;

2. Whether the total particulate matter should be reported on a "wet" or "dry" basis, and if the latter whether the gas chromatography method published by C. H. Sloan and B. J. Sublett, "Moisture Content of the Particulate Phase of Smoke from Filter and Nonfilter Cigarettes," in Tobacco Science 9, page 70, 1965, as modified by F. J. Schultz and A. W. Spears report "Determination of Moisture in Total Particulate Matter" published in Tobacco Vol. 162, No. 24, page 32, dated 17 June 1966, should be employed to determine the moisture content;

3. Whether test results should be reported in terms of whole numbers or whole numbers and fractions of milligrams, or a range, or a figure accompanied by the standard deviation with an explanation; and

4. The number of cigarettes to be smoked necessary to produce reliable results, and the size and geographic distribution of the sample from which such test cigarettes are selected.

Interested persons are invited to submit any information pertinent to these questions or other aspects of the subject.

The data, views, or arguments presented orally or in writing will be available for examination by interested parties at the Federal Trade Commission, Washington, D.C.

Issued: November 3, 1966.

By the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 66-12024; Filed, Nov. 3, 1966; 8:46 a.m.]

TARIFF COMMISSION

STAINLESS-STEEL TABLE FLATWARE

Report to the President

NOVEMBER 1, 1966.

The Tariff Commission observed in a report sent to the President today that the U.S. demand for stainless-steel table flatware continued to increase in 1965 and 1966 and that domestic producers increased their sales, expanded their capacity, and improved their productivity. Imports increased in 1966 primarily as a result of enlargement of the tariff quota and reduction of the duties on over-quota imports, effective November 1, 1965. Imports supplied 24 percent of U.S. consumption in 1963, 22 percent in 1964, and 25 percent in 1965. U.S. consumption rose from 29 million dozen pieces in 1963 to 36 million dozen pieces in 1965.

The Commission's report was submitted to the President in accordance with section 351(d)(1) of the Trade Expansion Act of 1962, which provides that—

> So long as any increase in, or imposition of, any duty or other import restriction pursuant to this section or pursuant to section 7 of the Trade Agreements Extension Act of 1951 remains in effect, the Tariff Commission shall keep under review developments with respect to the industry concerned, and shall make annual reports to the President concerning such developments.

Under the escape-clause procedure of the Trade Agreements Extension Act of 1951, the President established a tariff quota and increased the rates of duty applicable to certain stainless-table flatware in excess of the quota, effective November 1, 1959. The tariff quota was enlarged and the rates of duty on imports over the quota were decreased by a Presidential proclamation dated January 7, 1966, but retroactive to November 1, 1965.

Copies of the Commission's report are available upon request as long as the limited supply lasts. Requests should be addressed to the Secretary, U.S. Tariff Commission, Eighth and E Streets NW., Washington, D.C. 20436.

[SEAL] DONN N. BENT, *Secretary.*

[F.R. Doc. 66-12026; Filed, Nov. 3, 1966; 8:46 a.m.]

ATOMIC ENERGY COMMISSION

STATE OF WASHINGTON

Proposed Agreement for Assumption of Certain AEC Regulatory Authority

Notice is hereby given that the U.S. Atomic Energy Commission is publishing for public comment, prior to action thereon, a proposed agreement received from the Governor of the State of Washington for the assumption of certain of the Commission's regulatory authority pursuant to section 274 of the Atomic Energy Act of 1954, as amended.

A résumé, prepared by the State of Washington and summarizing the State's proposed program, was also submitted to the Commission. With the exception of referenced Charts 1–3 and advisory committee memberships, this résumé is set forth below as an appendix to this notice. A copy of the program, including proposed Washington regulations, is available for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., or may be obtained by writing to the Director, Division of State and Licensee Relations, U.S. Atomic Energy Commission, Washington, D.C. 20545. All interested persons desiring to submit comments and suggestions for the consideration of the Commission in connection with the proposed agreement should send them, in triplicate, to the Secretary, U.S. Atomic Energy Commission, Washington, D.C. 20545, within 30 days after initial publication in the FEDERAL REGISTER.

Exemptions from the Commission's regulatory authority which would implement this proposed agreement, as well as other agreements which may be entered into under section 274 of the Atomic Energy Act, as amended, were published as Part 150 of the Commission's regulations in FEDERAL REGISTER issuances of February 14, 1962, 27 F.R. 1351; September 22, 1965, 30 F.R. 12069; and March 19, 1966, 31 F.R. 4668. In reviewing this proposed agreement, interested persons

should also consider the aforementioned exemptions.

Dated at Washington, D.C., this 12th day of October 1966.

For the Atomic Energy Commission.

W. B. McCool,
Secretary.

PROPOSED AGREEMENT BETWEEN THE U.S. ATOMIC ENERGY COMMISSION AND THE STATE OF WASHINGTON FOR DISCONTINUANCE OF CERTAIN COMMISSION REGULATORY AUTHORITY AND RESPONSIBILITY WITHIN THE STATE PURSUANT TO SECTION 274 OF THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

Whereas, the U.S. Atomic Energy Commission (hereinafter referred to as the Commission) is authorized under section 274 of the Atomic Energy Act of 1954, as amended (hereinafter referred to as the Act) to enter into agreements with the Governor of any State providing for discontinuance of the regulatory authority of the Commission within the State under Chapters 6, 7, and 8 and section 161 of the Act with respect to byproduct materials, source materials, and special nuclear materials in quantities not sufficient to form a critical mass; and

Whereas, the Governor of the State of Washington is authorized under Revised Code of Washington 70.98.110 to enter into this Agreement with the Commission; and

Whereas, the Governor of the State of Washington certified on October 3, 1966, that the State of Washington (hereinafter referred to as the State) has a program for the control of radiation hazards adequate to protect the public health and safety with respect to the materials within the State covered by this Agreement, and that the State desires to assume regulatory responsibility for such materials; and

Whereas, the Commission found on ------ ------ that the program of the State for the regulation of the materials covered by this Agreement is compatible with the Commission's program for the regulation of such materials and is adequate to protect the public health and safety; and

Whereas, the State and the Commission recognize the desirability and importance of cooperation between the Commission and the State in the formulation of standards for protection against hazards of radiation and in assuring that State and Commission programs for protection against hazards of radiation will be coordinated and compatible; and

Whereas, the Commission and the State recognize the desirability of reciprocal recognition of licenses and exemption from licensing of those materials subject to this Agreement; and

Whereas, this agreement is entered into pursuant to the provisions of the Atomic Energy Act of 1954, as amended;

Now, therefore, it is hereby agreed between the Commission and the Governor of the State, acting in behalf of the State, as follows:

ARTICLE I. Subject to the exceptions provided in Articles II, III, and IV, the Commission shall discontinue, as of the effective date of this Agreement, the regulatory authority of the Commission in the State under Chapters 6, 7, and 8, and section 161 of the Act with respect to the following materials:

A. Byproduct materials;

B. Source materials; and

C. Special nuclear materials in quantities not sufficient to form a critical mass.

ART. II. This Agreement does not provide for discontinuance of any authority and the Commission shall retain authority and responsibility with respect to regulation of:

A. The construction and operation of any production or utilization facility;

B. The export from or import into the United States of byproduct, source, or special nuclear material, or of any production or utilization facility;

C. The disposal into the ocean or sea of byproduct, source, or special nuclear waste materials as defined in regulations or orders of the Commission;

D. The disposal of such other byproduct, source, or special nuclear material as the Commission from time to time determines by regulation or order should, because of the hazards or potential hazards thereof, not be so disposed of without a license from the Commission.

ART. III. Notwithstanding this Agreement, the Commission may from time to time by rule, regulation, or order, require that the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing source, byproduct, or special nuclear material shall not transfer possession or control of such product except pursuant to a license or an exemption from licensing issued by the Commission.

ART. IV. This Agreement shall not affect the authority of the Commission under subsection 161 b. or i. of the Act to issue rules, regulations, or orders to protect the common defense and security, to protect restricted data or to guard against the loss or diversion of special nuclear material.

ART. V. The Commission will use its best efforts to cooperate with the State and other agreement States in the formulation of standards and regulatory programs of the State and the Commission for protection against hazards of radiation and to assure that State and Commission programs for protection against hazards of radiation will be coordinated and compatible. The State will use its best efforts to cooperate with the Commission and other agreement States in the formulation of standards and regulatory programs of the State and the Commission for protection against hazards of radiation and to assure that the State's program will continue to be compatible with the program of the Commission for the regulation of like materials. The State and the Commission will use their best efforts to keep each other informed of proposed changes in their respective rules and regulations and licensing, inspection and enforcement policies and criteria, and to obtain the comments and assistance of the other party thereon.

ART. VI. The Commission and the State agree that it is desirable to provide for reciprocal recognition of licenses for the materials listed in Article I licensed by the other party or by any agreement State. Accordingly, the Commission and the State agree to use their best efforts to develop appropriate rules, regulations, and procedures by which such reciprocity will be accorded.

ART. VII. The Commission, upon its own initiative after reasonable notice and opportunity for hearing to the State, or upon request of the Governor of the State, may terminate or suspend this agreement and reassert the licensing and regulatory authority vested in it under the Act if the Commission finds that such termination or suspension is required to protect the public health and safety.

ART. VIII. This agreement shall become effective on December 31, 1966, and shall remain in effect unless, and until such time as it is terminated pursuant to Article VII.

Done at ----------, in triplicate, this ------ day of ----------.

For the United States Atomic Energy Commission.

------ ------.

For the State of Washington.

DANIEL J. EVANS,
Governor.

FOREWORD

This document presents the current and proposed programs for managing the use of ionizing radiation in this State in a manner consistent with the paramount need in such use for the protection of the public and occupational health and safety. It includes supporting information on authority, regulation, organization, and resources available.

Washington, an early pioneer in the nuclear age, has worked closely with the Atomic Energy Commission and its contractors in assuring adequate protection through the long period of major nuclear activity in the State. As Washington progresses in the nuclear age, and invites beneficial nuclear development, it is fully aware of the responsibility to assure continuing protection in the use of both new and existing sources of ionizing radiation.

The Governor, on behalf of the State of Washington, is authorized to enter into agreements with the Federal Government providing for discontinuance of certain of the Federal Government's responsibilities with respect to sources of ionizing radiation and the assumption thereof by the State. This authority is found in the Revised Code of Washington (RCW) 70.98.110 relating to development, regulation, and utilization of sources of ionizing radiation.

