

holders or their heirs, and by the person to whom such base is to be transferred.

§ 1094.94 Announcement of established bases.

On or before March 1 of each year, the market administrator shall notify each producer, and the handler receiving milk from such producer, of the daily base established by such producer, except that for March 1960 the announcement of such bases shall be on or before March 31, 1960.

EFFECTIVE TIME, SUSPENSION OR TERMINATION

§ 1094.100 Effective time.

The provisions of this part, or any amendment thereto, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated.

§ 1094.101 Suspension or termination.

The Secretary shall, whenever he finds that any or all provisions of this part, or any amendment thereto, obstruct or do not tend to effectuate the declared policy of the Act, terminate or suspend the operation of any or all provisions of this part or any amendment thereto.

§ 1094.102 Continuing obligations.

If, upon the suspension or termination of any or all provisions of this part, or any amendment thereto, there are any obligations thereunder the final accrual or ascertainment of which requires further acts by any person (including the market administrator), such further acts shall be performed notwithstanding such suspension or termination.

§ 1094.103 Liquidation.

Upon the suspension or termination of any or all of the provisions of this part, the market administrator, or such other liquidating agent as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated, all assets, books, and records of the market administrator shall be transferred

promptly to such liquidating agent. If, upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidating and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 1094.110 Agents.

The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent and representative in connection with any of the provisions of this part.

§ 1094.111 Separability of provisions.

If any provision of this part, or its application to any person or circumstances, is held invalid, the application of such provision, and of the remaining provisions of this part, to other persons or circumstances shall not be affected thereby.

Effective date. July 1, 1970.

Signed at Washington, D.C., on June 25, 1970.

RICHARD E. LYNG,
Assistant Secretary.

[F.R. Doc. 70-8326; Filed, June 30, 1970; 8:45 a.m.]

[Milk Order No. 103; Docket No. AO-346-A12]

PART 1103—MILK IN MISSISSIPPI MARKETING AREA

Order Amending Order

Findings and determinations. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of the said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7

U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Mississippi marketing area.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held;

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than July 1, 1970. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of this order are known to handlers. The recommended decision of the Deputy Administrator, Regulatory Programs, was issued May 20, 1970, and the decision of the Assistant Secretary containing all amendment provisions of this order was issued June 19, 1970. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective July 1, 1970, and that it would be contrary to the public interest to delay the effective date of this amendment for 30 days after its pub-

lication in the FEDERAL REGISTER. (Sec. 553(d), Administrative Procedure Act, 5 U.S.C. 551-559)

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(g) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Mississippi marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

PART 1103—MILK IN MISSISSIPPI MARKETING AREA

DEFINITIONS

Sec.	Act.
1103.1	Secretary.
1103.2	Department.
1103.3	Person.
1103.4	Cooperative association.
1103.5	Mississippi marketing area.
1103.6	Route disposition.
1103.7	Plant.
1103.8	Distributing plant.
1103.9	Supply plant.
1103.10	Pool plant.
1103.11	Nonpool plant.
1103.12	Handler.
1103.13	Producer-handler.
1103.14	Producer.
1103.15	Producer milk.
1103.16	Other source milk.
1103.17	Fluid milk product.
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MARKET ADMINISTRATOR

- Sec.
1103.20 Designation.
1103.21 Powers.
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- REPORTS, RECORDS, AND FACILITIES
- 1103.30 Reports of receipts and utilization.
1103.31 Payroll reports.
1103.32 Other reports.
1103.33 Records and facilities.
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CLASSIFICATION

- 1103.40 Skim milk and butterfat to be classified.
1103.41 Classes of utilization.
1103.42 Assignment of shrinkage.
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1103.44 Transfers.
1103.45 Computation of the skim milk and butterfat in each class.
1103.46 Allocation of skim milk and butterfat classified.

MINIMUM PRICES

- 1103.50 Basic formula price.
1103.51 Class prices.
1103.52 Butterfat differential to handlers.
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1103.54 Use of equivalent prices.

