

**§ 1494.301 Information required for program participation.**

Before CCC will consider an offer from an interested person, such person must qualify for participation in the program. Based upon information submitted by the interested person and available from public sources, CCC will determine whether the interested person is eligible for participation in the program.

(a) *Submission of documentation.* An interested person that wishes to qualify as an eligible exporter must furnish the following information or documentation to CCC at the address referenced in the Notice to Exporters—EEP Contacts:

\* \* \* \*

(6) The following certification: ‘I certify, to the best of my knowledge and belief, that neither [name of interested person] nor any of its principals has been debarred, suspended, or proposed for debarment from contracting with or participating in programs administered by any U.S. Government agency. [‘Principals,’ for the purpose of this certification, means officers; directors; owners of five percent or more of stock; partners; and persons having primary management or supervisory responsibility within a business entity (e.g., general manager, plant manager, head of a subsidiary division or business segment, and similar positions).] I further agree that, should any such debarment, suspension, or notice of proposed debarment occur in the future, [name of interested person] will immediately notify CCC.’

(b) *Necessity to qualify.* An interested person may not submit an offer, and CCC will not consider any such offer, until CCC has notified the interested person that such person has qualified as an eligible exporter.

\* \* \* \*

(d) *Previous performance.* CCC may request additional information with respect to the interested person’s performance under any U.S. Government programs or in connection with any contracts or agreements with the U.S. Government during the past three years.

(e) *Ineligibility for program participation.* A person may be ineligible to participate in the EEP if such person:

(1) is currently debarred, suspended or proposed for debarment from contracting with or participating in any program administered by a U.S. Government agency; or

(2) is controlled or can be controlled, in whole or in part, by any individuals or entities currently debarred, suspended or proposed for debarment

from contracting with or participating in programs administered by a U.S. Government agency.

(f) *Duty to update information provided to CCC.* An eligible exporter is under a continuing obligation to inform CCC of any changes in the information or documentation submitted to CCC pursuant to paragraph (a) of this section and to provide current and accurate information to CCC.

(g) *Payment of bonus to exporters without proven EEP participation.* An eligible exporter that has not yet demonstrated its ability to participate successfully in the EEP will be eligible to receive a bonus payment(s) only after the eligible commodity specified in an EEP Agreement has entered into the eligible country. Such an exporter must furnish performance security under “Option B” of the applicable Invitation and follow the procedure specified in § 1494.701(d) to request the payment of the bonus. An eligible exporter may demonstrate its ability to participate successfully in the EEP by entering or causing to be entered into the eligible country at least 95% of the quantity of the eligible commodity specified in any one EEP Agreement. CCC will consider that an exporter has proven its ability to participate successfully in the EEP as of the date on which CCC pays to the exporter a bonus for entry of a quantity that brings the total entered quantity for any one EEP Agreement to at least 95%. For all EEP Agreements that such exporter enters into with CCC subsequent to that date, the exporter may furnish performance security under “Option A” of the applicable Invitation and will be eligible to receive bonus payments in accordance with § 1494.701(c).

Signed at Washington, DC, on January 11, 1995.

**Christopher E. Goldthwait,**

*General Sales Manager and Vice President,  
Commodity Credit Corporation.*

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**Rural Housing and Community Development Service**

**Rural Business and Cooperative Development Service**

**Rural Utilities Service**

**Consolidated Farm Service Agency**

**7 CFR Parts 1948 and 1951**

**RIN 0575-AB83**

**Intermediary Relending Program**

**AGENCIES:** Rural Housing and Community Development Service, Rural Business and Cooperative Development Service, Rural Utilities Service, and Consolidated Farm Service Agency, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** The Rural Business and Cooperative Development Service is proposing to amend regulations for the Intermediary Relending Program (IRP). This action is needed to clarify and revise procedures and requirements regarding a variety of issues. The amendments are expected to clarify the roles of the Government and intermediaries, make the program more responsive to the needs of intermediaries and ultimate recipients, and facilitate continuing expansion of the program.

**DATES:** Comments must be received on or before March 20, 1995.

**ADDRESSES:** Submit written comments in duplicate to the Chief, Regulations Analysis and Control Branch, Rural Economic and Community Development Service, USDA, Ag. Box 0743, Washington, DC 20250-0743. All written comments made pursuant to this notice will be available for public inspection during regular working hours at the above office, located in room 6348, South Agriculture Building, 14th and Independence Avenue SW, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** M. Wayne Stansberry, Business and Industry Loan Specialist, Rural Business and Cooperative Development Service, USDA, Ag. Box 3221, Washington, DC 20250, Telephone (202) 720-6819.

**SUPPLEMENTARY INFORMATION:**

**Classification**

We are issuing this proposed rule in conformance with Executive Order 12866, and have determined that it is a “significant regulatory action.”

**Programs Affected**

The Catalog of Federal Domestic Assistance program impacted by this

action is: 10.767, Intermediary Relending Program.

### **Program Administration**

Due to reorganization actions within the Department of Agriculture, the Intermediary Relending Program is currently administered by the Rural Business and Cooperative Development Service (RBCDS). The RBCDS is a successor to the Rural Development Administration, which was a successor to the Farmers Home Administration.

### **Paperwork Reduction Act**

The information collection requirements contained in 7 CFR part 1951 subpart R have been approved by the Office of Management and Budget (OMB) and assigned OMB control number 9575-0131, in accordance with the Paperwork Reduction Act of 1980. The revised information collection requirements contained in 7 CFR part 1948 subpart C will be submitted to OMB for review under Section 3504(h) of the Paperwork Reduction Act. Public reporting burden for this collection of information is estimated to vary from 30 minutes to 56 hours per response with an average of 3.27 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for USDA, Washington, DC 20503. Please send a copy of your comments to Jack Holston, Agency Clearance Officer, USDA, RECD, Ag. Box 0743, Washington, DC 20250.

### **Intergovernmental Review**

As set forth in the final rule and related Notice to 7 CFR part 3015, subpart V, 48 FR 29112, June 24, 1993, Intermediary Relending Loans are subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. RBCDS conducts intergovernmental consultation in the manner delineated in FmHA Instruction 1940-J, "Intergovernmental Review of Farmers Home Administration Programs and Activities."

### **Civil Justice Reform**

This document has been reviewed in accordance with Executive Order 12778. It is the determination of RBCDS that this action does not unduly burden the Federal Court System in that it meets all applicable standards provided in section 2 of the Executive Order.

### **Environmental Impact Statement**

This document has been reviewed in accordance with FmHA Instruction 1940-G, "Environmental Program." RBCDS has determined that this proposed action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Public Law 91-190, an Environmental Impact Statement is not required.

### **Background**

This regulatory package is an initiative to enhance the program through revisions based on experience with operation of the program. The primary changes include the following:

1. The regulation is completely reorganized for improved clarity.
2. Definitions are provided for "Agency IRP loan funds," "IRP revolving fund," "revolved funds," and "technical assistance." Throughout the document, clarifications are provided as to which requirements apply only to Agency IRP loan funds, which apply to revolved funds, and which apply to everything in the IRP revolving fund.
3. Agency State Offices are authorized to accept and process all applications except those from applicants located within Washington, D.C., which will be processed by the National Office.
4. Eligibility requirements for intermediaries are revised to clarify that a proposed intermediary that does not have lending experience may still qualify for a loan if it will arrange for services of people with lending experience.

5. Eligibility requirements are revised to provide that proposed intermediaries that have an outstanding Federal judgement are not eligible.

6. Eligibility requirements are provided for Ultimate recipients.

7. Eligible purposes for loans to ultimate recipients are revised to be more consistent with the Business and Industry loan program, authorize loans for refinancing and recreation facilities (except golf courses, gambling and race tracks).

8. Security requirements are clarified.

9. General guidelines are provided for interest rates and terms of loans to ultimate recipients, along with clarification that such rates must be within limits established in the intermediary's work plan.

10. Loan ceilings are revised to provide that, subject to certain conditions, intermediaries may receive a series of subsequent loans of up to \$1 million each to a combined total of up

to \$15 million. The ceiling on loans to an ultimate recipient is raised to \$250,000.

11. The intermediary's responsibilities for maintaining the intermediary revolving fund are clarified and a provision is added for establishment of a reserve for bad debts of 15 percent of the intermediary's portfolio.

12. Loan disbursement procedures are revised to allow intermediaries to draw up to 25 percent of their loan at loan closing. The funds may be placed in an interest bearing account if they are not immediately needed for loans to ultimate recipients.

13. The requirement for intermediaries to operate in accordance with an approved work plan is clarified and guidelines are provided for RBCDS approval of work plan revisions.

14. The contents of a complete application and work plan are revised to eliminate some unnecessary items, provide more detail on what should be covered regarding relending plans, add certifications regarding debarment, Federal debt collection policies, and lobbying, and provide for streamlined applications for subsequent loans.

15. The priority point scoring system is revised to adjust the percentages required to qualify for points based on service area income compared to the poverty line, provide for points based on service area income compared to Statewide non-metropolitan income, provide for points based on loans to underrepresented groups, and provide more guidelines for the assigning of points by the Administrator.

16. The requirement for a certification by the intermediary regarding equity is removed.

17. Guidelines are provided for information to be submitted to RBCDS regarding proposed loans to ultimate recipients and for RBCDS review and response to the information.