The Atomic Energy Commission is authorized to enter into an agreement with the Governor of a State whereby the Commission may transfer to the State certain licensing and regulatory control of byproduct material, source material, and special nuclear material in quantities not sufficient to form a critical mass—this authority is found in section 274b of the Atomic Energy Act of 1954, as amended.

BACKGROUND

PERTINENT EVENTS AND LEGISLATIVE HISTORY

1949—The Columbia River Advisory Group (CRAG) was organized at the request of the Atomic Energy Commission Operations Office in 1949 to advise on matters of reactor waste disposal and water used in the Columbia River. Its members were from Oregon (State Sanitary Authority), Washington (Department of Health and Pollution Control Commission), and the U.S. Public Health Service (Portland Office of the Water Supply and Pollution Control).

1956—An Interim Advisory Committee on Radiation Protection and Control was formed to advise the Department of Health on initiating activity in the control of hazards from ionizing radiation.

A program was formed to undertake activity in air pollution and radiation control in the "then" Division of Engineering and Sanitation.

1957—Chapter 43.39 RCW was passed by the legislature, calling for review by named State departments, including Health, of legislative and regulatory needs, establishing the position of Coordinator of Atomic Development Activities, and creating an Advisory Council on Atomic Energy.

The Air Sanitation and Radiation Control Section was formally created in the Division of Engineering and Sanitation of the Department of Health. Staff recruitment and training were initiated.

1961—Chapter 70.98 RCW was enacted. It repealed Chapter 43.39 RCW and established the Department of Health as the radiation control agency with authority to register sources of ionizing radiation and to regulate their use. It created the Technical Advisory Board on Radiation Control, established the Department of Commerce and Economic Development as the agency for promotion and development of nuclear energy, and created the Advisory Council on Nuclear Energy and Radiation. It au-

thorized the Governor to enter into agreements with the Federal Government for transfer of authority. It provided for administrative and legal proceedings, outlawed shoe fluoroscopes, and provided for exemptions.

1964—Rules and Regulations of the State Radiation Control Agency pertaining to the registration of reportable radiation sources were adopted. These required, in addition to registration, the reporting of changes including loss of control by theft, loss, or accident. Exemptions from registration and reporting were provided.

1965—Chapter 70.98 RCW was amended. The Department of Health was named as the sole agency responsible for administrating the regulatory provisions for the protection of the public and occupational health and safety, and provided for licensing of byproduct, source, special nuclear materials and devices utilizing such materials, or other naturally-occurring or artificially-produced radioactive materials.

Chapter 43.31 RCW was amended establishing the office of Nuclear Energy Development in the Department of Commerce and Economic Development. It authorized the Department to acquire, develop, operate, lease, sublease, or sell land and facilities for nuclear development purposes and provided for perpetual maintenance and/or surveillance for radioactive material waste-management purposes.

1966—Regulations for licensing, registration, and standards for protection pertaining to the use of ionizing radiation were adopted.

From the time of the establishment of the Advisory Council on Atomic Energy, the Council and its successor, the Advisory Council on Nuclear Energy and Radiation, have provided continuous leadership in developing and improving legislation which would enable Washington to become an agreement-state and to undertake the development of its nuclear potential. The Departments of Health and of Commerce and Economic Development have worked closely with the Councils in this endeavor.

The Department of Health was an active participant in the Columbia River Advisory Group. Through this mechanism, while no formal State programs had been established, it was able to continuously review appropriate information on Hanford waste disposal practices and to advise the Atomic Energy Commission and its contractors concerning discharges to the Columbia River and significant water uses.

PREVIOUS AND CURRENT ACTIVITIES

The initiation of Departmental programs directed at the problems associated with ionizing radiation resulted in a series of activities the most significant of which are described below.

Tuberculosis chest X-ray program. Beginning in 1957, more emphasis in this long-standing program was placed on radiation protection. The continuous effort to upgrade X-ray picture quality through improved technique resulted in reducing unnecessary exposure—in participating public agency, private physician, and hospital installations. X-ray installation and operations inspections and consultation were performed by an engineer who is now a senior member of the section radiation control staff.

Environmental surveillance. The Department has participated continuously since 1956 in the U.S. Public Health Service Radiation Surveillance Network for air and precipitation sampling and coordinated local health department's participation. All of the technical staff of the section have participated in this program. Arrangements were made for regular collection of milk by local health departments in the milksheds for Seattle since 1960 and Spokane since 1958 for the National Pasteurized Milk Network.

A raw milk network was established in 1962 to provide for early detection in producing areas of elevated levels of radioactivity from fallout. It continues to operate on a flexible schedule to meet the need.

A substantial program of monitoring of surface and ground water, shellfish, and water biota was initiated in 1961. Equipment resources and part of other costs were largely supported through a contract with the U.S. Public Health Service. The total State network program includes (as of July 1, 1966), 61 active stations of which 39 are for surface water, 10 for shellfish, 9 for raw milk, 2 for air precipitation, and 1 for salt water and sediment. Ground water is sampled at random locations. Sample collection is largely dependent upon cooperators from local health and water departments and the State Pollution Control Commission. Exclusive of air and precipitation, a total of 1,167 samples were collected and analyzed during the 24 months ending June 30, 1966. Four annual reports have been prepared covering this work. Since 1958 the environmental surveillance program has been under the supervision of the staff member now serving as assistant section head and technical director and is operated by a Sanitary Engineer II.

X-ray survey. In 1958, a study was conducted in 352 dental offices using film badges for operator personnel and site exposure determinations. After a period of 1 month, the badges were collected, developed and evaluated. Thirty-eight offices with the highest personnel film badge readings were revisited for the purpose of recommending measures to reduce exposure levels. Filters and/or collimators were added as needed and protective measures for operators were recommended. All others surveyed were notified of the results by letter. This survey was conducted through joint arrangement with the Washington State Dental Association and the U.S. Public Health Service.

In 1962, Sur-Pak kits were sent to all dentists in Washington listed with the Department of Professional Licenses. A total of 1,344 Sur-Paks were returned and evaluated. The dentists were notified of the evaluation of their equipment. Where indicated, the filter and collimator, as required, were mailed to the dentist with instructions for installing them on his particular machine. Those requiring more difficult procedures were revisited by survey teams who made the modifications for the dentist.

In 1962, physical surveys were started on dental X-ray machines using U.S. Public Health Service X-ray protection survey procedures. A written report was left with the dentist and, when indicated, recommendations for compliance with the standards of the American Academy of Oral Roentgenology were included. Filters and collimators, as required, were installed.

In 1963, radiation protection demonstration surveys were started on other diagnostic X-ray installations in the healing arts. In 1966, medical X-ray therapy equipment surveys were started. The demonstration surveys are conducted in the manner of combined inspections and consultations, but without the basis of formal regulations.

Surveys were based on N.C.R.P. recommended physical standards, as published in National Bureau of Standards Handbook No. 76. A written report with recommendations was left with the user after each survey. Where filters were needed, they were furnished and installed by the survey team.

The following table indicates the number of surveys in each category that have been completed and an estimate of the degree of compliance, including corrections made as a result of the survey. Approximately 50 percent of all dental X-ray machines, 90 percent of the diagnostic equipment used by physicians, and 10 percent of the X-ray therapy equipment have been physically surveyed. Of all the remaining categories, about 95 percent have had an initial survey visit.

X-RAY SURVEYS TO JULY 1, 1966

Category	Number of facilities surveyed	Number of X-ray units surveyed	Estimated percent in compliance after survey
Physicians (M.D.)	799	1,064	70
Osteopaths	68	81	70
Chiropractors	147	150	95
Chiropodists	33	33	95
Veterinary	173	183	85
Hospitals	104	441	90
Industrial	10	33	100
Dentists	837	1,063	95
Naturopaths	9	10	70
Schools	8	12	100
Health Departments	33	36	95
Nursing Homes	2	2	100
State Institutions	12	31	90
Others	15	16	90
Totals	2,260	3,163	

Registration. Registration of all sources of ionizing radiation, with the exception of certain minor exempt sources, in accordance with Department regulations was started late in 1964. The initial registration phase has been completed. A simple return post card registration form was used to enhance a more rapid and complete response. Department of Licenses professional listings, Atomic Energy Commission licensee records, and professional and industrial society rosters were utilized to develop a mailing list. An informational program, directed through public and organizational channels, called attention to the registration requirement. Based upon registration data to July 1, 1966, the following table summarizes the radiation use picture in the State excluding uses under AEC licenses.

Category of user (Federal agencies not included)	Number of X-ray units	Number of locations with radium	Miscellaneous (other sources)
Human uses:			
Physicians (M.D.)	1,197	31	3
Other licensed Practitioners	396	1	----------
Industrial medicine	20	----------	----------
Health programs	88	----------	----------
Hospitals*	667	18	----------
Dentists	1,652	----------	----------
Industrial** (Non-medical)	48	8	4
Universities, Colleges and Schools	76	3	36
Veterinary	245	----------	----------
Totals	4,389	61	43

*Includes University of Washington Hospital.
**Includes commercial, Civil Defense, and miscellaneous.

Radioactive materials. With the exception of radium, essentially all radioactive material of significant quantity is under the jurisdiction of the Atomic Energy Commission. The Department section staff, starting in 1956, has regularly accompanied the AEC on licensee inspections. In the 2½-year period ending July 1, 1966, present staff members participated in 79 percent of all AEC inspections in the State. As of July 1, 1966, there were approximately 190 AEC licenses in effect in the State, including Federal installations.

ORGANIZATION AND RESPONSIBILITY

The State government organization for the purpose of development, utilization, and regulation of sources of ionizing radiation is illustrated in Chart 1.

The Advisory Council on Nuclear Energy and Radiation is appointed by the governor and advises and reports to him. It consists of seven appointed members providing representation from industry, labor, the healing arts, research, and education. In addition, the directors of the Departments of Health, Labor and Industries, Agriculture, and Commerce and Economic Development are ex-officio members. Its present membership is shown in the appendix. The Council's duties include:

1. Review and evaluation of State policies and programs.

2. Advice to the governor on matters pertaining to the development, utilization, and regulation of sources of ionizing radiation.

The Department of Health will regulate the use of all sources of ionizing radiation except those which it may exempt or are under the jurisdiction of the Federal Government. This function rests in the Air Quality and Radiation Control Section.