APPLICATION OF PROVISIONS

- 1103.60 Producer-handler.
1103.61 Plants subject to other Federal orders.
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DETERMINATION OF PRICES TO PRODUCERS

- 1103.70 Computation of the net pool obligation of each pool handler.
1103.71 Computation of the weighted average price and uniform price.

PAYMENTS

- 1103.90 Time and method of payment.
1103.91 Producer butterfat differential.
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1103.93 Adjustment of accounts.
1103.94 Marketing services.
1103.95 Expense of administration.
1103.96 Producer-settlement fund.
1103.97 Payments to the producer-settlement fund.
1103.98 Payments out of the producer-settlement fund.
1103.99 Overdue accounts.
1103.100 Termination of obligations.

MISCELLANEOUS PROVISIONS

- Sec.
1103.105 Effective time.
1103.106 Suspension or termination.
1103.107 Continuing obligations.
1103.108 Liquidation.
1103.109 Agents.
1103.110 Separability of provisions.
AUTHORITY: The provisions of this Part 1103 issued under secs. 1-19, 48 Stat., 31 as amended: 7 U.S.C. 601-674.

DEFINITIONS

- § 1103.1 Act.
"Act" means Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

§ 1103.2 Secretary.

"Secretary" means the Secretary of Agriculture of the United States or any officer or employee of the United States authorized to exercise the powers or to perform the duties of the said Secretary of Agriculture.

§ 1103.3 Department.

"Department" means the United States Department of Agriculture or any other Federal agency authorized to perform the price reporting functions specified in this part.

§ 1103.4 Person.

"Person" means any individual, partnership, corporation, association or any other business unit.

§ 1103.5 Cooperative association.

"Cooperative association" means any cooperative marketing association which the Secretary determines, after application by the association:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales of or marketing milk or its products for its members.

§ 1103.6 Mississippi marketing area.

The "Mississippi marketing area" hereinafter called the "marketing area",

means all of the territory geographically within the places listed below, all waterfront facilities connected therewith and all territory wholly or partially therein occupied by government (municipal, State, or Federal) reservations, installations, institutions, or other similar establishments all in the State of Mississippi:

COUNTIES

Adams.
Attala.
Bolivar.
Calhoun (Beats 1 and 4 only).
Carroll.
Choctaw.
Claiborne.
Clarke.
Coahoma (Beats 4 and 5 only).
Copiah.
Covington.
Forrest.
Franklin.
George.
Greene.
Hancock.
Harrison.
Hinds.
Holmes.
Humphreys.
Jackson.
Jasper.
Jefferson.
Jefferson Davis.
Jones.
Lamar.
Lauderdale.
Lawrence.
Leake.
Leflore.
Lincoln.

Lowndes.
Madison.
Marion.
Montgomery.
Neshoba.
Newton.
Noxubee.
Oktibbeha.
Pearl River.
Perry.
Quitman (Beats 2, 3, 4, and 5 and the village of Crowder including that portion in Panola County).
Scott.
Sharkey.
Simpson.
Smith.
Stone.
Sunflower.
Tallahatchie.
Walthall.
Warren.
Washington.
Wayne.
Webster (except Beat 5).
Winston.
Yazoo.
Yalobusha (Beats 1, 4, and 5 only).

§ 1103.7 Route disposition.

"Route disposition" means any delivery of a fluid milk product from a plant to wholesale or retail outlets (including any delivery by a vendor, from a plant store or through a vending machine) other than a delivery to a plant.

§ 1103.8 Plant.

"Plant" means the land and buildings together with their surroundings, facilities and equipment whether owned or operated by one or more persons, constituting a single operating unit or establishment at which milk or milk prod-

ucts (including filled milk) are received and/or processed or packaged: *Provided*, That a separate establishment or facility used only for the purpose of transferring bulk milk from one tank truck to another tank truck, or only as a distributing depot for fluid milk products in transit for route disposition shall not be a plant under this definition.