In addition, a number of issues were explored and alternatives were considered in preparing this Proposed Rule. An internal taskforce of State Directors and other State Office personnel has recommended alternatives to some of the material in this proposed rule and additional changes that have not been incorporated into this proposed rule. We invite and encourage comments and suggestions in these areas or in others germane to the mission and purpose of the program. To the extent that comments received raise new issues or cause revision of the proposed regulation which are outside the scope of the subject matter area now contemplated by this proposal, the Agency will publish a new proposal. We

are particularly interested in comments in the following areas:

1. The specific mission of the IRP program in the context of the USDA rural development missions.

The taskforce has recommended the following mission statement be substituted in § 1948.101(b) of the proposed rule: "The purpose of the program is to alleviate poverty and increase economic activity and employment in rural communities, especially disadvantaged and remote communities, through gap financing administered by community-based organizations, targeted primarily towards smaller and emerging businesses, in partnership with other public and private resources, and in accordance with State and regional strategy based on identified community needs. This purpose is achieved through loans made by the Agency to intermediaries that establish programs for the purpose of providing loans to ultimate recipients for business activities and community development(s) in a rural area." Would it be helpful to have this more detailed and descriptive mission statement in the regulation?

2. The type of credit needs for which IRP funding is most appropriate.

What scale of business, type of asset financed, and range of risk should be targeted? For example, should revolving or seasonal lines of credit be eligible loan purposes? The taskforce believes there is a crucial need for revolving credit lines for small businesses. The Agency has been hesitant to allow IRP funds to be used for revolving lines of credit because of the increased risks and special lender expertise needed. Is this a service intermediaries should be providing?

3. Loan size limits for ultimate recipients.

The proposed rule would allow intermediaries to make some loans of up to \$250,000 (§ 1948.114(b)). This proposal was based primarily on reports from some intermediaries of a need for commercial credit in the \$150,000 to \$250,000 range. The taskforce is concerned that the proposed higher loan limit to ultimate recipients might diminish the effectiveness of the program in providing financing for micro-enterprise revolving loan funds which are a target area for rural development policy. Might it be appropriate to retain the existing loan limit of \$150,000? How great is the need for loans exceeding \$150,000? If the \$150,000 limit is retained should exception authority be provided to the Administrator for higher amounts? If so,

what should the criteria be for approving an exception.

4. Outcome and performance measures.

There is a significant need for information which documents the rural community and economic development outcome achieved as a result of IRP activity. What are appropriate outcome and performance measures and reporting requirements for the intermediary loan funds financed by the program, and for the funded activities of the ultimate recipients of the loans?

5. Experience requirements.

To enable more socially oriented community-based organizations to use the program, the taskforce has suggested further revising the eligibility requirements for intermediaries. They have proposed allowing loans to intermediaries that have experience in assisting rural business or community development, but not necessarily lending experience. The proposed rule, as well as current policy, would allow this, but only if the Intermediary will bring individuals with loan making and servicing experience and expertise into the operation (§ 1948.103(b)(2)). Would relaxing the requirement for individuals with lending experience achieve the goal of bringing more socially oriented intermediaries into the program?

6. Citizenship requirements.

The taskforce recommended further revising the eligibility requirements for ultimate recipients to allow intermediaries to make loans to businesses owned by non-U.S. citizens if the project funded creates or retains jobs for U.S. residents. Such loans would be restricted to fixed assets located in the U.S. and the business would have to have managers that are U.S. citizens or legally admitted to the U.S. for permanent residence. Would this provision significantly help to provide jobs?

7. Management consultant fees.

The taskforce has suggested further revising the eligible loan purposes for loans to ultimate recipients to include management consultant fees. Could this enhance the likelihood of success for ultimate recipients?

8. Technical assistance.

The taskforce has suggested further revising the eligible loan purposes to allow intermediaries to use IRP funds to provide direct technical assistance to ultimate recipients or prospective recipients. Would this change be valuable? Is technical assistance an appropriate use for IRP funds?

9. Security requirements.

When the IRP was initiated in 1988, the security required for most loans to intermediaries was a blanket pledge of

the IRP revolving fund. In 1991, the regulation was revised to require assignments on all promissory notes and security documents (§ 1948.113(a)(2)). Intermediaries have complained from time to time about being required to provide the assignments and the taskforce has suggested that the requirement be removed. Is the providing of assignments an inordinate burden on the intermediary?

10. Review and concurrence for loans to ultimate recipients.

Current regulations require intermediaries to obtain the Government's review and concurrence in the IRP loans it proposes to make to ultimate recipients. This proposed rule clarifies the limited scope of review required for concurrence (§ 1948.128) and also clarifies that the requirement for review and concurrence applies only to Federal loan funds and does not apply to loans made from the revolving fund from collections on previous loans. The taskforce, in addition, suggests exempting intermediaries that have demonstrated a successful track record of lending IRP funds and servicing loans from the requirement. Most of the impact of this change would be on subsequent loans to intermediaries. Another alternative would be to simply not require Government review and concurrence on loans to ultimate recipients made from subsequent loans to intermediaries. Should it be necessary for intermediaries to obtain Government concurrence on every proposed loan from Federal funds?

11. Multiple IRP revolving funds.

Intermediaries are required to establish separate bookkeeping accounts and bank accounts for the IRP revolving fund. Intermediaries that receive more than one IRP loan are required to establish a separate revolving fund with separate accounts for each loan. The proposed rule would allow the funds to be combined with Government consent and under certain conditions (§ 1948.115(b)(5)). The taskforce recommended alternate language that would allow the funds to be combined without Government consent unless the purposes of the loans were significantly different. Should intermediaries with more than one IRP loan be required to obtain Government consent to avoid setting up entirely separate funds for each?

12. Environmental assessments.

Are the intergovernmental and environmental review requirements referenced in the proposed rule excessive for loan funds of this type? How could they be streamlined?

13. Loan agreements.

In connection with implementation of the proposed rule the Government plans to begin using a printed form as a loan agreement rather than preparing a loan agreement for each loan based on an exhibit to the regulation. The taskforce recommended an additional step of having one loan agreement serve for multiple loans to the same intermediary. The pertinent language suggested was: "For subsequent loans with no substantial changes to the intermediary's work plan, an amendment to the existing loan agreement shall be executed at loan closing for each subsequent loan." Should subsequent IRP loans to the same intermediary be handled by amendments to the original loan agreement rather than with entirely new loan agreements?

#### 14. Applications.

Should there be more specific requirements for the intermediary's workplan to address issues such as mission, goals, targeting criteria for recipients, and accompanying technical assistance to recipients to ensure that the IRP program achieves tangible outcomes for rural community and economic development and functions in keeping with the Government Performance and Results Act? The taskforce recommended application requirements be further revised, in § 1948.122(a)(2)(iii) of the proposed rule, to provide that the demonstration of need could be met through targeting criteria and supporting evidence that such prospective ultimate recipients exist in sufficient numbers to justify funding the intermediary's request. Would this approach be appropriate? The taskforce recommended further revising the application requirements by requiring the proposed intermediary to provide a set of goals, strategies, and anticipated outcomes for its program and a mechanism for evaluating the outcome of its IRP loan program. The taskforce also recommended requiring each proposed intermediary to provide specific information on how it will ensure that technical assistance will be made available to ultimate recipients. Are these reasonable and worthwhile requirements?

#### 15. Community representation.

Should the 10 county service area limitation (for priority points, § 1948.123(c)(5)) be changed to 14 as recommended by the taskforce?

#### 16. Targeting priorities.

Should the proposed scoring criteria be further modified to place greater emphasis on such factors as community and beneficiary targeting, conformance with regional or community development plans, and encouragement

of smaller-size loans, with proportionately less emphasis on the intermediary's own resources and its ability to leverage funds? Specifically, the taskforce recommended the following: Reduce the available points for other funds (§ 1948.123(c)(1)(i)) from 10, 20, or 30 to 5, 10, or 15; Reduce the available points for other intermediary funds (§ 1948.123(c)(1)(ii)) from 10, 20, or 30 to 5, 10, or 15; Reduce the available points for intermediary contribution (§ 1948.123(c)(3)) from 15, 30, or 50 to 5, 10, or 15; Add a new provision to award points based on the average size of loans expected to be made to ultimate recipients, with 5 points for loans over \$125,000, 10 points for loans of \$75,000 to \$125,000, 15 points for loans of \$25,000 to \$75,000, and 30 points for loans less than \$25,000; Add, to the guidelines for justifying administrator points (§ 1948.123(c)(6)), reference to a workplan in accord with a strategic plan, particularly a plan prepared as part of a request for an Empowerment Zone/Enterprise Community designation. Comments are welcomed on each of these potential changes in the priority system.

#### 17. Bad debt reserve.

Is 15 percent of the IRP portfolio an appropriate amount of bad debt reserve for most intermediaries (1948.115(b)(2))? If not, what level of reserve should be suggested or required?

#### 18. Hotels and motels.

The proposed rule removes a general prohibition on loans for recreation and tourism facilities, but retains a prohibition on loans for hotels, motels, bed and breakfast establishments, and convention centers. This prohibition was based on perceptions that loans on such facilities were high risk and the jobs created were low paying. Are these perceptions valid? Should these facilities be made eligible and considered on the merits of each case?

#### Lists of Subjects

##### 7 CFR Part 1948

Business and industry, Credit, Economic Development, Rural areas.