The Technical Advisory Board on Radiation Control is appointed by the Director of Health with the approval of the governor. It consists of nine appointed members including representatives of the healing arts, research, industrial, and other recognized users of ionizing radiation, or experts in the field of physiological effects of ionizing radiation. The Director of Health is ex-officio chairman. The head of the Air Quality and Radiation Control Section is radiation control officer and ex-officio secretary of the Board without vote. Its present membership is shown in the appendix. The Board's duties are to:

1. Furnish technical advice to the Department.

2. Advise with reference to matters of policy affecting administration of the Act.

3. Approve rules and regulations prior to adoption by the Department. In practice the Board participates in the development of proposed rules and regulations and in the public hearing.

The Department of Commerce and Economic Development is responsible for the promotion and development of nuclear energy through its office of Nuclear Energy Development. Its functions, powers, and duties are to:

1. Advise the governor and the legislature regarding nuclear progress and State policy for research, development, and education.

2. Sponsor, support, or conduct appropriate studies and issue reports on nuclear progress.

3. Develop information on sites for nuclear industry and acquire land and facilities for nuclear development use.

DEPARTMENT AND STAFF ORGANIZATION

The Air Quality and Radiation Control Section is one of three sections in the Division of Environmental Health—the other sections being Sanitary Engineering and Environmental Sanitation. The Division of Environmental Health is one of eight in the Department—the others being Health Services, Health Facilities, Nursing, Epidemiology, Laboratories, Local Health Services, and Staff Services.

Legal services are provided by assistants to the Attorney General assigned to the Office of the Director. Statistical services are provided by the Division of Staff Services.

The current organization and functions of the section are illustrated in the attached charts, 2A and 2B. The Section Head has overall administrative responsibility for Section programs. The Assistant Section Head is responsible routinely for the performance of the Air Quality Control Services and the Air-Rad Laboratory Services, and acts fully in the absence of the Section Head. He also provides technical assistance to the Radiation Control Services in instrumentation, special problems and emergencies.

The Radiation Control Services programs are supervised by the Radiation Control Specialist III who reports directly to the Section Head. He will specifically have responsibility for directing the licensing, inspection, and registration activities.

The Licensing and Compliance Unit will be staffed with a Nuclear Energy Licensing Supervisor and a Radiation Control Specialist II. The licensing supervisor position is vacant as of October 1, 1966, but it is expected to be filled before the effective date of the agreement. The Radiation Control Specialist III will initiate the organizational activity for this function and, if necessary, can carry the operating responsibility until the vacancy is filled. This unit will provide the routine review of applications for licenses, amendments, and renewals. Findings will be reported to the Radiation Control Specialist III who will recommend action to the Section Head as to issuance, modification, or denial. The Section Head will make the final determination with the cognizance of or in consultation with the Division Chief and the Director of Health.

The Licensing and Compliance Unit will also maintain the necessary records by which appropriate reviews can be made to determine compatability with programs of the AEC and other agreement States. It will review inspection reports in order to maintain knowledge on the status of licensee operations and provide information to the Radiation Control Specialist III in determining required corrective measures.

The Inspection and Registration unit is staffed with a Radiation Control Specialist II and a Radiation Control Specialist I. It will carry out the inspection functions for both licensed and registered radiation sources. Inspectors will handle minor items of noncompliance and review all findings including items of noncompliance with management at the time of inspection as outlined under Regulatory Procedures and Policy. It will prepare written reports of all inspections. This unit will also have responsibility for maintaining the registration records with statistical assistance from Staff Services.

The current staff and experience records are shown under STAFF.

REGULATORY PROCEDURES AND POLICY

LICENSING AND REGISTRATION

Licensing procedures and criteria will be consistent with those of the Atomic Energy Commission as provided in Part III of the State Radiation Control Regulations.

General licenses are effective by regulation without the filing of applications with the Department or the issuance of licensing documents. General licenses are issued for specified materials under specified conditions when it is determined that the issuance of specific licenses is not necessary to protect the public and occupational health and safety. Specific licenses or amendments thereto are issued upon review and approval of an application. A specific licensing document will be issued to named persons and will incorporate appropriate conditions and expiration date.

The Department, when it determines such to be appropriate, will request the advice of the Technical Advisory Board on Radiation Control, or appropriate members thereof, with respect to any matter pertaining to a license application, or to criteria for reviewing application.

A Review Committee on Medical Use of Radiation has been appointed by the Director of Health. All applications for nonroutine medical uses of radiation will be referred to the Review Committee for advice and consultation. Appropriate research protocol will be required as part of an application. The Review Committee is composed of persons having training and experience in nonroutine medical uses of radiation. It will at all times contain an appropriate representation of disciplines including, but not limited to, radiology, internal medicine, and pathology. The Department will maintain knowledge of current developments, techniques, and procedures for medical uses applicable to the licensing program through continuing contact and information exchange with the Atomic Energy Commission and other agreement States.

Specific licenses and amendments, or renewals thereto, will be issued for a period of time appropriate to the conditions of use and will be issued over the signature or in the name of the Director of Health.

Typical processing of applications for specific licenses or amendments is shown in Chart 3.

The registration program will be a continuation of the current activity except that it will be applicable only to sources of ionizing radiation other than radioactive material covered by licensing or sources which are exempt by regulation.

INSPECTION

Inspections for the purpose of evaluating radiation safety and determining compliance with appropirate regulations, and provisions of licenses will be conducted as needed.

Inspection frequency will be based upon the extent of the hazard-potential and experience with the particular facility. It is expected that all specific licensees will be inspected at least once each 2-year period. The following frequency is anticipated:

Use of classification	*Usual inspection frequency*
Industrial radiography:	
Fixed installations	Once each 12 months.
Mobile operations	Once each 6 months.
Operations involving waste disposal.	Once each 6 months.
Board licenses — industrial, medical, or academic.	Once each 6–12 months.
Other specific licenses — industrial, medical, or academic.	Once each 12–24 months.

Inspections will be made by prearrangement with the licensee or may be unannounced at reasonable times, as the Department, in its judgment, determines to be most constructive. Consultation visits will be made frequently in the early years of the licensing and compliance program in order to establish understanding and cooperation.

Inspections will include the observation of pertinent facilities and equipment; a review of use procedures and radiation safety practices; a review of records of radiation surveys, personnel exposure, and receipt and disposition of licensed materials; and, instrument surveys to assess radiation levels incident to the operation—all as appropriate to the scope and conditions of the license and applicable regulations.

At the start and conclusion of an inspection, personal contact will be at management level whenever possible. Following the inspections, results will be discussed with the licensee management, appropriate tentative recommendations will be made and questions answered.

Investigations will be made of all reported or alleged incidents to determine the con-

ditions and exposures incident thereto and to determine the steps taken for correction, cleanup, and the prevention of similar incidents in the future.

Radiological assistance in the form of monitoring, liaison with appropriate authorities, and recommendations for area security and cleanup will be available from the Department.

Reports will be prepared covering each inspection or investigation. The reports will be reviewed by a senior staff member and submitted to the section head for approval.

COMPLIANCE AND ENFORCEMENT

The status of compliance with regulations, registration, or license conditions will be determined through inspections and evaluations of inspection reports.

Where there are items of noncompliance, the licensee shall be so informed at the time of inspection. When the items are minor and the licensee agrees at the time of inspection to correct them, written notice at the completion of the inspection will list the items of noncompliance, confirm corrections made at the time, and inform the person that a review of other corrective action will be made at the next inspection.

Where items of noncompliance of a more serious nature occur, the licensee will be informed by letter of the items of noncompliance and required to reply within a stated time as to the corrective action taken and the date completed. Assurance of corrective action will be determined by a followup inspection or at the time of the next regular inspection.

The terms and conditions of a license upon request by the licensee may be amended, consistent with Act or regulations, to meet changing conditions in operations or to remedy technicalities of noncompliance of a minor nature. The Department may amend, suspend, or revoke a license in the event of continuing refusal of the licensee to comply with terms and conditions of the license, the Act, or regulations or failure to take adequate action concerning items of noncompliance. Prior to such action, the Department shall notify the licensee of its intent to amend, suspend, or revoke the license and provide the opportunity for a hearing.

The department will use its best efforts to attain compliance through cooperation and education. Only in instances of repeated noncompliance, willful violation, or where serious potential hazards exist, will the full legal procedures normally be employed.

Whenever the Department finds that an emergency exists requiring immediate action to protect the public health, safety, or general welfare, it may, in accordance with the Administrative Procedures Act, without notice of hearing, issue a regulation or order reciting the existence of such emergency and require that such action be taken as is necessary to meet the emergency. The Department, in the event of an emergency, is empowered to impound or order the impounding of sources of ionizing radiation upon finding that the possessor is unable to observe or is not observing the provisions of the Act or regulations issued thereunder.

A court order directing a person to comply, or enjoining practices in violation of the Act or regulations, may be sought by the attorney general in the appropriate court upon request of the Department after notice to such person and ample opportunity to comply.

EFFECTIVE DATE OF LICENSE TRANSFER

Any person who, on the effective date of the agreement with the Atomic Energy Commission, possesses a license issued by the Federal Government shall be deemed to possess a like license issued under this chapter which shall expire either 90 days after the receipt from the Department of a notice of expiration of such license or, on the date of expiration specified in the Federal license, whichever is earlier.

ADMINISTRATIVE PROCEDURES AND JUDICIAL REVIEW

The basic standards of procedure for administrative agencies in the State of Washington are set by the Administrative Procedures Act, Chapter 34.04 RCW. Briefly stated, this act provides for:

1. Due notice to interested persons and opportunity to present data or views either orally or in writing prior to the adoption, amendment, or repeal of any rule.

2. Adoption or amendment of rules in emergency situations without observance of the normal requirements of notice and hearing, upon a finding by the Department that immediate action is necessary for the preservation of the public health, safety, or general welfare.

3. Petition to the Department requesting the promulgation, amendment, or repeal of any rule.

4. Declaratory judgment on the validity of any rule upon petition to the Superior Court of Thurston County, or declaratory ruling by the Department upon petition of any interested person with respect to the applicability of any rule or statute enforceable by the Department.

5. Right to hearing after reasonable notice in a case in which legal rights, duties, or privileges of specific parties are required by law or constitutional right to be determined.

6. Judicial review in the appropriate superior court by any person aggrieved by a final decision of the Department, and appeal to the state supreme court for review of and final judgment of the superior court.

COMPATIBILITY AND RECIPROCITY

In promulgating rules and regulations, the Department has, insofar as practicable, avoided requiring dual licensing and has provided for such recognition of other state and federal licenses.