§ 1103.9 Distributing plant.

"Distributing plant" means a plant from which fluid milk products, eligible for distribution under a Grade A label are disposed of during the month as route disposition in the marketing area.

§ 1103.10 Supply plant.

"Supply plant" means a plant from which fluid milk products, eligible for distribution under a Grade A label, are moved during the month to a distributing plant.

§ 1103.11 Pool plant.

"Pool plant" means:

(a) A distributing plant, other than that of a producer-handler or one described in § 1103.61, from which during the month route disposition of fluid milk products, except filled milk, is not less than 50 percent of its total receipts of Grade A milk and the volume so disposed of in the marketing area is at least 20 percent of the total route disposition of fluid milk products, except filled milk;

(b) A supply plant from which a volume of fluid milk products, except filled milk, not less than 50 percent of the Grade A milk received at such plant from dairy farmers is transferred during the month to a distributing plant(s) from which a volume of Class I milk, except filled milk, not less than 50 percent of its receipts of Grade A milk from dairy farmers and from other plants is disposed of as route disposition during the month and the volume so disposed of in the marketing area is at least 20 percent of its total Class I route disposition (not including filled milk): *Provided*, That any plant which was a pool plant pursuant to this paragraph in each of the months of September through January shall be a pool plant in each of the following months of February through August in which it does not meet

the shipping requirements unless written request is filed with the market administrator prior to the beginning of any such month for nonpool status for the remaining months through August; and

(c) A nondistributing plant, which is operated by a cooperative association and which does not meet the shipping requirements of paragraph (b) of this section, in any month in which the volume of milk received at pool distributing plants directly from member producers of such cooperative association is not less than 60 percent of the total pounds of such association's member producer milk (including that received at such nondistributing plant), except that on written request for nonpool status for any month, made to the market administrator prior to the beginning of such month, the plant shall be a nonpool plant for the month and for each of the succeeding 11 months in which it does not qualify as a pool plant pursuant to paragraph (b) of this section.

§ 1103.12 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products in consumer-type packages or dispenser units are disposed of as route disposition in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant from which fluid milk products are moved to a pool plant during the month, but which is neither an other order plant nor a producer-handler plant.

§ 1103.13 Handler.

(a) Any person in his capacity as the operator of a pool plant;

(b) Any person in his capacity as the operator of a partially regulated distributing plant;

(c) A cooperative association with respect to milk of producers diverted for the account of such association from a pool plant to a nonpool plant in accordance with § 1103.15;

(d) A cooperative association with respect to the milk of any member producer which it causes to be delivered to a pool plant in a tank truck owned and operated by or under contract to such cooperative association for the account of such cooperative association, if the cooperative association, prior to delivery, furnishes written notice to the market administrator and to the handler to whose plant the milk is delivered that it will be the handler for such milk. The milk so delivered shall be considered to have been received by such cooperative association at a pool plant at the location of the pool plant to which it is delivered;

(e) Any person in his capacity as the operator of an unregulated supply plant; and

(f) A producer-handler, or any person who operates an other order plant pursuant to § 1103.61.

§ 1103.14 Producer-handler.

"Producer-handler" means any person who operates a dairy farm and a distributing plant at which no milk or other fluid milk products are received during the month except his own production and which has no receipts of nonfluid milk products which are used to reconstitute fluid milk products: *Provided*, That such person establishes that the maintenance, care and management of all resources necessary to produce the entire volume of fluid milk products handled and all facilities necessary for operations as a handler are each the personal enterprise and risk of such person.

§ 1103.15 Producer.