##### 7 CFR Part 1951

Loan programs—Agriculture, Rural areas.

Accordingly, Title 7, Chapter XVIII, of the Code of Federal Regulations is proposed to be amended as follows:

#### PART 1948—RURAL DEVELOPMENT

1. The authority citation for Part 1948 continues to read as follows:

**Authority:** 7 U.S.C. 1932 note; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

2. Subpart C of part 1948 is revised to read as follows:

#### Subpart C—Intermediary Relending Program (IRP)

Sec.

- 1948.101 Introduction.
- 1948.102 Definitions and abbreviations.
- 1948.103 Eligibility requirements—intermediary.
- 1948.104 Eligibility requirements—Ultimate recipients.
- 1948.105–1948.108 [Reserved]
- 1948.109 Loan purposes.
- 1948.110 Ineligible loan purposes.
- 1948.111 Loan terms.
- 1948.112 Interest rates.
- 1948.113 Security.
- 1948.114 Loan limits.
- 1948.115 Post award requirements.
- 1948.116 [Reserved]
- 1948.117 Other regulatory requirements.
- 1948.118 Loan agreements between the Agency and the intermediary.
- 1948.119–1948.121 [Reserved]
- 1948.122 Application.
- 1948.123 Filing and processing applications for loans.
- 1948.124 [Reserved]
- 1948.125 Letter of conditions.
- 1948.126 Loan approval and obligating funds.
- 1948.127 Loan closing.
- 1948.128 Requests to make loans to ultimate recipients.
- 1948.129–1948.142 [Reserved]
- 1948.143 Appeals.
- 1948.144–1948.147 [Reserved]
- 1948.148 Exception authority.
- 1948.149 [Reserved]
- 1948.150 OMB control number.

#### Subpart C—Intermediary Relending Program (IRP)

##### § 1948.101 Introduction.

(a) This subpart contains regulations for loans made by the Agency to eligible intermediaries and applies to borrowers and other parties involved in making such loans. The provisions of this subpart supersede conflicting provisions of any other subpart. The servicing and liquidation of such loans will be in accordance with subpart R of part 1951 of this chapter.

(b) The purpose of the program is to finance business facilities and community development projects in rural areas. This purpose is achieved through loans made to intermediaries that establish programs for the purpose of providing loans to ultimate recipients for business facilities and community developments in a rural area.

(c) Proposed intermediaries are required to identify any known relationship or association with an Agency employee. Such assistance is restricted by FmHA Instruction 2045-BB. Any processing or servicing activity conducted pursuant to this subpart involving authorized assistance to

Agency employees, members of their families, known close relatives, or business or close personal associates, is subject to the provisions of subpart D of part 1900 of this chapter.

(d) Copies of all forms, regulations, and Instructions referenced in this subpart are available in the National Office or any State Office.

#### **§ 1948.102 Definitions and abbreviations.**

(a) *General definitions.* The following definitions are applicable to the terms used in this subpart.

*Agency.* The Federal agency within the United States Department of Agriculture (USDA) with responsibility assigned by the Secretary of Agriculture to administer the IRP.

*Agency IRP loan funds.* Cash proceeds of a loan obtained from the Agency through the IRP, including the portion of an IRP revolving fund directly provided by the Agency IRP loan. Agency IRP loan funds are Federal funds.

*Intermediary.* The entity requesting or receiving Agency IRP loan funds for establishing a revolving fund and relending to ultimate recipients.

*IRP revolving fund.* A group of assets, obtained through or related to an Agency IRP loan and recorded by the intermediary in a bookkeeping account or set of accounts and accounted for, along with related liabilities, revenues, and expenses, as an entity or enterprise separate from the intermediary's other assets and financial activities. All Agency IRP loan funds received by an intermediary must be deposited into an IRP revolving fund. The intermediary may transfer additional assets into the IRP revolving fund. Loans to ultimate recipients are advanced from the IRP revolving fund. The receivables created by making loans to ultimate recipients, the intermediary's security interest in collateral pledged by ultimate recipients, collections on the receivables, interest, fees, and any other income or assets derived from the operation of the IRP revolving fund are a part of the IRP revolving fund.

*Principals of intermediary.* Members, officers, directors, and other individuals or entities directly involved in the operation and management of an intermediary.

*Processing office/officer.* The processing office for an IRP application is the office within the Agency administrative organization with assigned authority and responsibility to process the application. The processing office is the primary contact for the proposed intermediary and maintains the official application case file. The processing officer for an application is

the person in charge of the processing office. The processing officer is responsible for ensuring that all regulations and Instructions are complied with in regard to applications under her/his jurisdiction.

*Revolved funds.* The cash portion of an IRP revolving fund that is not Agency loan funds, including funds that result from loaning out the Agency IRP loan funds and then collecting all or part of the loans, and including fees and interest collected on such loans. Revolved funds shall not be considered Federal funds.

*Rural area.* All territory of a State that is not within the outer boundary of any city having a population of 25,000 or more, according to the latest decennial census.

*Servicing office/officer.* The servicing office for an IRP loan is the office within the Agency administrative organization with assigned authority and responsibility to service the loan. The servicing office is the primary contact for the borrower and maintains the official case file after the loan is closed. The servicing officer for a loan is the person in charge of the servicing office. The servicing officer is responsible for ensuring that all regulations and Instructions are complied with in regard to loans under her/his jurisdiction.

*State.* Any of the 50 States, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

*Technical Assistance.* A function performed for the benefit of an ultimate recipient or proposed ultimate recipient, which is a problem solving activity. The Agency will determine whether a specific activity qualifies as technical assistance.

*Ultimate recipient.* An entity or individual that receives a loan from an intermediary's IRP revolving fund.

(b) *Abbreviations.* The following are applicable to this subpart:

- (1) *B&I*—Business and Industry
- (2) *FmHA*—Farmers Home Administration
- (3) *IRP*—Intermediary Relending Program
- (4) *OGC*—Office of the General Counsel
- (5) *OIG*—Office of the Inspector General
- (6) *OMB*—Office of Management and Budget
- (7) *RDLF*—Rural Development Loan Fund
- (8) *USDA*—United States Department of Agriculture

#### **§ 1948.103 Eligibility requirements—Intermediary.**

(a) The types of entities which may become intermediaries are:

(1) Private nonprofit corporations.

(2) Public agencies—Any State or local government, or any branch or agency of such government having authority to act on behalf of that government, borrow funds, and engage in activities eligible for funding under this subpart.

(3) Indian groups—Indian tribes on a Federal or State reservation or other federally recognized tribal groups.

(4) Cooperatives—Incorporated associations, at least 51 percent of whose members are rural residents, whose members have one vote each, and which conduct, for the mutual benefit of their members, such operations as producing, purchasing, marketing, processing or other activities aimed at improving the income of their members as producers or their purchasing power as consumers.

(b) The intermediary must:

(1) Have the legal authority necessary for carrying out the proposed loan purposes and for obtaining, giving security for, and repaying the proposed loan.

(2) Have a proven record of successfully assisting rural business and industry, or, for intermediaries that propose to finance community development, a proven record of successfully assisting rural community development projects of the type planned.

(i) Except as provided in paragraph (b)(2)(ii) of this section, such record will include recent experience in loan making and servicing with loans that are similar in nature to those proposed for the IRP and a delinquency and loss rate acceptable to the Agency.

(ii) The Agency may approve an exception to the requirement for loan making and servicing experience provided:

(A) The proposed intermediary has a proven record of successfully assisting rural business and industry or rural community development projects of the type planned but the assistance is other than lending; and

(B) The proposed intermediary will, before the loan is closed, bring individuals with loan making and servicing experience and expertise into the operation of the IRP revolving fund.

(3) Have the services of a staff with loan making and servicing expertise acceptable to the Agency.

(4) Have capitalization acceptable to the Agency.

(c) No loans will be extended to an intermediary unless:

(1) There is adequate assurance of repayment of the loan based on the fiscal and managerial capabilities of the proposed intermediary.

(2) The loan is not otherwise available on reasonable (i.e., usual and customary) rates and terms from private sources or other Federal, State, or local programs.

(3) The amount of the loan, together with other funds available, is adequate to assure completion of the project or achieve the purposes for which the loan is made.

(d) At least 51 percent of the outstanding interest or membership in any nonpublic body intermediary must be citizens of the United States or reside in the United States after being legally admitted for permanent residence.

(e) An outstanding judgment against the proposed intermediary obtained by the United States in a Federal court (other than in the United States Tax Court), which has been recorded, shall cause the proposed intermediary to be ineligible to receive any loan until the judgment is paid in full or otherwise satisfied. Agency loan funds may not be used to satisfy the judgment.

#### **§ 1948.104 Eligibility requirements—Ultimate recipients.**

(a) Ultimate recipients may be individuals, public or private organizations, or other legal entities, with authority to incur the debt and carry out the purpose of the loan.

(b) To be eligible to receive loans from the IRP revolving loan fund:

(1) At least 51 percent of the outstanding membership or ownership of the ultimate recipient must be either citizens of the United States or residents of the United States after being legally admitted for permanent residence.

(2) Must be located in a rural area.

(3) Must be unable to finance the proposed project from its own resources or through commercial credit or other Federal, State, or local programs at reasonable rates and terms.