RADIOLOGICAL EMERGENCY CAPABILITY

Currently, the Department is equipped with suitable instrumentation for monitoring in the event of an incident, or presumed incident, involving spread of contamination, undue exposure, or loss of a radiation source. Such situations have occurred and the staff has provided assistance. By mutual agreement with the Seattle-King County Health Department and Seattle Police Department, the Department staff is on call to provide assistance in that jurisdiction. Qualified persons from the University of Washington and a major industry are likewise on call. Contact communications for that area are established. This basic type of plan with refinements is anticipated throughout the State under Department coordination. In the meantime, the staff will respond in the event of any incident in the State requiring radiological assistance.

Liaison is maintained with the Richland Operations office of the AEC and reciprocal assistance is available. Emergency instrumentation from Richland Operations is maintained in the Department office for its use and is regularly taken to Richland Operations for maintenance.

Emergency communications and transportation are available through State and local authorities including police and Civil Defense. By mutual understanding with the Department of Civil Defense, reciprocal assistance and information is available. The Department is prepared to provide or assist in public information.

The Department has authority, in emergency situations, to issue necessary orders and to impound or order the impounding of radiation sources.

STAFF

EMIL C. JENSEN

CHIEF, DIVISION OF ENVIRONMENTAL HEALTH

Education and Training:
- B.S. Civil Engineering, University of Washington, 1936.
- M.S. Engineering, Harvard, 1938.
- U.S.P.H.S. Basic Radiologic Health, 1953.

Experience and Related Activities:
- Washington State Department of Health:
  - District Engineer, 1941–44.
  - Head, Sanitary Engineering Section, 1945.
  - Chief, Division of Environmental Health, 1946 to date.
- Washington State representative on the Columbia River Advisory Group since its inception in 1949. This group was formed to advise the Hanford Operations Office on matters relating to the disposition of radioactivity from the production plants at Hanford.
- Participated with AEC in inspections of authorized uses of radioactive materials in early and mid-1950's.
- Other:
  - President, Water Pollution Control Federation, 1957.
  - Chairman, Conference of State Sanitary Engineers, 1962.
  - Diplomate, American Academy of Environmental Engineers.
  - Licensed Professional Engineer, Washington.

ROBERT L. STOCKMAN

HEAD, AIR QUALITY AND RADIATION CONTROL SECTION; SECRETARY, TECHNICAL ADVISORY BOARD ON RADIATION CONTROL; EXECUTIVE SECRETARY, STATE AIR POLLUTION CONTROL BOARD

Education and Training:
- B.S. Civil Engineering, Sanitary option, Oregon State University, 1941.
- U.S.P.H.S. Training Courses:
  - Radiological Health Training for Water Works Operators, 1952, Reed College.
  - Occupational Radiation Protection, 1956, University of Washington.
  - Basic Radiological Health, 1957, Taft Center.
  - Radiation Surveillance, 1959, Nevada Test Site.
  - Radionuclide Protection, 1959, Taft Center.
  - X-Ray Protection, 1959, Taft Center.
  - Numerous air pollution courses.
- AEC Orientation Course in Practices and Procedures of Licensing and Regulation, 1964–65 (in two parts), Bethesda.

Experience and Related Activity:
- Washington State Department of Health:
  - Public Health Engineer, 1941–42 (10 months).
  - District Engineer, 1946–48, 1950–56.
  - Head, air pollution and radiation control program development, including direction of statewide air pollution study, 1956–58.
  - Head, Air Quality and Radiation Control Section, 1958 to date.
  - Final responsibility for developing, organizing, and administering the section air pollution and radiation control programs—including technical and regulatory programs, budget, and personnel.
  - Represent the Department in liaison with the legislature, Office of Nuclear Energy Development, federal, state and local agencies, and professional, trade and business organizations.

ROBERT L. STOCKMAN—Continued

Experience and Related Activity—Continued

Serve for the Director, in his absence, on the Advisory Council on Nuclear Energy and Radiation.

Serve for the Division Chief, in his absence, on the Columbia River Advisory Group and serve on its technical committee.

Member Working Committee on Columbia River Studies which works with Richland Operations Office of AEC to coordinate all studies and data pertaining to radioactivity in the Columbia River environs.

Participated with AEC in inspections of licensee users of radioactive materials starting in 1957.

Other:

Commissioned Officer, U.S. Navy (R) Civil Engineer Corps—

Company Commander Seabee Battalion and Seabee Operations.

Officer Cinc Pac; to Lt.s.g., 1913–45.

Employed by Consulting Engineer in municipal utilities, 1949.

Diplomate, American Academy of Environmental Engineers.

Licensed Professional Engineer, Washington.

Currently, President-elect, Air Pollution Control Association.

PETER W. HILDEBRANDT

ASSISTANT HEAD AND TECHNICAL DIRECTOR, AIR QUALITY AND RADIATION CONTROL SECTION

Education and Training:

B.S. Civil Engineering, University of Washington, 1954.

M.S. Civil Engineering, University of Washington, 1964, with major work in air pollution and radiation.

Graduate program included Radiation Biology, 3 quarters, and Control of Radioactive Waste, 1 quarter.

U.S.P.H.S. Training Courses:

Basic Radiological Health, 1957, Portland, Oreg.

Sanitary Engineering Aspect of Nuclear Energy, 1958, University of California.

Individual Training in Use and Calibration of Radiation Counting Equipment for Surveillance Systems 1961, S.W. Radiological Health Lab.

Numerous air pollution courses.

Experience and Related Activity:

Washington State Department of Health:

Public Health Engineer and Sr. Public Health Engineer, 1957–62.

Supervising Sanitary Engineer serving as Assistant Head and Technical Director, Air Quality and Radiation Control Section, 1962 to date.

Conducted a major part of the 1959 occupational exposure study in dental X-ray.

Responsible for the performance of technical programs in air pollution and environmental radiation surveillance.

Designed and supervises the radiation surveillance systems, including counting facilities.

Assists the Section Head in overall planning, administration, and liaison functions. Acts fully as Section Head in his absence and represents him as requested.

Member, Working Committee on Columbia River Studies which works with Richland Operations Office of AEC to coordinate all studies and data pertaining to radioactivity in the Columbia River environs.

Participated with AEC in inspections of licensed users of radioactive material, 1957–60.

PETER W. HILDEBRANDT—Continued

Experience and Related Activity—Continued

Other:

Consultant to U.S. Public Health Service, Southwest Radiological Health Laboratory, in development and performance of altitude and ground-level environmental radiation sampling techniques (4 months total), 1962–65.

U.S. Air Force Reserves, 1954–62.

Active Duty, Pilot and Flight Line Maintenance Officer, Armament and Electronics Training; to Captain, 1954–57.

U.S. Public Health Service Reserve, 1962 to date.

Licensed Professional Engineer, Washington.

ARNOLD J. MOEN

RADIATION CONTROL SPECIALIST III, SUPERVISOR, RADIATION CONTROL SERVICES

Education and Training:

B.S. Electrical Engineering, University of Idaho, 1935.

One Full Academic year, Radiological Health Major in Graduate School of Public Health, University of Michigan, 1961–62.

U.S.P.H.S. Training Courses:

Occupational Radiation Protection, University of Washington, 1956.

Radiation Protection Aspects of Tuberculosis Case Finding, Taft Center, 1958.

Environmental Radiation Sampling and Analysis, Reed College, 1959.

Management of Radiation Accidents, Las Vegas, 1965.

AEC Orientation Course in Practices and Procedures of Licensing and Regulation, Bethesda, 1964.

Civil Defense Courses:

Medical Aspects of the Atomic Bomb, 1950.

Elements of Civil Defense and Defense Mobilization, 1959.

Radiological Monitoring for Instructors, 1960.

Radiological Defense Officers, 1960.

Medical Self-Help, 1965.

Experience and Related Activity:

Washington State Department of Health:

X-Ray Engineer, Tuberculosis Control Section, 1946–60.

Radiation protection surveys and consultation on technique for all installations participating in chest X-ray program.

Consultation and plan review service for radiation protection in hospital and clinic design.

Radiation Safety Officer for Department—Civil Defense responsibility.

Radiation Control Specialist III, Air Quality and Radiation Control Section, 1960 to date. Performance and supervision of radiation protection survey programs in healing arts and industry, dental X-ray Sur-Pak Program, radiation source registration program, and emergency service. Assists Section Head in program planning, development of regulations and represents him as requested in liaison and administrative functions.

Provides instruction for local health personnel in Civil Defense radiological monitoring. Organizes and instructs in summer training program for graduate students in radiological health at the University of Washington. Reviews all plans for radiological facilities in hospital design under Department hospital licensing and Hill-Harris programs. Responsible for inspection of radiological facilities under Medicare certification program.

ARNOLD J. MOEN—Continued

Experience and Related Activity—Continued

Currently, primarily Section participant with AEC in inspection of licensed users of radioactive materials.

Other:

Washington Water Power Consulting and Research Division, 1943–44.

Milwaukee Road high voltage transmission engineering, 1944–45.

ARRT Firland Sanatorium, Seattle, following hospitalization, 1946.

Past president local and State societies Northwest Conference of Radiological Technologists. Currently Vice-President NWCRT.

CLIFFORD G. LEWIS

RADIATION CONTROL SPECIALIST II, LICENSING AND COMPLIANCE UNIT

Education and Training:

B.S. Technology, The University of Manchester (England) 1931, 5-year curriculum including Mathematics and Physics equivalent for engineering degree and chemistry for American General Science degree.

Experience and Related Activities:

Christie Hospital and Holt Radium Institute, Manchester, England, 1933–48; Radium curator responsible for custody, care and manipulation of radium stocks, operation of radon plant, supervision of appropriate technical terms, and maintenance of all records relevant to these operations in Britain's largest radiation therapy center.

M.D. Anderson Hospital and Tumor Institute, Houston, Texas, 1948–53:

Radium curator and X-ray technician.

Responsible for radium, procurement of isotopes, assisted in dosimetric problems, operated X-ray equipment and conducted superficial X-ray therapy.

Tumor Institute of the Swedish Hospital, Seattle, 1953–66:

Assistant and acting health physicist.

Responsible for radium, isotope manipulations, calibration of X-ray machines, maintenance of records, dosimetry, safety surveys and direction of technicians.

As acting health physicist served as Radiation Safety Officer for the Radioisotope Committee of the Swedish Hospital complex operating under AEC license.

Washington State Department of Health starting September 1966: AEC Orientation Course in Practices and Procedures of Licensing and Regulation, Bethesda, 1966.