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk in compliance with Grade A inspection requirements of a duly constituted health authority, which milk is received during the month at a pool plant (except milk received by diversion from a plant at

which such milk is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act and which is allocated to Class II pursuant to § 1103.46(a) (4) (iv) and the corresponding provisions of § 1103.46(b) or by a cooperative association pursuant to § 1103.13(d), or is diverted pursuant to paragraphs (a) through (e) of this section: *Provided*, That milk diverted in accordance with the provisions of said paragraphs shall be deemed to have been received by the diverting handler at the location of the pool plant from which it was diverted and: *Provided further*, That if a handler, diverting milk pursuant to paragraph (d) or (e) of this section, diverts in excess of the limits prescribed all diversions by such handler during the month shall be pursuant to paragraph (c) and: *Provided also*, That if a handler diverting milk pursuant to paragraph (c) of this section, diverts milk of any dairy farmer in excess of the limits prescribed, such dairy farmer shall be a producer only with respect to that milk physically received at a pool plant:

(a) Diverted by the operator of a pool plant to another pool plant;

(b) Diverted to a nonpool plant(s) by the operator of a pool plant or by a cooperative association as a handler pursuant to § 1103.13(c) during any of the months of December through August pursuant to subparagraphs (1) through (4) of this paragraph: *Provided*, That diversion to an other order plant shall be limited to Class II use;

(1) Diverted as milk of a dairy farmer whose milk is received for at least 10 days of production at pool plants during the month unless diverted pursuant to subparagraph (2) or (3) of this paragraph;

(2) Diverted as milk of a member of a cooperative association not diverting pursuant to subparagraph (1) of this paragraph, for the account of such cooperative association, if milk of the dairy farmer is delivered to a pool plant for at least 1 day's production during the month and the total quantity so diverted by the cooperative for all producer members does not exceed 50 percent of the volume of Grade A milk from all producer members of such cooperative received at pool plants during the month;

(3) Diverted as milk of a dairy farmer not a member of a cooperative association for the account of a handler as the

operator of a pool plant(s) not diverting pursuant to subparagraph (1) of this paragraph if milk of the dairy farmer is delivered to the handler's pool plant(s) for at least 1 day's production during the month and the total quantity so diverted by the handler from his pool plant(s) for nonmember producers does not exceed 50 percent of the total Grade A receipts of milk at his pool plant(s) from nonmember producers during the month;

(4) A dairy farmer shall be a producer with respect to only his milk received at a pool plant if delivery of milk of his production to nonpool plants does not comply with the limitations of subparagraphs (1), (2), and (3) of this paragraph. In the case of a handler diverting pursuant to subparagraphs (2) and (3) of this paragraph, if milk of the dairy farmers is moved to nonpool plants in a total quantity exceeding the percentages specified, the diverting handler shall designate the dairy farmers whose milk is not to be producer milk diverted pursuant to such subparagraph (2) or (3) of this paragraph and the quantities excluded for each dairy farmer. If the handler fails to make such designation the dairy farmers shall be producers only with respect to their milk delivered to pool plants.

(c) Diverted to a nonpool plant(s) (except that diversion to an other order plant shall be limited to Class II use) for not more than 10 days' production during any month of September through November except that this paragraph shall not be applicable if: (1) In the case of a cooperative association all of the diversion of milk of member producers by such cooperative association during the month fall within the limits prescribed in paragraph (d) of this section, or (2) in the case of a pool handler (other than a cooperative association) diverting milk of nonmember producers, all of such diversions from such plant fall within the limits prescribed in paragraph (e) of this section;

(d) Diverted during any month of September through November to a nonpool plant(s) (except that diversion to an other order plant shall be limited to Class II use) as milk of a member of a cooperative association for the account of such association if the amount of milk so diverted does not exceed 30 percent

of the volume of Grade A milk from all producer members of such cooperative association received at pool plants during such month; or

(e) Diverted during any month of September through November to a non-pool plant(s) (except that diversion to an other order plant shall be limited to Class II use) of a producer who is not a member of a cooperative association, for the account of a handler in his capacity as the operator of a pool plant from which the quantity of milk of nonmember producers so diverted does not exceed 30 percent of the total Grade A receipts of milk at such plant from nonmember producers.