(c) An outstanding judgment against the proposed ultimate recipient obtained by the United States in a Federal court (other than in the United States Tax Court), which has been recorded, shall cause the proposed ultimate recipient to be ineligible to receive a loan from Agency IRP loan funds until the judgment is paid in full or otherwise satisfied. Agency IRP loan funds may not be used to satisfy the judgment.

#### **§§ 1948.105–1948.108 [Reserved]**

#### **§ 1948.109 Loan purposes.**

(a) *Intermediaries.* Agency IRP loan funds must be placed in the intermediary's IRP revolving fund and used by the intermediary to provide direct loans to eligible ultimate recipients.

(b) *Ultimate recipients.* Loans from the intermediary to the ultimate recipient using the IRP revolving fund must be for community development projects, the establishment of new businesses, expansion of existing businesses, creation of employment opportunities, and/or saving existing jobs. Such loans may include, but are not limited to:

(1) Business and industrial acquisitions when the loan will keep the business from closing, prevent the loss of employment opportunities, or provide expanded job opportunities.

(2) Business construction, conversion, enlargement, repair, modernization, or development.

(3) Purchase and development of land, easements, rights-of-way, buildings, facilities, leases, or materials.

(4) Purchase of equipment, leasehold improvements, machinery, or supplies.

(5) Pollution control and abatement.

(6) Transportation services.

(7) Start-up operating costs and working capital.

(8) Interest (including interest on interim financing) during the period before the facility becomes income producing, but not to exceed 3 years.

(9) Feasibility studies.

(10) Debt refinancing.

(i) A complete review will be made by the intermediary to determine whether the loan will restructure debts on a schedule that will allow the ultimate recipient to operate successfully rather than merely take over an unsound loan. The intermediary will obtain the proposed ultimate recipient's complete debt schedule which should agree with the proposed ultimate recipient's latest balance sheet; and

(ii) Refinancing debts may be allowed only when it is determined by the intermediary that the project is viable and refinancing is necessary to create new or save existing jobs or create or continue a needed service; and

(iii) On any request for refinancing of existing secured loan(s), the intermediary is required, as a minimum, to obtain the previously held collateral as security for the loan(s) and must not pay off a creditor in excess of the value of the collateral. Additional collateral will be required when refinancing of unsecured loans is unavoidable to accomplish the necessary strengthening of the ultimate recipient's position.

(11) Reasonable fees and charges only as specifically listed in this paragraph. Authorized fees include loan packaging fees, environmental data collection fees, and other fees for services rendered by professionals. Professionals are generally persons licensed by States or accreditation associations, such as

Engineers, Architects, Lawyers, Accountants, and Appraisers. The maximum amount of fee will be what is reasonable and customary in the community or region where the project is located. Any such fees are to be fully documented and justified.

(12) Aquaculture including conservation, development, and utilization of water for aquaculture. Aquaculture is defined as the culture or husbandry of aquatic animals or plants by private industry for commercial purposes including the culture and growing of fish by private industry for the purpose of granting or augmenting publicly-owned or regulated stocks of fish.

(13) Tourist and recreational facilities except as prohibited by § 1948.110 of this subpart.

#### **§ 1948.110 Ineligible loan purposes.**

Agency IRP loan funds may not be used for payment of the intermediary's own administrative costs or expenses. The IRP revolving fund may not be used for:

(a) Assistance in excess of what is needed to accomplish the purpose of the ultimate recipient's project.

(b) Distribution or payment to the owner, partners, shareholders, or beneficiaries of the ultimate recipient or members of their families when such persons will retain any portion of their equity in the ultimate recipient.

(c) Charitable and educational institutions, churches, organizations affiliated with or sponsored by churches, and fraternal organizations.

(d) Assistance to government employees, military personnel or principals or employees of the intermediary or organizations for which such persons are directors or officers or have major ownership (20 percent or more).

(e) A loan to an ultimate recipient which has an application pending with or a loan outstanding from another intermediary involving an IRP revolving fund.

(f) Any line of credit.

(g) Agricultural production, which means the cultivation, production (growing), harvesting, either directly or through integrated operations, of agricultural products (crops, animals, birds, and marine life, either for fiber or food for human consumption, and disposal or marketing thereof, and the raising, housing, feeding, breeding, hatching, control, and/or management of farm and domestic animals). Exceptions to this definition are:

(1) Aquaculture as identified under § 1948.109(b) of this subpart.

(2) Commercial nurseries primarily engaged in the production of ornamental plants and trees and other nursery products such as bulbs, florists' greens, flowers, shrubbery, flower and vegetable seeds, sod, or the growing of vegetables from seed to the transplant stage.

(3) Forestry, which includes establishments primarily engaged in the operation of timber tracts, tree farms, forest nurseries, and related activities such as reforestation.

(4) The growing of mushrooms or hydroponics.

(h) The transfer of ownership unless the loan will keep the business from closing, or prevent the loss of employment opportunities in the area, or provide expanded job opportunities.

(i) Community antenna television services or facilities.

(j) Any illegal activity.

(k) Any project that is in violation of either a Federal, State or local environmental protection law or regulation or an enforceable land use restriction unless the assistance given will result in curing or removing the violation.

(l) Hotels, motels, tourist homes, bed and breakfast establishments, or convention centers.

(m) Lending and investment institutions and insurance companies.

(n) Golf courses, race tracks, or gambling facilities.

#### **§ 1948.111 Loan terms.**

(a) No loans to intermediaries shall be extended for a period exceeding 30 years. Interest and principal payments will be scheduled at least annually. The initial principal payment may be deferred (during the period before the facility becomes income producing) by the Agency, but not more than 3 years.

(b) Loans made by an intermediary to an ultimate recipient from the IRP revolving fund will be scheduled for repayment over a term negotiated by the intermediary and ultimate recipient. The term must be reasonable and prudent considering the purpose of the loan, expected repayment ability of the ultimate recipient, and the useful life of collateral, and must be within any limits established by the intermediary's work plan.

#### **§ 1948.112 Interest rates.**

(a) Loans made by the Agency pursuant to this subpart shall bear interest at a fixed rate of 1 percent per annum over the term of the loan.

(b) Interest rates charged by intermediaries to ultimate recipients on loans from the IRP revolving fund shall be negotiated by the intermediary and

ultimate recipient. The rate must be within limits established by the intermediary's work plan approved by the Agency. The rate should normally be the lowest rate sufficient to cover the loan's proportional share of the IRP revolving fund's debt service costs, reserve for bad debts, and administrative costs.

#### **§ 1948.113 Security.**

(a) *Intermediaries.* Security for all loans to intermediaries must be such that the repayment of the loan is reasonably assured, when considered along with the intermediary's financial condition, work plan, and management ability. It is the responsibility of the intermediary to make loans to ultimate recipients in such a manner that will fully protect the interests of the intermediary and the Government.

(1) Security for such loans may include, but is not limited to:

(i) Any realty, personality, or intangibles capable of being mortgaged, pledged, or otherwise encumbered by the intermediary in favor of the Agency; and

(ii) Any realty, personality, or intangibles capable of being mortgaged, pledged, or otherwise encumbered by an ultimate recipient in favor of the Agency.

(2) Security will normally consist of a lien on the IRP revolving fund. The Agency will obtain assignments of security pledged by ultimate recipients including an assignment of the promissory notes given by the ultimate recipients and take possession of the promissory notes.

(i) The assignment documents will not be filed or recorded in the public records unless the intermediary is in default on its IRP loan. They will be held by the Agency and may be filed at the sole discretion of the Agency, after an event of default, if the Agency determines the filing is necessary to protect the Government's interest.

(ii) The perfection of assignments when intermediaries close loans is not required. Assignment documents will be obtained and held to facilitate the perfection of assignments at a later date if the intermediary fails to meet its obligations.

(3) The Agency may require additional security or additional documents needed to perfect liens at any time during the term of a loan to an intermediary if, after review and monitoring, an assessment indicates the need for such security or documentation to protect the Government's interest.

(b) *Ultimate recipients.* Security for a loan from an intermediary's IRP revolving fund to an ultimate recipient

will be negotiated by the intermediary and ultimate recipient, within the general security policies established by the intermediary and approved by the Agency.

#### **§ 1948.114 Loan limits.**

##### *(a) Intermediary.*

(1) No loan to an intermediary will exceed the maximum amount the intermediary can reasonably be expected to relend to eligible ultimate recipients, in an effective and sound manner, within 1 year after loan closing.

(2) The first IRP loan to an intermediary will not exceed \$2 million.

(3) Intermediaries that have received one or more IRP loans may apply for and be considered for subsequent IRP loans provided:

(i) At least 80 percent of the Agency IRP loan funds the intermediary was approved for have been disbursed to eligible ultimate recipients.

(ii) The intermediary is promptly relending all collections from loans made from its IRP revolving fund in excess of what is needed for required debt service, reasonable administrative costs approved by the Agency, and a reasonable reserve for debt service and uncollectible accounts.

(iii) The outstanding loans of the intermediary's IRP revolving fund are generally sound.

(iv) The intermediary is in compliance with all applicable regulations and its loan agreement(s) with the Agency.

(4) Subsequent loans will not exceed \$1 million each and not more than one loan will be approved for an intermediary in any one fiscal year.

(5) Total outstanding IRP indebtedness of an intermediary to Agency will not exceed \$15 million at any time.

(b) *Ultimate recipients.* Loans from intermediaries to ultimate recipients using the IRP revolving fund will not exceed the lesser of:

(1) \$250,000; or

(2) 75% of the total cost of the ultimate recipient's project for which the loan is being made.