GROVER E. NELSON

RADIATION CONTROL SPECIALIST II, INSPECTION AND REGISTRATION UNIT

Education and Training:

B.A. Economics and Business, University of Washington, 1941.

B.S. Chemistry, Seattle University, 1952.

Creighton School of Medicine, 1953–58.

Basic Radiological Health Taft Center, 1961.

Experience and Related Activity:

Washington State Department of Health, 1964 to date:

Conduct of radiation protection surveys in X-ray installations, including industrial, dental, medical and other healing arts. Participates in the radiation source registration program and summer instruction and field training for University of Washington graduate program in radiological health.

Assists in inspection of radiological facilities for Medicare certification program.

GROVER E. NELSON—Continued

Experience and Related Activity—Continued

Participates with AEC in inspection of licensed users of radioactive materials.

Other:

The Boeing Co., Seattle, Wash.:

Quality Control Chemist (1 year), 1952–53.

Industrial Hygiene Chemist (2 years), 1958–60.

Industrial Hygiene Radiation Control (2 years), 1962–63.

Semiannual certification of multicurie cobalt and iridium facilities and X-ray installation for shielding, warning and interlock systems, system controls, posting and film badge program. Regular survey and monitoring of laboratories, radiography, waste packaging and source fabrication facilities, field disposal, semiannual leak test of sealed sources. Survey instrument calibration. Inventory and monitor isotope receival.

CHARLES E. MCJILTON

RADIATION CONTROL SPECIALIST I, INSPECTION AND REGISTRATION UNIT

Education and Training:

Wisconsin State College, 1948–50, 103 credit hours biology, chemistry.

St. John's University, Minnesota, 1950–51, 40 credit hours chemistry, philosophy.

B.A. Philosophy, Carroll College, Montana, 1956–58.

B.S. Physical Science and Mathematics, University of Minnesota, 1962.

M.S. Environmental Health with Radiological Health major, University of Minnesota, 1965.

AEC Summer Fellowship in applied radiation protection. National Reactor Testing Station, Idaho Falls, 1965.

Experience and Related Activities:

Secondary Science Teacher, Dixon High School, Montana, 1962–64.

Field representative, University of Idaho Extension Service, teaching radiological monitoring and radiological defense, 1 year, 1965–66.

Washington State Department of Health: Radiation Control Specialist I, starting October 1966.

[F.R. Doc. 66–11254; Filed, Oct. 13, 1966; 8:49 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 15589, 16938]

D & F BROADCASTING CO. AND MAUPIN BROADCASTING CO. (WKMK)

Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of Robert E. Dobelstein & W. F. Fowler, doing business as D & F Broadcasting Co., Quincy, Fla., Docket No. 15589, File No. BP–16431; Requests: 1000 kc, 1 kw, Day, Class II; Robert L. Maupin trading as The Maupin Broadcasting Co. (WKMK), Blountstown, Fla., Docket No. 16938, File No. BP–16600; Has: 1370 kc, 500 w, Day, Class III; Requests: 1000 kc, 1 kw, Day, Class II; For construction permits.

The Commission, by Chief of the Broadcast Bureau under delegated authority, considered the above-captioned applications on October 28, 1966.

1. The two applications are mutually exclusive in that the 0.025 mv/m contour of each proposal overlaps the 0.5 mv/m contour of the other, in contravention of § 73.37 of the Commission's rules.

2. The Commission finds that both applicants are qualified to construct, own, and operate as proposed. However, because the proposals are mutually exclusive, the Commission is unable to make the statutory finding that a grant of the subject applications would serve the public interest, convenience, and necessity, and is of the opinion that the applications must be designated for hearing in a consolidated proceeding on the issues set forth below.

Accordingly, it is ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine the areas and populations which would receive primary service from the proposed operation of D & F Broadcasting Co., and the availability of other primary service to such areas and populations.

2. To determine the areas and populations which may be expected to gain or lose primary service from the proposed operation of Station WKMK, Blountstown, Fla., and the availability of other primary service to such areas and populations.

3. To determine, in light of section 307 (b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient, and equitable distribution of radio service.

4. To determine, in the event it is concluded that a choice between the applications should not be based solely on considerations relating to section 307(b), which of the operations proposed in the above-captioned applications would best serve the public interest.

5. To determine, in light of the evidence adduced pursuant to the foregoing issues which, if either, of the applications should be granted.

It is further ordered, That, in the event of a grant of either of the applications herein, the construction permit shall contain the following condition: Pending a final decision in Docket No. 14419 with respect to presunrise operation with daytime facilities, the present provisions of § 73.87 of the Commission's rules are not extended to this authorization, and such operation is precluded.

It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

It is further ordered, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Released: October 31, 1966.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 66–12044; Filed, Nov. 3, 1966; 8:48 a.m.]

[Docket Nos. 15589, 16938; FCC 66M–1474]

D & F BROADCASTING CO. AND MAUPIN BROADCASTING CO. (WKMK)

Order Scheduling Hearing

In re applications of Robert E. Dobelstein & W. F. Fowler, doing business as D & F Broadcasting Co., Quincy, Fla., Docket No. 15589, File No. BP–16431; Robert L. Maupin trading as The Maupin Broadcasting Co. (WKMK), Blountstown, Fla., Docket No. 16938, File No. BP–16600; for construction permits:

It is ordered, This 31st day of October 1966, that Millard F. French shall serve as Presiding Officer in the above-entitled proceeding; that the hearings therein shall be convened on December 20, 1966, at 10 a.m.; and that a prehearing conference shall be held on November 29, 1966, commencing at 9 a.m.: *And, it is further ordered,* That all proceedings shall be held in the offices of the Commission, Washington, D.C.

Released: November 1, 1966.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 66–12045; Filed, Nov. 3, 1966; 8:48 a.m.]

[Docket No. 16921; FCC 66M–1464]

ULTRAVISION BROADCASTING CO. AND COURIER CABLE CO., INC.

Order Continuing Prehearing Conference

In the matter of the petition of Florian R. Burczynski, Stanley J. Jasinski and Roger K. Lund, doing business as Ultravision Broadcasting Co., Buffalo, N.Y., to stay construction and prevent extension of CATV system operated in Buffalo by Courier Cable Co., Inc.; Docket No. 16921:

It is ordered, This 28th day of October 1966, that the "consent motion to reschedule prehearing conference," filed by counsel for Courier Cable Co., Inc.

is granted, and the prehearing conference is rescheduled from October 31, to November 18, 1966, at 9 a.m. A new hearing date will be set at the conference.

Released: October 31, 1966.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 66-12046; Filed, Nov. 3, 1966; 8:48 a.m.]

[Docket No. 16889; FCC 66M-1469]

HAWAIIAN PARADISE PARK CORP. AND FRIENDLY BROADCASTING CO.

Order Continuing Hearing

In re application of Hawaiian Paradise Park Corp. (assignor) and Friendly Broadcasting Co. (assignee); Docket No. 16889, File Nos. BALCT-293, BALTS-185; for Assignment of licenses of Stations KTRG-TV and KUT-67, Honolulu, Hawaii.

Pursuant to agreement reached at a prehearing conference held on October 28, 1966, in the above-entitled proceeding: *It is ordered*, This 28th day of October 1966, that the hearing now scheduled for November 22, 1966, is continued to November 29, 1966.

Released: October 31, 1966.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 66-12047; Filed, Nov. 3, 1966; 8:48 a.m.]

[Docket Nos. 16700, 16701; FCC 66M-1475]

KENTUCKY CENTRAL TELEVISION, INC., AND WBLG-TV, INC.

Order Continuing Hearing

In re applications of Kentucky Central Television, Inc., Lexington, Ky., Docket No. 16700, File No. BPCT-3569; WBLG-TV, Inc., Lexington, Ky., Docket No. 16701, File No. BPCT-3642; for construction permit for new television broadcast station.

Pursuant to agreement of counsel for all parties arrived at during an informal conference held on this date: *It is ordered*, This 28th day of October 1966, that the procedural dates heretofore fixed herein are rescheduled as follows:

Exchange of exhibits is rescheduled for November 16, 1966;

The hearing now scheduled for November 9 for admission of exhibits and request for witnesses is rescheduled for November 22, 1966; and,

The hearing presently scheduled for November 15 is rescheduled for November 29, 1966.

Released: November 1, 1966.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 66-12048; Filed, Nov. 3, 1966; 8:48 a.m.]

[Docket Nos. 16944, 16945; FCC 66M-1466]

PRAIRIELAND BROADCASTERS AND RICHARD P. LAMOREAUX

Order Continuing Prehearing Conference

In re applications of Stephen P. Bellinger, Joel W. Townsend, Ben H. Townsend, Morris E. Kemper and James A. Mudd, doing business as Prairieland Broadcasters, Monmouth, Ill., Docket No. 16944, File No. BPH-5296; Richard P. Lamoreaux, Monmouth, Ill., Docket No. 16945, File No. BPH-5441; for construction permits.

The Hearing Examiner having under consideration a letter dated October 27, 1966, from counsel for Richard P. Lamoreaux requesting a change in the date scheduled for the prehearing conference in the above-entitled matter;

It appearing, that all the parties have indicated their consent to the requested extension, and that good cause has been shown for a grant thereof:

It is ordered, This 28th day of October 1966, that the prehearing conference presently scheduled for November 9, 1966 at 9 a.m., be, and the same is, continued to November 16, 1966, at 10 a.m.

Released: October 31, 1966.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 66-12049; Filed, Nov. 3, 1966; 8:48 a.m.]

[Docket Nos. 16679, 16680; FCC 66M-1480]

RKO GENERAL, INC. (KHJ-TV), AND FIDELITY TELEVISION, INC.

Order Continuing Hearing

In re applications of RKO General, Inc. (KHJ-TV), Los Angeles, Calif., Docket No. 16679, File No. BRCT-58, for renewal of broadcast license; Fidelity Television, Inc., Norwalk, Calif., Docket No. 16680, File No. BPCT-3655, for construction permit for new television broadcast station (Channel 9).

Although formally scheduled for hearing in mid-November, under prehearing agreement, date for hearing as well as date for taking other procedural steps has at all times been contingent on action by the Review Board on various pleadings filed with the Board. By memorandum opinion and order, released October 28, 1966, the Board acted on the last of these pleadings (FCC 66R-430). The time remaining before the scheduled hearing date is insufficient to effect the procedural steps yet to be taken.

Accordingly, it is ordered, This 31st day of October 1966, on the Examiner's own motion, that hearing in this proceeding now scheduled for November 14, 1966, is continued to a date to be determined later.[1]

Released: November 1, 1966.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 66-12050; Filed, Nov. 3, 1966; 8:48 a.m.]

FEDERAL POWER COMMISSION

[Docket Nos. RI67-118 etc.]

MARATHON OIL CO. ET AL.

Order Providing for Hearings on and Suspension of Proposed Changes in Rates [1a]

OCTOBER 27, 1966.

Marathon Oil Co., et al. and other Respondents listed herein; Docket Nos. RI67-118, et al.

The Respondents named herein have filed proposed increased rates and charges of currently effective rate schedules for sales of natural gas under Commission jurisdiction, as set forth in Appendix A below.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column, and thereafter until made effective as prescribed by the Natural Gas Act.

(C) Until otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before December 15, 1966.

By the Commission.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

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[1] The Examiner would appreciate the parties furnishing him with a suggested schedule of dates governing future procedural steps and hearing.

[1a] Does not consolidate for hearing or dispose of the several matters herein.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in docket Nos.
RI67-118	Marathon Oil Co., et al., 539 South Maine St., Findlay, Ohio 45840, Attn: Jack Fariss, Esquire.	73	2	Transcontinental Gas Pipe Line Corp. (Cooke Field, La Salle County, Tex) (R.R. District No. 1).	$135	10- 7-66	[2] 11- 7-66	4- 7-67	13.68225	[3] [4] 14.69575	
RI67-119	Northern Pump Co., Post Office Box 7277, Camden Station, Minneapolis, Minn. 55412.	28	11	Panhandle Eastern Pipe Line Co. (Light Field, Seward County, Kans.).	83	10-10-66	[5] 11-10-66	4-10-67	[6] 13.176068	[3] [4] [6] 14.069360	RI62-317.
RI67-120	J. M. Huber Corp. (Operator), et al., 2401 East Second Ave., Denver, Colo. 80206.	9	11	Panhandle Eastern Pipe Line Co. (Light Field, Seward County, Kans., and Beaver County, Okla.) (Panhandle Area).	6,968	10-10-66	[5] 11-10-66	4-10-67	[6] 13.176068	[3] [4] [6] 14.069360	RI62-167.
RI67-121	Marathon Oil Co., 539 South Main St., Findlay, Ohio 45840.	28	12	Texas Eastern Transmission Corp. (Andrews Unit, Logansport Field, De Soto Parish, La.) (Northern Louisiana).	23	10- 3-66	[5] 11- 3-66	4- 3-67	[7] 17.2366	[3] [7] 17.4417	RI66-140.
	do	29	13	Texas Eastern Transmission Corp. (Charlie No. 1 Unit, Logansport Field, De Soto Parish, La.) (Northern Louisiana).	72	10- 3-66	[5] 11- 3-66	4- 3-67	[7] 17.2366	[3] [7] 17.4417	RI66-140.
	do	69	12	Texas Eastern Transmission Corp. (Greenwood-Waskom Field, Caddo Parish, La.) (Northern Louisiana).	82	10- 3-66	[5] 11- 3-66	4- 3-67	[7] 17.2366	[3] [7] 17.4417	RI66-140.
RI66-122	Ashland Oil & Refining Co. (Operator), et al., Post Office Box 18695, Oklahoma City, Okla. 73118.	74	1	Natural Gas Pipeline Co. of America (West Chester Field, Woodward County, Okla.) (Panhandle Area).	3,175	10- 6-66	[2] 11-15-66	4-15-67	[8] 17.0	[3] [4] [8] 19.5	
RI67-123	Bill Ferguson d.b.a. Ferguson Oil Co., 1505 Wichita Plaza Bldg., Wichita, Kans. 67202.	2	4	Northern Natural Gas Co. (Bare Unit No. 1, Clark County, Kans.).	6,604	10- 7-66	[5] 11- 7-66	4- 7-67	[8] 16.0	[3] [4] [8] 17.0	[10]
RI67-124	Ashland Oil & Refining Co., Post Office Box 18695, Oklahoma City, Okla. 73118.	139	6	El Paso Natural Gas Co. (Clear Lake Field, Beaver County, Okla.) (Panhandle Area).	740	10-10-66	[2] 11-10-66	4-10-67	[12] [13] 17.35	[4] [11] [12] 19.35	

[2] The stated effective date is the effective date requested by Respondent.
[3] Periodic rate increase.
[4] Pressure base is 14.65 p.s.i.a.
[5] The stated effective date is the first day after expiration of the statutory notice.
[6] Subject to a downward B.t.u. price adjustment for gas having a heating content of less than 1,000 B.t.u.'s.
[7] Pressure base is 15.025 p.s.i.a.
[8] Includes 1.75 cents tax reimbursement.
[9] Subject to a downward B.t.u. adjustment.
[10] Rate in effect subject to refund in the related certificate proceeding in Docket No. CI62-1445.
[11] "Fractured" rate increase. Initial contract base rate is 21.0 cents contractually due base rate at this time is 23.0 cents per Mcf.
[12] Includes 0.35 cent paid by buyer for liquids.
[13] Certificated rate in Docket No. CI60-350 issued by Commission Opinion Nos. 390 and 390-A.

Northern Pump Co. and J. M. Huber Corp. (Operator), et al., request that their proposed rate increases be permitted to become effective on November 9, 1966. Marathon Oil Co. requests an effective date of November 1, 1966, for its proposed rate filings, and Bill Ferguson doing business as Ferguson Oil Co. requests a retroactive effective date of July 1, 1966, for his proposed rate increase. Good cause has not been shown for waiving the 30-day notice requirement provided in section 4(d) of the Natural Gas Act to permit earlier effective dates for the aforementioned producers' rate filings and such requests are denied.

All of the producers' proposed increased rates and charges exceed the applicable area price levels for increased rates as set forth in the Commission's statement of general policy No. 61-1, as amended [18 CFR, Ch. I, Pt. 2, sec. 2.56].

[F.R. Doc. 66-11967; Filed, Nov. 3, 1966; 8:45 a.m.]

[Docket No. E-7210]

FLORIDA POWER & LIGHT CO.

Notice Fixing Oral Argument

OCTOBER 24, 1966.

The Commission has before it the Presiding Examiner's decision issued July 12, 1966; the Briefs on Exceptions filed by Florida Power & Light Co. and joined in by the Florida Public Service Commission and the motion for oral argument filed by Florida Power & Light Co. in these proceedings.

Take notice that an oral argument in the above-captioned proceedings will be heard by the Commission en banc commencing at 10 a.m., e.s.t., November 28, 1966, in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C.

All parties desiring to participate in such oral argument shall notify the Secretary of the Commission in writing on or before November 7, 1966, of the amount of time desired for presentation of their respective arguments.

By direction of the Commission.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 66-12013; Filed, Nov. 3, 1966; 8:45 a.m.]

[Docket No. E-7245]

ILLINOIS POWER CO.

Notice of Continuance

OCTOBER 28, 1966.

Upon consideration of the Presiding Examiner's referral of continuance of hearing in excess of 30 days filed October 24, 1966, this matter is continued to December 15, 1966, or such later date as may be fixed by the Presiding Examiner, unless this proceeding is otherwise terminated by order of the Commission.

GORDON M. GRANT,
Acting Secretary.

[F.R. Doc. 66-12014; Filed, Nov. 3, 1966; 8:45 a.m.]

[Docket Nos. CP66-347 etc.]

MANUFACTURERS LIGHT AND HEAT CO. ET AL.

Order To Show Cause and Granting Motion To Consolidate

OCTOBER 28, 1966.

The Manufacturers Light and Heat Co., Docket No. CP66-347; Texas Eastern Transmission Corp., Docket No. CP64-5; Tennessee Gas Pipeline Co. (a division of Tenneco, Inc.), Docket No. CP67-115; Transcontinental Gas Pipeline Corp., Docket No. CP67-116.

Subsequent to the issuance of our notice of the application of The Manufacturers Light & Heat Co. (Manufacturers)

in Docket No. CP66–347, we issued an order granting the petitions to intervene filed by Pennsylvania Gas & Water Co. (Penn Gas) and by The United Gas Improvement Co. (UGI). In said application Manufacturers proposes to construct facilities estimated to cost approximately $8,735,000 so as to take into its system additional volumes of gas, primarily from Texas Eastern Transmission Corp. (Texas Eastern), and transport and sell additional volumes of gas to existing customers. Included therein are additional volumes for Home Gas Co. (Home). Texas Eastern, in its motion filed August 17, 1966, to amend the certificate heretofore issued by the Commission in Docket No. CP64–5, now seeks authorization to increase its deliveries to existing customers including its authorized sales to Manufacturers.

On September 20, 1966, Penn Gas filed a motion seeking to consolidate the application of Texas Eastern in CP64–5 with that of Manufacturers in CP66–347. Texas Eastern in response argues that any consolidation should be limited to its specific proposal of additional sales to Manufacturers. There can be no question that the proposal of Manufacturers is interrelated and dependent upon the application of Texas Eastern. However, we do not think that the other sales proposed by Texas Eastern should become involved in the contested Manufacturers application. We shall therefore sever that portion of Texas Eastern's filing in Docket No. CP64–5 relating to the proposed sale to Manufacturers and consolidate it into the formal proceeding ordered in Docket No. CP66–347.

In its petition to consolidate, Penn Gas points out that deliveries by Texas Eastern to Manufacturers will be in the latter's Western Market area and will thence be transported through the proposed new facilities of Manufacturers to its Eastern Market area. Since Texas Eastern is presently making deliveries to Manufacturers in the latter's Eastern Market area and since existing facilities of Tennessee Gas Pipeline Co. (Tennessee) and Transcontinental Gas Pipeline Corp. (Transco) traverse Manufacturers' Eastern Market area and intersect its line at a point in close proximity to Manufacturers delivery point to Home additional deliveries there by Texas Eastern might eliminate the need for the facilities proposed to be constructed by Manufacturers in Docket No. CP66–347.

If reasonable alternatives are or may be available which would eliminate the need for the construction proposed by Manufacturers at the same time provide the services proposed, it is in the public interest to issue an order consolidating herewith, and directing Tennessee and Transco to show cause why they should not be required to make the requisite sales to Manufacturers and/or Home.

The Commission orders:

(A) The motion filed by Penn Gas is hereby granted in part, to wit: That portion of Texas Eastern's application in Docket No. CP64–5, filed August 17, 1966, dealing with the proposed increased sales to Manufacturers is hereby severed and consolidated with the instant proceeding.