(c) *Portfolio.* No more than 25 percent of an IRP loan approved for an intermediary may be used for loans to ultimate recipients that exceed \$150,000. This limit does not apply to revolved funds.

#### **§ 1948.115 Post award requirements.**

(a) *Applicability.* Intermediaries receiving loans under this program shall be governed by these regulations, the loan agreement, the approved work plan, security interests, and any other conditions which the Agency may

impose in awarding a loan. Whenever this subpart imposes a requirement on loans made from the "IRP revolving fund," such requirement shall apply to all loans made by an intermediary to an ultimate recipient from the intermediary's IRP revolving fund, as defined in § 1948.102(a) of this subpart, so long as any portion of the intermediary's IRP loan from the Agency remains unpaid. Whenever this subpart imposes a requirement on loans made by intermediaries from "Agency IRP loan funds," without specific reference to the IRP revolving fund, such requirement shall apply only to loans made by an intermediary using Agency IRP loan funds, as defined in § 1948.102(a) of this subpart, and will not apply to loans made from revolved funds.

(b) *Maintenance of IRP revolving fund.* So long as any part of an IRP loan to an intermediary remains unpaid, the intermediary must maintain the IRP revolving fund in accordance with the definition of IRP revolving fund found in § 1948.102(a) of this subpart. The portion of the IRP revolving loan fund that is Agency IRP loan funds may only be used for making loans in accordance with § 1948.109 of this subpart. The portion that is revolved funds as defined in § 1948.102(a) of this subpart may be used for debt service, reasonable administrative costs, or reserves in accordance with this section, or for making additional loans.

(1) The intermediary must submit an annual budget of proposed administrative costs for Agency approval. The amount removed from the IRP revolving fund for administrative costs in any year must be reasonable, must not exceed the actual cost of operating the IRP revolving fund, including loan servicing and providing technical assistance, and must not exceed the amount approved by the Agency in the budget.

(2) A reasonable amount of revolved funds should be used to create a reserve for bad debts. Reserves should be accumulated over a period of years. The total amount should not exceed maximum expected losses, considering the quality of the intermediary's portfolio of loans. Unless the intermediary provides loss and delinquency records that, in the opinion of the Agency, justifies different amounts, a reserve for bad debts of 15 percent of outstanding loans should be accumulated over 5 years and then maintained.

(3) Any cash in the IRP revolving fund from any source that is not needed for debt service, approved administrative costs, or reasonable reserves must be

available for additional loans to ultimate recipients.

(4) All reserves and other cash in the IRP revolving loan fund not immediately needed for loans to ultimate recipients or other authorized uses should be deposited in an interest bearing account in a bank or other financial institution covered by a form of Federal deposit insurance. Such accounts and any interest earned thereon remain a part of the IRP revolving fund.

(5) If an intermediary receives more than one IRP loan, a separate IRP revolving fund must be established and maintained for each loan unless the Agency gives written permission for the IRP revolving funds to be combined. The Agency may give such permission only if there are no significant differences in the loan agreements and other requirements imposed by Agency for the loans or if the intermediary agrees in writing to operate the combined revolving funds in accordance with the most stringent loan agreements and requirements.

#### **§ 1948.116 [Reserved]**

#### **§ 1948.117 Other regulatory requirements.**

(a) *Intergovernmental consultation.* The IRP is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. The approval of a loan to an intermediary will be the subject of intergovernmental consultation. For each ultimate recipient to be assisted with a loan from Agency IRP loan funds and for which the State in which the ultimate recipient is to be located has elected to review the program under their intergovernmental review process, the State Single Point of Contact must be notified. Notification, in the form of a project description, can be initiated by the intermediary or the ultimate recipient. Any comments from the State must be included with the intermediary's request to use the Agency loan funds for the ultimate recipient. Prior to the Agency's decision on the request, compliance with the requirements of intergovernmental consultation must be demonstrated for each ultimate recipient. These requirements should be carried out in accordance with FmHA Instruction 1940-J.

#### *(b) Environmental requirements.*

(1) Unless specifically modified by this section, the requirements of subpart G of part 1940 of this chapter apply to this subpart. Intermediaries and ultimate recipients must consider the potential environmental impacts of their projects at the earliest planning stages

and develop plans to minimize the potential to adversely impact the environment. Both the intermediaries and the ultimate recipients must cooperate and furnish such information and assistance as the Agency needs to make any of its environmental determinations.

(2) For each application for a loan to an intermediary, the Agency will review the application, supporting materials, and any required Forms FmHA 1940-20, "Request for Environmental Information," and complete a Class II environmental assessment. This assessment will focus on the potential cumulative impacts of the projects as well as any environmental concerns or problems that are associated with individual projects that can be identified at this time.

Neither the completion of the environmental assessment nor the approval of the application is an Agency commitment to the use of loan funds for a specific project; therefore, no public notification requirements for a Class II assessment will apply to the application. The affected public has not been sufficiently identified at this stage of the Agency review.

(3) For each proposed loan from an intermediary to an ultimate recipient using Agency IRP loan funds, the Agency will complete the environmental review required by subpart G of part 1940 of this chapter including public notification requirements. The results of this review will be used by the Agency in making its decision on concurrence in the proposed loan. The Agency will prepare an Environmental Impact Statement for any application for a loan from Agency IRP loan funds determined to have a significant effect on the quality of the human environment.

#### *(c) Equal opportunity and nondiscrimination requirements.*

(1) In accordance with Title V of Pub. L. 93-495, the Equal Credit Opportunity Act, and Section 504 of the Rehabilitation Act for Federally Conducted Programs and Activities, neither the intermediary nor the Agency will discriminate against any proposed intermediary or proposed ultimate recipient on the basis of sex, marital status, race, color, religion, natural origin, age, physical or mental handicap (provided the proposed intermediary or proposed ultimate recipient has the capacity to contract), because all or part of the proposed intermediary's or proposed ultimate recipient's income is derived from public assistance of any kind, or because the proposed intermediary or proposed ultimate recipient has in good faith exercised any

right under the Consumer Credit Protection Act, with respect to any aspect of a credit transaction anytime Agency loan funds are involved.

(2) The regulations contained in subpart E of part 1901 of this chapter apply to this program.

(3) The Administrator will assure that equal opportunity and nondiscrimination requirements are met in accordance with Title VI of the Civil Rights Act of 1964, "Nondiscrimination in Federally Assisted Programs," 42 U.S.C. 2000d-4, Section 504 of the Rehabilitation Act for Federally Conducted Programs and Activities, and the Age Discrimination Act of 1975, as amended.

#### **§ 1948.118 Loan agreements between the Agency and the intermediary.**

A loan agreement must be executed by the intermediary and the Agency at loan closing for each loan. The loan agreement will be prepared by the Agency using Form FmHA 1948-4, "Intermediary Relending Program Loan Agreement," and reviewed by OGC and the intermediary prior to loan closing. The loan agreement, as a minimum, must contain the following provisions:

- (a) The loan agreement will set out:
  - (1) The amount of the loan.
  - (2) The interest rate.
  - (3) The term and repayment schedule.
  - (4) The provisions for late charges.

The intermediary shall pay a late charge of 4 percent of the payment due of principal and/or interest if payment for either of these is not received within 15 calendar days following the due date. The late charge shall be considered unpaid if not received within 30 calendar days of the missed due date for which it was imposed. Any unpaid late charge shall be added to principal and be due as an extra payment at the end of the term. Acceptance of a late charge by the Agency does not constitute a waiver of default.

(5) Disbursement procedure. Disbursement of loan funds by the Agency to the intermediary shall take place after the loan agreement and promissory note are executed, and any other conditions precedent to disbursement of funds are fully satisfied. The date of each draw down shall constitute the date the funds are advanced under the loan agreement for purposes of computing interest.

(i) The intermediary may initially draw up to 25 percent of the loan funds. If the intermediary does not have loans to ultimate recipients ready to close sufficient to use the initial draw, the funds should be deposited in an interest bearing account in accordance with § 1948.115 (b)(4) of this subpart until

needed for such loans. The initial draw must be used for loans to ultimate recipients before any additional Agency IRP loan funds may be drawn by the intermediary. Any funds from the initial draw that have not been used for loans to ultimate recipients within 1 year from the date of the draw must be returned to the Agency as an extra payment on the loan. Agency IRP loan funds must not be used for administrative expenses of the intermediary.

(ii) After the initial draw of funds, an intermediary may draw down only such funds as are necessary to cover a 30-day period in implementing its approved work plan. Advances will be requested by the intermediary in writing. The intermediary may use Form FmHA 440-11, "Estimate of Funds Needed for 30-day Period Commencing \_\_\_\_\_," to request the funds.

(6) Provisions regarding default. On the occurrence of any event of default, the Agency may declare all or any portion of the debt and interest to be immediately due and payable and may proceed to enforce its rights under the loan agreement or any other instruments securing or relating to the loan and in accordance with the applicable law and regulations. Any of the following may be regarded as an "event of default" in the sole discretion of the Agency:

(i) Failure of the intermediary to carry out or comply with the specific activities in its loan application as approved by the Agency, or loan terms and conditions, or any terms or conditions of the loan agreement, or any applicable Federal or State laws, or with such USDA or Agency regulations as may become generally applicable at any time.