(B) Tennessee Gas Pipeline Co. and Transcontinental Gas Pipeline Corp. are ordered to show cause, pursuant to section 16 of the Natural Gas Act and as provided by § 1.6 of the Commission's rules, why either of the above-named pipelines should not be required to make the sales to Manufacturers and/or Home in the amounts proposed by Texas Eastern and Manufacturers. Hearing on said order is consolidated with the instant proceeding.

(C) Texas Eastern is hereby required to include as part of its presentation evidence as to its ability, among other things, to deliver the proposed volumes to Manufacturers in the latter's Eastern Market area.

(D) Since we have provided for procedures and a hearing date in our order of August 23, 1966, in Docket No. CP66–347, further procedures herein are left to the discretion of the appointed Hearing Examiner.

(E) Additional petitions or notices of intervention must be filed on or before November 14, 1966.

By the Commission.

[SEAL] GORDON M. GRANT,
Acting Secretary.

[F.R. Doc. 66–12015; Filed, Nov. 3, 1966; 8:46 a.m.]

[Project 2609]

INTERNATIONAL PAPER CO.

Notice of Application for License for Constructed Project

OCTOBER 28, 1966.

Public notice is hereby given that application for license has been filed under the Federal Power Act (16 U.S.C. 791a–825r) by International Paper Co. (correspondence to: Paul B. Carroll, Secretary, International Paper Co., 220 East 42d Street, New York, N.Y. 10017) for constructed Project No. 2609, known as the Palmer Falls Project, located on the Hudson River in the region west of Glen Falls and at the villages of Corinth, Hadley, and Palmer in the towns of Corinth and Hadley in Saratoga County, and the village of Lake Luzerne in the town of Luzerne, in Warren County—all in the State of New York.

The existing Palmer Falls Project consists of two developments known as the Curtis development and Palmer Falls development. The Curtis development consists of: (1) A concrete dam about 25 feet high and 736 feet long in two sections: (a) An overflow spillway about 663 feet long with 46-inch flashboards; and (b) a gated section about 73 feet long; (2) a reservoir about 5.8 miles long with a surface area of about 390 acres and a maximum drawdown of 3 feet; (3) an integral-intake powerhouse containing five generating units, one each rated at 1,250, 950, 900 kw, and two each rated at 800 kw, totaling 4,700 kw; and (4) appurtenant facilities. The Palmer Falls development consists of: (1) A concrete hollow-arch dam about 37 feet high and 369 feet long with: (a) A spillway 334 feet long with 45-inch flashboards; and (b) a central log sluice and sluice gates in the remaining 35 feet; (2) a reservoir about 2,700 feet long and with a surface area of about 27 acres; (3) an upper forebay at reservoir level controlled by an intake with eight slide gates and a 92-foot spillway with flashboards from which water may be released to: (a) The lower forebay through two waste gates; and (b) the penstocks by eight gates; (4) a lower forebay which is controlled by: (a) A 168-foot spillway, with flashboards, and (b) a gate structure; (5) four hydroelectric units with turbines totaling 5,600 hp. and generators totaling 3,200 kw served by three steel penstocks, (a) 10 to 8.5 feet in diameter and 205 feet long, (b) 10 feet in diameter and 47 feet long and (c) 9.5 feet in diameter and 24 feet long; (6) 12 hydromechanical units totaling 18,600 hp. served by 12 steel penstocks varying in diameter from 9 to 13.5 feet and in length from 24 feet to 141 feet (all turbines and generators being housed in the papermill buildings); and (7) appurtenant facilities.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure of the Commission (18 CFR 1.8 or 1.10). The last day upon which protests or petitions may be filed is December 19, 1966. The application is on file with the Commission for public inspection.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 66–12016; Filed, Nov. 3, 1966; 8:46 a.m.]

[Docket Nos. CP66–247 etc.]

MIDWESTERN GAS TRANSMISSION CO. AND NORTHERN NATURAL GAS CO.

Order Consolidating Proceedings, Permitting Interventions, Prescribing Certain Procedures, and Fixing Date for Hearing

OCTOBER 28, 1966.

Northern Natural Gas Co. (Northern) applied for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act on February 15, 1966, in Docket No. CP66–268 for the sale for resale of up to 25,500 Mcf/d of natural gas from Midwestern Gas Transmission Co. (Midwestern) at the two companies existing interconnection in Chisago County, Minn. Northern states that no additional facilities are required to accept this gas from Midwestern. Northern's contract with Midwestern calls for a sale to be made under Midwestern's FPC Rate Schedule CD–2 for a term of 25 years.

Midwestern filed an application in Docket No. CP66–247 on February 1, 1966, to sell 25,500 Mcf/d of gas to Northern and to construct and operate two new compressor stations of 1,700 hp. each on its northern system. The gas

is to be supplied by Trans-Canada Pipe Lines Ltd. at the United States-Canadian border near Emerson, Manitoba. The estimated construction cost to Midwestern is $1,419,000. Midwestern filed on February 1, 1966, an application pursuant to section 3 of the Natural Gas Act in Docket No. CP66–248 for authority to import 26,534 Mcf/d of gas from Canada, 1,034 Mcf/d to be used by Midwestern for compressor fuel, the remaining 25,500 Mcf/d to be sold to Northern on a firm basis. Notices were issued by the Commission in Docket No. CP66–268 on February 28, 1966, and in Docket Nos. CP66–247 and CP66–248 on February 9, 1966 (31 F.R. 2814, 3435).

Petitions to intervene and a notice of intervention were filed in Docket No. CP66–268 by the Iowa Public Service Co. on March 3, 1966, the Public Service Commission of Wisconsin on March 8, 1966, and Minnesota Natural Gas Co. on March 3, 1966. Fuels Research Council, Inc., National Coal Association, United Mine Workers of America, and Upper Lake Docks Coal Bureau, Inc. petitioned to intervene in all three dockets on February 21, 1966, but on May 27, 1966, withdrew their petition subsequent to the Commission's denial of petitioners motion to consolidate these dockets with Great Lakes Transmission Co., et al., Docket No. CP66–110, et al. The petition of Fuels Research Council, Inc. et al. was opposed by Northern in a March 3, 1966, answer.

Petitions to intervene and a notice of intervention were filed in Docket Nos. CP66–247 and CP66–248 by the Public Service Commission of Wisconsin on March 8, 1966, the Independent Petroleum Association of America on March 3, 1966, Minnesota Natural Gas Co. on March 3, 1966, and Trans-Canada Pipe Lines Ltd. on March 3, 1966.

On March 10, 1966, the Commission staff requested additional data from Northern relating to market data and economic feasibility of the proposed purchase from Midwestern under its CD–2 rate schedule. Northern's reply thereto on April 11, 1966, was determined to be nonresponsive and a second letter of inquiry was sent to Northern on May 9, 1966, requesting data. On May 27, 1966, Northern was granted a time extension to July 8, 1966, by the Secretary in order to prepare a reply. Northern's reply on July 12, 1966, advised that all data it deemed relevant and material had been supplied.

The hearing to be held shall consider the following issues, as well as other material and relevant issues raised by the parties, staff counsel or the evidence:

(1) Whether Northern has a present or future need (both market and gas supply) for the gas sought to be purchased from Midwestern,

(2) Whether the proposed sale from Midwestern to Northern is economically feasible to Northern.

At the conclusion of the hearing on the applicants' and interveners' direct presentations, the applicants shall be permitted an opportunity to present rebuttal testimony, provided that a reasonable period of time be given interveners and the staff to prepare cross-examination of said rebuttal case, if any.

Northern, Midwestern, and supporting interveners will be directed to serve copies of their prepared testimony and exhibits in support of their respective applications with the Commission, the designated examiner, the staff of the Commission, and all other parties in this proceeding on or before November 14, 1966.

All parties to the proceeding, other than the applicants, shall file and serve their prepared testimony and exhibits, if any, in answer to the prepared direct testimony of the applicants on or before December 2, 1966.

The Commission further finds:

(1) The above-described applications are related matters which should be heard on a consolidated record as hereinafter provided.

(2) It is desirable to allow the companies and the association, which have filed petitions to intervene to become interveners in this proceeding in order that they may establish the facts and law from which the nature and validity of their alleged rights and interests may be determined and show what further action may be appropriate under the circumstances in the administration of the Natural Gas Act.

(3) This proceeding will be expedited by providing for the service of direct and answering evidence prior to hearing.

The Commission orders:

(A) The applications for certificates of public convenience and necessity in Docket Nos. CP66–268 and CP66–247 and the application to import natural gas from Canada in Docket No. CP66–248 are hereby consolidated for purposes of hearing and decision thereon.

(B) Petitioners Iowa Public Service Co., Minnesota Natural Gas Co., Independent Petroleum Association of America, and Trans-Canada Pipe Lines Ltd., are hereby permitted to become interveners in this consolidated proceeding subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such intervener shall be limited to matters affecting asserted rights and interests as specifically set forth in its said petition for leave to intervene; *And provided, further,* That the admission of such intervener shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(C) Joint petitioners Fuels Research Council, Inc., National Coal Association, United Mine Workers of America, and Upper Lake Docks Coal Bureau, Inc. are hereby permitted to withdraw from this proceeding.

(D) Northern Natural Gas Co., Midwestern Gas Transmission Co. (Applicants), and interveners in support thereof, shall file direct testimony and exhibits in support of their respective applications with the Commission on or before November 14, 1966, and on all other parties in this proceeding. Such direct testimony and exhibits shall conform to the Commission's rules and regulations under the Natural Gas Act.

(E) Interveners and the Commission staff shall file their prepared answering testimony and exhibits, if any, with the Commission on or before December 2, 1966, and serve copies on all other parties.

(F) A hearing shall be held on December 8, 1966, at 10 a.m., e.s.t., before a designated examiner, in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C.

By the Commission.

[SEAL] GORDON M. GRANT,
Acting Secretary.

[F.R. Doc. 66–12017; Filed, No. 3, 1966; 8:46 a.m.]

[Docket No. G–14788, etc.]

SUNSET INTERNATIONAL PETROLEUM CORP.

Notice of Petition To Amend

OCTOBER 28, 1966.