(ii) Failure of the intermediary to pay within 15 calendar days of its due date any installment of principal or interest on its promissory note to the Agency.

(iii) The occurrence of:

(A) The intermediary's becoming insolvent, or ceasing, being unable, or admitting in writing its inability to pay its debts as they mature, or making a general assignment for the benefit of, or entering into any composition or arrangement with creditors; or,

(B) proceedings for the appointment of a receiver, trustee, or liquidator of the intermediary, or of a substantial part of its assets, being authorized or instituted by or against it.

(iv) Submission or making of any report, statement, warranty, or representation by the intermediary or agent on its behalf to USDA or the Agency in connection with the financial assistance awarded hereunder which is false, incomplete, or incorrect in any material respect.

(v) Failure of the intermediary to remedy any material adverse change in its financial or other condition (such as the representational character of its board of directors or policymaking body) arising since the date of the Agency's award of assistance hereunder, which condition was an inducement to Agency's original award.

(7) Insurance requirements.

(i) Hazard insurance with a standard mortgage clause naming the intermediary as beneficiary will be required by the intermediary on every ultimate recipient's project funded from the IRP revolving fund in an amount that is at least the lesser of the depreciated replacement value of the property being insured or the amount of the loan. Hazard insurance includes fire, windstorm, lightning, hail, business interruption, explosion, riot, civil commotion, aircraft, vehicle, marine, smoke, builder's risk, public liability, property damage, flood or mudslide, or any other hazard insurance that may be required to protect the security. The intermediary's interest in the insurance will be assigned to the Agency.

(ii) Ordinarily, life insurance, which may be decreasing term insurance, is required for the principals and key employees of the ultimate recipient funded from the IRP revolving fund and will be assigned or pledged to the intermediary and subsequently to the Agency. A schedule of life insurance available for the benefit of the loan will be included as part of the application.

(iii) Workmen's compensation insurance on ultimate recipients is required in accordance with the State law.

(iv) The intermediary is responsible for determining if an ultimate recipient funded from the IRP revolving fund is located in a special flood or mudslide hazard area anytime. If the ultimate recipient is in a flood or mudslide area, then flood or mudslide insurance must be provided in accordance with subpart B of part 1806 of this chapter (FmHA Instruction 426.2).

(v) Intermediaries will provide fidelity bond coverage for all persons who have access to intermediary funds. Coverage may be provided either for all individual positions or persons, or through "blanket" coverage providing protection for all appropriate employees and/or officials. The Agency may also require the intermediary to carry other appropriate insurance, such as public liability, workers compensation, and/or property damage.

(A) The amount of fidelity bond coverage required by the Agency will normally approximate the total annual

debt service requirements for the Agency loans.

(B) Form FmHA 440-24, "Position Fidelity Schedule Bond Declarations," may be used. Similar forms may be used if determined acceptable to the Agency. Other types of coverage may be considered acceptable if it is determined by the Agency that they fulfill essentially the same purpose as a fidelity bond.

(C) Intermediaries must provide evidence of adequate fidelity bond and other appropriate insurance coverage by loan closing. Adequate coverage in accordance with this section must then be maintained for the life of the loan. It is the responsibility of the intermediary and not that of the Agency to assure and provide evidence that adequate coverage is maintained. This may consist of a listing of policies and coverage amounts in annual reports required by paragraph (b)(4) of this section or other documentation.

(8) Authority to operate. The loan agreement will provide that the intermediary has permission and authority to collect on all notes given to it, service all loans it makes, and manage the relending program as if the Agency had not taken assignments on security pledged by ultimate recipients. It is the responsibility of the intermediary to make and service loans to ultimate recipients in such a manner that will fully protect the interests of the intermediary and the Government. After an event of default by the intermediary, the Agency may terminate this permission and authority by providing the intermediary with written notice.

(9) That if any part of the loan has not been used in accordance with the intermediary's work plan by a date 3 years from the date of the loan agreement, the Agency may cancel the approval of any funds not yet delivered to the intermediary and demand the return, as an extra payment on the loan, any funds delivered to the intermediary that have not been used by the intermediary in accordance with the work plan. The Agency, at its sole discretion, may allow the intermediary additional time to use the loan funds by delaying cancellation of the funds by not more than 3 additional years. If any loan funds have not been used by 6 years from the date of the loan agreement, the approval will be cancelled of any funds that have not been delivered to the intermediary and the intermediary will return, as an extra payment on the loan, any funds it has received and not used in accordance with the work plan. In accordance with Form FmHA 1948-3, "Intermediary Relending Program Promissory Note,"

regular loan payments will be based on the amount of funds actually drawn by the intermediary.

(b) The intermediary will agree:

(1) Not to make any changes in the intermediary's articles of incorporation, charter, or by-laws without the concurrence of the Agency.

(2) Not to make a loan commitment to an ultimate recipient to be funded from Agency IRP loan funds without first receiving the Agency's written concurrence.

(3) To maintain a separate ledger and segregated account for the IRP revolving fund.

(4) To Agency reporting requirements by providing:

(i) An annual audit.

(A) Dates of audit report period need not necessarily coincide with other reports on the IRP. Audits shall be due 90 days following the audit period.

Audits must cover all of the intermediary's activities. Audits will be performed by an independent certified public accountant or by an independent public accountant licensed and certified on or before December 31, 1970, by a regulatory authority of a State or other political subdivision of the United States. An acceptable audit will be performed in accordance with generally accepted Government auditing standards and include such tests of the accounting records as the auditor considers necessary in order to express an opinion on the financial condition of the intermediary. The Agency does not require an unqualified audit opinion as a result of the audit. Compilations or reviews do not satisfy the audit requirement.

(B) It is not intended that audits required by this subpart be separate and apart from audits performed in accordance with State and local laws or for other purposes. To the extent feasible, the audit work should be done in connection with these audits. Intermediaries covered by OMB Circular A-128 or A-133 should submit audits made in accordance with those circulars.

(ii) Quarterly reports (due 30 days after the end of the period).

(A) The Agency at its option may change this requirement to semiannual reports. These reports shall contain information only on the IRP revolving loan fund, or if other funds are included, the IRP loan program portion shall be segregated from the others; and in the case where the intermediary has more than one IRP loan from the Agency a separate report shall be made for each of these IRP loans unless the Agency has given permission for the IRP revolving funds to be combined.

(B) The reports will include Form FmHA 1951-4, "Report of IRP/RDLF Lending Activity." This report will include information on the intermediary's lending activity, income and expenses, and financial condition and a summary of names and characteristics of the ultimate recipients the intermediary has financed.

(iii) Annual proposed budget for the following year.

(iv) Other reports as the Agency may require from time to time.

(5) Before the first relending of Agency funds to an ultimate recipient, to obtain written Agency approval of:

(i) All forms to be used for relending purposes, including application forms, loan agreements, promissory notes, and security instruments.

(ii) Intermediary's policy with regard to the amount and form of security to be required.

(6) To obtain written approval of the Agency before making any significant changes in forms, security policy, or the work plan. The servicing officer may approve changes in forms, security policy, or work plans at any time upon a written request from the intermediary and determination by the Agency that the change will not jeopardize repayment of the loan or violate any requirement of this subpart or other Agency regulations. The intermediary must comply with the workplan approved by the Agency so long as any portion of the intermediary's IRP loan is outstanding.

(7) To secure the indebtedness by pledging its portfolio of investments derived from the proceeds of the loan award, including providing assignments to the Agency of security pledged by ultimate recipients including the promissory notes of ultimate recipients and transferring possession to the Agency of promissory notes given by ultimate recipients, and/or pledging its real and personal property, and other rights and interests as the Agency may require.

(8) To provide additional security and execute any additional lien instruments as the Agency may require at any time during the term of the loan if, after review and monitoring, an assessment indicates the need for such security to protect the Government's interest.

#### **§§ 1948.119–1948.121 [Reserved]**

#### **§ 1948.122 Application.**

(a) An application will consist of:

(1) Form FmHA 1948-1, "Application for Loan (Intermediary Relending Program)."

(2) A written work plan and other evidence the Agency requires to

demonstrate the feasibility of the intermediary's program to meet the objectives of this program. The plan must, at a minimum:

(i) Document the intermediary's ability to administer an IRP in accordance with the provisions of this subpart. In order to adequately demonstrate the ability to administer the program, the intermediary must provide a complete listing of all personnel responsible for administering this program along with a statement of their qualifications and experience. The personnel may be either members or employees of the intermediary's organization or contract personnel hired for this purpose. If the personnel are to be contracted for, the contract between the intermediary and the entity providing such service will be submitted for Agency review and the terms of the contract and its duration must be sufficient to adequately service the Agency loan through to its ultimate conclusion. If the Agency determines the personnel lack the necessary expertise to administer the program, the loan request will not be approved.

(ii) Document the intermediary's ability to commit financial resources under the control of the intermediary to the establishment of an IRP. This should include a statement of the source(s) of non-Agency funds for administration of the the intermediary's operations and financial assistance for projects.

(iii) Demonstrate a need for loan funds. As a minimum, the intermediary should identify a sufficient number of proposed and known ultimate recipients it has on hand to justify Agency funding of its loan request.

(iv) Include a list of proposed fees and other charges it will assess the ultimate recipients it funds.

(v) Demonstrate to Agency satisfaction that the intermediary has secured commitments of significant financial support from public agencies and private organizations.

(vi) Provide evidence to Agency satisfaction that the intermediary has a proven record of obtaining private and/or philanthropic funds for the operation of similar programs to the one contained in this subpart.

(vii) Include the intermediary's plan (specific loan purposes) for relending the loan funds. The plan must be of sufficient detail to provide the Agency with a complete understanding of what the intermediary will accomplish by lending the funds to the ultimate recipient and the complete mechanics of how the funds will get from the intermediary to the ultimate recipient. The service area, eligibility criteria, loan purposes, fees, rates, terms, collateral

requirements, limits, priorities, application process, method of disposition of the funds to the ultimate recipient, monitoring of the ultimate recipient's accomplishments, and reporting requirements by the ultimate recipient's management are some of the items that must be addressed by the intermediary's relending plan.

(3) Form FmHA 1940-20 for all projects positively identified as proposed ultimate recipient loans that are Class I or Class II actions under subpart G of part 1940 of this chapter.

(4) Comments from the State single point of contact, if the State has elected to review the program under Executive Order 12372.

(5) A pro forma balance sheet at start-up and for at least 3 additional projected years; financial statements for the last 3 years, or from inception of the operations of the intermediary if less than 3 years; and projected cash flow and earnings statements for at least 3 years supported by a list of assumptions showing the basis for the projections. The projected earnings statement and balance sheet must include one set of projections that shows the IRP revolving fund only and a separate set of projections that shows the proposed intermediary organization's total operations. Also, if principal repayment on the IRP loan will not be scheduled during the first 3 years, the projections for the IRP revolving fund must extend to include a year with a full annual installment on the IRP loan.

(6) A written agreement will be signed by the intermediary to assure that there is not misunderstanding concerning Agency audit requirements.

(7) Form FmHA 400-4, "Assurance Agreement."

(8) Complete organizational documents, including evidence of authority to conduct the proposed activities.

(9) Evidence that the loan is not available at reasonable rates and terms from private sources or other Federal, State, or local programs.

(10) Latest audit report, if available.

(11) Form FmHA 1910-11, "Applicant Certification Federal Collection Policies for Consumer or Commercial Debts."

(12) Form AD-1047, "Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions."

(13) Exhibit A-1 of FmHA Instruction 1940-Q.

(b) Applications from intermediaries that already have an active IRP loan may be streamlined as follows:

(1) The material required by paragraphs (a)(6), (a)(8), and (a)(10) of this section may be omitted.

(2) A statement that the new loan would be operated in accordance with the work plan on file for the previous loan may be submitted in lieu of a new work plan.

(3) The financial information required by paragraph (a)(5) of this section may be limited to projections for the proposed new IRP revolving loan fund.

#### **§ 1948.123 Filing and processing applications for loans.**

##### *(a) Intermediaries' contact.*

Intermediaries desiring the assistance in this subpart may file applications with the State Office for the State in which the intermediary's headquarters is located. Intermediaries headquartered in the District of Columbia may file the application with the National Office, B&I Division, Washington, DC 20250-3221.

*(b) Filing applications.* Intermediaries must file the complete application, in one package. Applications received by the Agency will be reviewed and ranked quarterly and funded in the order of priority ranking. The Agency will retain unsuccessful applications for consideration in subsequent reviews, through a total of four quarterly reviews.

*(c) Loan priorities.* Priority consideration will be given to proposed intermediaries based on the following factors. Points will be allowed only for factors indicated by well documented, reasonable plans which, in the opinion of the Agency, provide assurance that the items have a high probability of being accomplished. The points awarded will be as specified in paragraphs (c)(1) through (c)(6) of this section. If an application does not fit one of the categories listed, it receives no points for that paragraph or subparagraph.

*(1) Other funds.* Points allowed under this paragraph should be based on documented successful history or written evidence that the funds are available.

(i) The intermediary will obtain non-Federal loan or grant funds to pay part of the cost of the ultimate recipients' projects. The amount of funds from other sources will average:

(A) At least 10% but less than 25% of the total project cost—10 points.

(B) At least 25% but less than 50% of the total project cost—20 points.

(C) 50% or more of the total project cost—30 points.

(ii) The intermediary will provide loans to the ultimate recipient from its own funds (not loan or grant) to pay part of the costs of the ultimate recipients'

projects. The amount of non-Agency derived intermediary funds will average:

- (A) At least 10% but less than 25% of the total project costs—10 points.
- (B) At least 25% but less than 50% of total project costs—20 points.

(C) 50% or more of total project costs—30 points.

(2) *Employment.* For computations under this paragraph, income data should be from the latest decennial census of the United States, updated according to changes in consumer price index (CPIU). The poverty line used will be as defined in Section 673 (2) of the Community Services Block Grant Act (42 U. S. C. 9902 (2)). Unemployment data used will be that published by the Bureau of Labor Statistics, U.S. Department of Labor.

(i) The median household income in the service area of the proposed intermediary equals the following percentage of the poverty line for a family of four:

(A) At least 150% but not more than 175%—5 points.

(B) At least 125% but less than 150%—10 points.

(C) Below 125%—15 points.

(ii) The intermediary certifies that the following percentage of the loans it makes from Agency IRP loan funds will be in counties with median household income below 80 percent of the statewide non-metropolitan median household income. (To receive priority points under this category, the intermediary must provide a list of counties in the service area that have qualifying income.)

(A) At least 50% but less than 75%—5 points.

(B) At least 75% but less than 100%—10 points.

(C) 100%—15 points.

(iii) The unemployment rate in the intermediary's service area equals the following percentage of the national unemployment rate:

(A) At least 100% but less than 125%—5 points.

(B) At least 125% but less than 150%—10 points.

(C) 150% or more—15 points.

(iv) The intermediary will require, as a condition of eligibility for a loan to an ultimate recipient from Agency IRP loan funds, that the ultimate recipient certify in writing that it will employ the following percentage of its workforce from members of families with income below the poverty line.

(A) At least 10% but less than 20% of the workforce—5 points.

(B) At least 20% but less than 30% of the workforce—10 points.

(C) 30% of the workforce or more—15 points.

(v) The intermediary has a demonstrated record of providing assistance to members of underrepresented groups, has a realistic plan for targeting loans to members of underrepresented groups, and, based on the intermediary's record and plans, it is expected that the following percentages of its loans made from Agency IRP loan funds will be made to entities owned by members of underrepresented groups.

(A) At least 10% but less than 20%—5 points.

(B) At least 20% but less than 30%—10 points.

(C) 30% or more—15 points.

(3) *Intermediary contribution.* All assets of the IRP revolving fund will serve as security for the IRP loan and the intermediary will contribute funds not derived from the Agency into the IRP revolving fund along with the proceeds of the IRP loan. The amount of non-Agency derived funds contributed to the IRP revolving fund will equal the following percentage of the Agency IRP loan:

(i) At least 5% but less than 15%—15 points.

(ii) At least 15% but less than 25%—30 points.

(iii) 25% or more—50 points.

(4) *Experience.* The intermediary has actual experience in making and servicing commercial loans, with a successful record, for the following number of full years:

(i) At least 1 but less than 3 years—5 points.

(ii) At least 3 but less than 5 years—10 points.

(iii) At least 5 but less than 10 years—20 points.

(iv) 10 or more years—30 points.

(5) *Community representation.* The service area is not more than 10 counties and the intermediary utilizes local opinions and experience by including community representatives on its board of directors or equivalent oversight board. For purposes of this section, community representatives are people, such as civic leaders, business representatives, or bankers, who reside in the service area and are not employees of the intermediary.

(i) At least 10% but less than 40% of the board members are community representatives—5 points.

(ii) At least 40% but less than 75% of the board members are community representatives—10 points.

(iii) At least 75% of the board members are community representatives—15 points.

(6) *Administrative.* The Administrator may assign up to 35 additional points to an application to account for items not

adequately covered by the other priority criteria set out in this section. Such items may include, but are not limited to, a particularly successful business development record, a service area with no other IRP coverage, a service area with severe economic problems, a service area with emergency conditions caused by a natural disaster or loss of a major industry, or excellent utilization of a previous IRP loan.

#### **§ 1948.124 [Reserved]**

#### **§ 1948.125 Letter of conditions.**

If the Agency is able to provide the loan, it will provide the intermediary a letter of conditions listing all requirements for such loan. Immediately after reviewing the conditions and requirements in the letter of conditions, the intermediary should complete, sign and return the Form FmHA 1942-46, "Letter of Intent To Meet Conditions," to the Agency. If certain conditions cannot be met, the borrower may propose alternate conditions to the Agency. The Agency loan approval official must concur with any changes made to the initially issued or proposed letter of conditions.

#### **§ 1948.126 Loan approval and obligating funds.**

The loan will be considered approved on the date the signed copy of Form FmHA 1940-1 is mailed to the intermediary. The approving official may request an obligation of funds when available and according to the following:

(a) Form FmHA 1940-1, authorizing funds to be reserved, may be executed by the loan approving official providing the intermediary has the legal authority to contract for a loan, and to enter into required agreements and has signed Form FmHA 1940-1.

(b) An obligation of funds established for an intermediary may be transferred to a different (substituted) intermediary provided:

(1) The substituted intermediary is eligible to receive the assistance approved for the original intermediary;

(2) The substituted intermediary bears a close and genuine relationship to the original intermediary; and

(3) The need for and scope of the project and the purpose(s) for which Agency IRP loan funds will be used remain substantially unchanged.