Take notice that on September 28, 1966, Sunset International Petroleum Corp., a California corporation (Petitioner), successor to Sunset International Petroleum Corp. (a Delaware corporation), Sunset International Building, 3920 Wilshire Boulevard, Beverly Hills, Calif., filed in Docket No. G–14788, et al., a petition to amend the orders issuing certificates of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act in said dockets to Sunset International Petroleum Corp., a Delaware corporation, by authorizing Petitioner to continue the authorized sales of natural gas, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

The petition states that effective as of April 29, 1966, Sunset International Petroleum Corp., a Delaware corporation, was merged by Sipco, Inc., a California corporation; that effective as of April 30, 1966, Sipco, Inc., was merged by SSI, Inc., a California corporation; and that simultaneously with the lastmentioned merger the name of SSI, Inc., was changed to Sunset International Petroleum Corp., Petitioner herein. The petition states further that no change in service is proposed and that the mergers have resulted only in a change in the state of domestication. Petitioner requests that the certificate orders issued in the following dockets be amended to reflect the change in certificate holder:

G–14788	CI60–468	CI61–1203
G–14789	CI60–679	CI61–1742
G–16436	CI60–696	CI62–140
G–18955	CI60–749	CI62–711
G–19065	CI60–793	CI63–258
G–19686	CI60–832	CI63–421
CI60–31	CI60–833	CI63–803
CI60–147	CI61–46	CI63–1073
CI60–183	CI61–356	CI63–1342
CI60–302	CI61–549	CI64–1423
CI60–405	CI61–609	CI64–1490
CI60–406	CI61–710	CI65–932
CI60–425	CI61–852	CI66–826
CI60–445	CI61–1180	CI66–1190

Protests or petitions to intervene may be filed with the Federal Power Commis-

sion, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before November 25, 1966.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 66-12018; Filed, Nov. 3, 1966; 8:46 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

NOVEMBER 1, 1966.

Protests to the granting of an application must be prepared in accordance with Rule 1.40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 40765—*Corn chops to Gulf Ports.* Filed by Southwestern Freight Bureau, agent (No. B-8920), for interested rail carriers. Rates on corn chops, in carloads, from points in southwestern and western trunkline territories, to gulf ports, Pensacola, Fla., to Corpus Christi, Tex. (for export).

Grounds for relief—Rate relationship.

Tariffs—Supplement 18 to Atchison, Topeka & Santa Fe Railway Co. tariff ICC 15044 and eight other schedules named in the application.

FSA No. 40766—*Phosphate rock from Rio Grande City, Tex.* Filed by Southwestern Freight Bureau, agent (No. B-8904), for interested rail carriers. Rates on phosphate rock, crude, ground, or pulverized, not acidulated nor ammoniated, in carloads, from Rio Grande City, Tex. (import from Mexico), to points in Illinois Freight Association, Southwestern and western trunkline territories.

Grounds for relief—Market competition.

Tariff—Supplement 3 to Southwestern Freight Bureau, agent, tariff ICC 4681.

FSA No. 40767—*Cement from Dundee, Mich.* Filed by Traffic Executive Association-Eastern Railroads, agent (E.R. No. 2870), for interested rail carriers. Rates on cement, viz: common, hydraulic, masonry, mortar, natural, Portland, also tile grout, cement clinker, and dry building mortar, in carloads, from Dundee, Mich., to specified points in New York, Ohio, Pennsylvania, and West Virginia.

Grounds for relief—Market competition.

Tariff—Supplement 52 to Traffic Executive Association-Eastern Railroads, agent, tariff ICC C-435.

FSA No. 40768—*Crushed stone to WTL territory.* Filed by Western Trunk Line Committee, agent (No. A-2475), for interested rail carriers. Rates on crushed stone and related articles, in carloads, from specified points in Colorado, also Sheridan, Wyo., to points in western trunkline territory.

Grounds for relief—Market competition.

Tariff—Supplement 29 to Western Trunk Line Committee, agent, tariff ICC A-4530.

FSA No. 40769—*Substituted service—PRR for Trans-Cold Express, Inc.* Filed by Trans-Cold Express, Inc., for itself and on behalf of the Pennsylvania Railroad Co. Rates on property loaded in trailers and transported on railroad flatcars, between Kearny, N.J., on the one hand, and Chicago and East St. Louis, Ill., on the other, on traffic originating at or destined to such points or points beyond, as described in the application.

Grounds for relief—Motortruck competition.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 66-12033; Filed, Nov. 3, 1966; 8:47 a.m.]

[Notice 280]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 1, 1966.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules in Ex Parte No. MC 67 (49 CFR Part 240) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant, or its authorized representative, if any, and the protest must certify that such service has been made. The protest must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined, at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 113024 (Sub-No. 61 TA), filed October 28, 1966. Applicant: ARLINGTON J. WILLIAMS, INC., Rural Delivery No. 2, South DuPont Highway, Smyrna, Del. 19977. Applicant's representative: Samuel W. Earnshaw, 833 Washington Building, Washington, D.C. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, as follows: *Redwood Furniture*, from the plantsite of Seaside Lumber Co., Willits, Calif., to Atlanta, Ga., Chicago, Ill., Kansas City, and St. Louis, Mo., Oklahoma City, Okla., and Memphis, Tenn., for 180 days. Supporting shipper: Seaside Lumber Co., Box 155, Willits, Calif., Miles F. Sullivan. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 206 Post Office Building, Salisbury, Md. 21801.

No. MC 118288 (Sub-No. 12 TA), filed October 28, 1966. Applicant: Stephen F. Frost, Post Office Box 28, Billings, Mont. 59101. Applicant's representative: Jerome Anderson, First National Bank Building, Billings, Mont. 59101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products and meat byproducts*, from Billings, Mont., to points in Nevada, Utah, and that part of Idaho consisting of Owyhee, Elmore, Custer, Lemhi, Blaine, Camas, Gooding, Twin Falls, Jerome, Lincoln, Cassia, Minidoka, Butte, Power, Oneida, Bannock, Franklin, Beat Lake, Caribou, Bingham, Bonneville, Jefferson, Madison, Teton, Clark, and Fremont Counties, Idaho, for 180 days. Supporting shipper: Pierce Packing Co., Post Office Box 1356, Billings, Mont. 59103. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, Bureau of Operations and Compliance, 251 U.S. Post Office Building, Billings, Mont. 59101.

No. MC 119268 (Sub-No. 56 TA), filed October 31, 1966. Applicant: Osborn, Inc., Post Office Box 6985, Atlanta, Ga. 30315. Applicant's representative: B. K. McClain (Same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, as follows: *Furniture*, Aluminum Tubular, Pipe, or Tubing, Aluminum, and *Artificial Christmas Trees*, from Austell and Waynesboro, Ga., to points in Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin, for 180 days. Supporting shipper: Keller Aluminum Chairs Eastern, Post Office Box 528, Waynesboro, Ga. Production Engineering Co., Austell, Ga. Send protests to: William L. Scroggs, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, Room 300, 680 West Peachtree Street, NE., Atlanta, Ga.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 66-12034; Filed, Nov. 3, 1966; 8:47 a.m.]

FOURTH SECTION APPLICATION FOR RELIEF

OCTOBER 31, 1966.

Protests to the granting of an application must be prepared in accordance with Rule 1.40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 40764—*Joint motor-rail rates—Central States.* Filed by Central States Motor Freight Bureau, Inc., agent (No. 111), for interested carriers. Rates on property moving on class and commodity rates over joint routes of appli-

cant rail and motor carriers, between points in Central States territory.

Grounds for relief—Motortruck competition.

Tariff—Supplement 4 to Central States Motor Freight Bureau, Inc., agent, tariff MF–ICC 1198.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 66–11989; Filed, Nov. 2, 1966; 8:47 a.m.]

[Notice 279]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 31, 1966.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules in Ex Parte No. MC 67 (49 CFR Part 240) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant, or its authorized representative, if any, and the protest must certify that such service has been made. The protest must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined, at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 117304 (Sub-No. 14 TA), filed October 27, 1966. Applicant: DON PAFFILE, doing business as PAFFILE TRUCK LINES, 2906 29th Street North, Lewiston, Idaho 83501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood chips*, in bulk, from St. Maries, Idaho, to Millwood, Wash., for 150 days. Supporting shipper: Potlatch Forests, Inc., Lewiston, Idaho 83501. Send protests to: L. C. Taylor, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 401 U.S. Post Office, Spokane, Wash. 99201.

No. MC 126118 (Sub-No. 4 TA), filed October 27, 1966. Applicant: GEORGE M. HILL, doing business as HILL TRUCKING COMPANY, R.F.D. No. 8, Johnson City, Tenn. 37601. Applicant's representative: Clifford E. Sanders, Attorney at Law, 321 East Center Street, Kingsport, Tenn. 37660. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, (1) from Evansville and South Bend, Ind.; Detroit, Mich.; Louisville and Newport, Ky.; and Cincinnati, Ohio; to Knoxville, Tenn., and (2) from South Bend, Ind.; Louisville and Newport, Ky.; and Cincinnati, Ohio; to Johnson City, Tenn., for 180 days. NOTE: Applicant states it proposes to tack authority sought herein with its authority in MC 126118 and various subs. Supporting shippers: Raymond's Distributing, 4534 Nora Road, Knoxville, Tenn.; Shelton's Distributing Co., 241 West Main Street, Johnson City, Tenn. Send protests to: J. E. Gamble, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 706 U.S. Courthouse, Nashville, Tenn. 37203.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 66–11990; Filed, Nov. 2, 1966; 8:47 a.m.]

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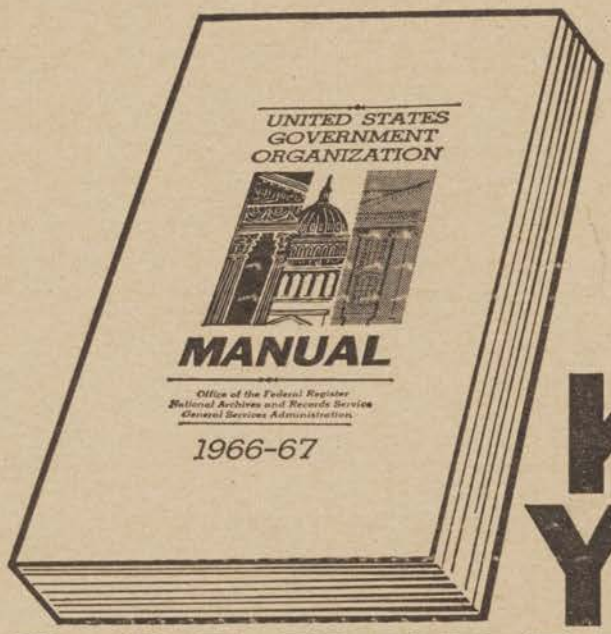
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