#### **§ 1948.127 Loan closing.**

(a) At loan closing, the intermediary must certify to the following:

(1) No major changes have been made in the work plan except those approved in the interim by the Agency.

(2) All requirements of the letter of conditions have been met.

(3) There has been no material adverse change in the intermediary nor its financial condition since the issuance of the letter of conditions. If there have been adverse changes, they must be explained. The adverse changes may be waived, at the sole discretion of the Agency. Financial data must not be more than 60 days old at loan closing.

(b) Agency personnel shall not sign any documents other than those specifically provided for in this subpart.

(c) The processing officer will review any requests for changes to the letter of conditions. The processing officer will approve only minor changes which do not materially affect the project, its capacity, employment, original projections, or credit factors. Changes in legal entities or where tax considerations are the reason for change will not be approved.

(d) At loan closing the intermediary will provide sufficient evidence to enable Agency to ascertain that no claim or liens of laborers, materialmen, contractors, subcontractors, suppliers of machinery and equipment, or other parties are against the security of the intermediary, and that no suits are pending or threatened that would adversely affect the security of the intermediary when the security instruments are filed.

#### **§ 1948.128 Requests to make loans to ultimate recipients.**

(a) When an intermediary proposes to use Agency IRP loan funds to make a loan to an ultimate recipient, and prior to final approval of such loan, the intermediary must submit the following material to the Agency:

(1) A request for Agency concurrence in approval of the proposed loan.

(2) Certification by the intermediary that:

(i) The proposed ultimate recipient is eligible for the loan.

(ii) The proposed loan is for eligible purposes.

(iii) The proposed loan complies with all applicable statutes and regulations.

(iv) The ultimate recipient is unable to finance the proposed project through commercial credit or other Federal, State, or local programs at reasonable rates and terms.

(v) The intermediary and its principal officers (including immediate family) hold no legal or financial interest or influence in the ultimate recipient, and the ultimate recipient and its principal officers (including immediate family) hold no legal or financial interest or influence in the intermediary.

(3) For projects that meet the criteria for a Class I or Class II environmental

assessment or environmental impact statement as provided in subpart G of part 1940 of this chapter, a completed and executed Form FmHA 1940-20.

(4) All comments obtained in accordance with § 1948.117 (a) of this subpart, regarding intergovernmental consultation.

(5) Copies of sufficient material from the ultimate recipient's application and the intermediary's related files, to allow the Agency to determine:

(i) The name and address of the ultimate recipient.

(ii) The loan purposes.

(iii) The interest rate and term.

(iv) The location, nature, and scope of the project being financed.

(v) The other funding included in the project.

(vi) The nature and lien priority of the collateral.

(6) Such other information as the Agency may request on specific cases.

(b) Upon receipt of a request for concurrence in a loan to an ultimate recipient from Agency IRP loan funds the Agency will:

(1) Review the material required by paragraph (a) of this section for completeness and compliance with regulations.

(2) Complete an environmental review in accordance with subpart G of part 1940 of this chapter, including public notice requirements and provisions for mitigation measures as appropriate. This review will be conducted by the Agency in the same manner it would be conducted if the Agency were considering a direct loan to the ultimate recipient. The results of the environmental review will be used by the Agency in making its decision on the request for loan concurrence.

(3) Consider any comments received through the intergovernmental consultation process. Prior to the Agency's decision on loan concurrence, compliance with the requirements of intergovernmental consultation in accordance with FmHA Instruction 1940-J must be demonstrated.

(4) When all requirements have been met, issue a letter concurring in the loan.

(5) If the Agency determines it is unable to concur in the loan, the intermediary will be notified in writing, given the reasons for denial, and informed of its rights for review and appeal in accordance with subpart B of part 1900 of this chapter.

#### **§ 1948.129–1948.142 [Reserved]**

#### **§ 1948.143 Appeals.**

Any appealable adverse decision made by the Agency which affects the

intermediary may be appealed upon written request of the aggrieved party in accordance with subpart B of part 1900 of this chapter.

#### **§§ 1948.144–1948.147 [Reserved]**

#### **§ 1948.148 Exception authority.**

The Administrator may in individual cases grant an exception to any requirement or provision of this subpart which is not inconsistent with an applicable law or opinion of the Comptroller General, provided the Administrator determines that application of the requirement or provision would adversely affect the Government's interest. The basis for this exception will be fully documented. The documentation will: Demonstrate the adverse impact; identify the particular requirement involved; and show how the adverse impact will be eliminated.

#### **§ 1948.149 [Reserved]**

#### **§ 1948.150 OMB control number.**

The reporting and recordkeeping requirements contained in this regulation have been approved by the Office of Management and Budget and have been assigned OMB control number 0575-0130. Public reporting burden for this collection of information is estimated to vary from 1 to 120 hours per response, with an average of 12 hours per response including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIRM, Ag. Box 7630, Washington, DC 20250; and to the Office of Management and Budget, Paperwork Reduction Project (OMB# 0575-0130), Washington, DC 20503.

### **PART 1951—SERVICING AND COLLECTIONS**

3. The authority citation for part 1951 continues to read as follows:

**Authority:** 7 U.S.C. 1989; 7 U.S.C. 1932 Note; 42 U.S.C. 1480; 5 U.S.C. 301; 7 C.F.R. 2.23 and 2.70.

#### **Subpart R—Rural Development Loan Servicing**

4. Section 1951.853 is amended by revising paragraph (b)(2)(ix) to read as follows:

**§ 1951.853 Loan purposes for undisbursed RDLF loan funds from HHS.**

\* \* \* \*

(b) \* \* \*

(2) \* \* \*

(ix) Reasonable fees and charges only as specifically listed in this subparagraph. Authorized fees include loan packaging fees, environmental data collection fees, and other professional fees rendered by professionals generally licensed by individual State or accreditation associations, such as Engineers, Architects, Lawyers, Accountants, and Appraisers. The amount of fee will be what is reasonable and customary in the community or region where the project is located. Any such fees are to be fully documented and justified.

\* \* \* \*

Dated: December 9, 1994.

**Bob J. Nash,**

*Under Secretary, Rural Economic and Community Development.*

[FR Doc. 95-1193 Filed 1-17-95; 8:45 am]

BILLING CODE 3410-32-U

**NUCLEAR REGULATORY COMMISSION**

**10 CFR Part 50**

RIN 3150-AE97

**Shutdown and Low-Power Operations for Nuclear Power Reactors**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Proposed rule: Extension of the public comment period.

**SUMMARY:** On October 19, 1994 (59 FR 52707-52714), the Nuclear Regulatory Commission published for public comment a proposed rule regarding Shutdown and Low-Power Operations for Nuclear Power Reactors. The comment period for this proposed rule was to have expired on January 3, 1995. On December 2, 1994, Yankee Atomic Electric Company requested a sixty-day extension of the comment period on the basis that the technical issues associated with the proposed rule are complex in nature and may warrant additional time to address the comments adequately. In view of the importance of the proposed rule and the desirability of developing a final rule with adequate consideration of all comments to the extent practicable, the NRC has decided to extend the comment period by thirty days. The extended comment period now expires on February 3, 1995. To facilitate NRC responses to comments it would be appreciated if commenters

could provide their comments electronically on a diskette, as well as by hard copy.

**DATES:** The comment period has been extended and now expires on February 3, 1995. Comments received after this date will be considered if it is practical to do so but the Commission is able to assure consideration only for comments received on or before this date.

**ADDRESSES:** Send written comments or suggestions to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Docketing and Service Branch. Copies of comments received may be examined at the NRC Public Document Room, 2120 L Street NW (Lower Level), Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Gary M. Holahan, Director, Division of Systems Safety and Analysis, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 504-2884.

Dated at Rockville, Maryland, this 11th day of January, 1995.

For the Nuclear Regulatory Commission.

**John C. Hoyle,**

*Acting Secretary of the Commission.*

[FR Doc. 95-1172 Filed 1-17-95; 8:45 am]

BILLING CODE 7590-01-P

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

[Docket No. 91-CE-25-AD]

**Airworthiness Directives; Alexander Schleicher GmbH & Co. Model ASK 21 Gliders**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes to adopt a new airworthiness directive (AD) that would apply to Alexander Schleicher GmbH & Co. (Alexander Schleicher) Model ASK 21 gliders. The proposed action would require replacing the parallel rocker with a part of improved design, and incorporating flight manual revisions. Two incidents of the parallel rocker breaking at the elevator connection on the affected gliders prompted the proposed action. The actions specified by the proposed AD are intended to prevent possible loss of elevator control that could result from a broken parallel rocker.

**DATES:** Comments must be received on or before March 27, 1995.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 91-CE-25-AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from Alexander Schleicher GmbH & Company, D-36163, Poppenhausen-Wasserkuppe, Germany; or Eastern Sailplane, Heath Stage Route Shelburne Falls, Massachusetts 01370; telephone (413) 625-6059. This information also may be examined at the Rules Docket at the address above.

**FOR FURTHER INFORMATION CONTACT:** Mr. Herman C. Belderok, Project Officer, Sailplanes, Small Airplane Directorate, Aircraft Certification Service, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone (816) 426-6932; facsimile (816) 426-2169.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 91-CE-25-AD." The postcard will be date stamped and returned to the commenter.