§ 1103.16. Producer milk.

"Producer milk" means only the skim or butterfat contained in milk (a) received at a pool plant(s) directly from a producer (except that milk received at a pool plant by diversion from a plant at which such milk is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act and which is allocated to Class II pursuant to § 1103.46(a) (4) (iv) and the corresponding provisions of § 1103.46(b) shall not be producer milk), (b) diverted in accordance with the provisions of § 1103.15 to the pool plant of another pool handler or to a nonpool plant, or (c) received by a cooperative association pursuant to § 1103.13(d).

§ 1103.17. Other source milk.

"Other source milk" means all skim milk and butterfat contained in:

(a) Receipts during the month in the form of fluid milk products, except (1) such products which are received from other pool plants, (2) producer milk, (3) milk received from a cooperative association for which it is the handler pursuant to § 1103.13(d), and (4) inventory of fluid milk products at the beginning of the month; and

(b) Products other than fluid milk products, from any source (including those produced at the plant) which are reprocessed or converted to another product in the plant during the month or for which other utilization or disposition is not established.

§ 1103.18. Fluid milk product.

"Fluid milk product" means all the skim milk (including reconstituted skim milk and concentrated skim milk, other than bulk condensed) and butterfat in the form of milk, skim milk, buttermilk, flavored milk, flavored milk drinks, filled milk, eggnog, yogurt, cream (sweet or sour) and any mixture in fluid form of cream and skim milk or milk (except aerated cream, frozen storage cream, ice cream, ice cream mixes, frozen ice milk, ice milk mixes, frozen dessert and mixes, sterilized products contained in hermetically sealed cans, and any product which contains 6 percent or more nonmilk fat (or oil)): *Provided*, That when any such milk product is fortified with nonfat milk solids the amount of skim milk to be included within this definition shall be only that amount equal to the weight of skim milk in an equal volume of an unfortified product of the same nature and butterfat content.

§ 1103.19. Chicago butter price.

"Chicago butter price" means the simple average, as computed by the market administrator of the daily wholesale selling prices (using the midpoint of any range as one price) per pound of 92-score bulk creamery butter at Chicago as reported during the month by the Department.

§ 1103.19a. Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted or solids), with or without milkfat, so that modified by the addition of nonfat milk the product (including stabilizers, emulsifiers or flavoring) resembles milk or any other fluid milk product; and contains less than 6 percent of nonmilk fat (or oil).

MARKET ADMINISTRATION

§ 1103.20. Designation.

The agency for the administration of this part shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of the Secretary.

§ 1103.21. Powers.

The market administrator shall have the following powers with respect to this part:

(a) To administer its terms and provisions;

(b) To receive, investigate and report to the Secretary, complaints of violations;

(c) To make rules and regulations necessary to effectuate its terms and provisions; and

(d) To recommend amendments to the Secretary.

§ 1103.22. Duties.

The market administrator shall perform all duties necessary to administer the terms and provisions of this part, including, but not limited to the following:

(a) Within 45 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon such duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon, satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and provisions;

(c) Obtain a bond in a reasonable amount and with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator;

(d) Pay out of the funds provided by § 1103.95, the cost of his bond and of the bonds of his employees, his own compensation, and all other expenses (except those incurred under § 1103.94) necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided for in this part, and, upon request by the Secretary, surrender the same to such other person as the Secretary may designate;

(f) Submit his books and records to examination by the Secretary and furnish such information and reports as may be requested by the Secretary;

(g) Audit all reports and payments by each handler by inspection of such handler's records and of the records of any other handler or person upon whose utilization the classification of skim milk or butterfat for such handler depends;

(h) Publicly announce at his discretion, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person who, after the date upon which he is required to perform such acts, has not made reports or payments required by this part;

(i) Publicly announce, by posting in a conspicuous place in his office and by such other means as he deems appropriate:

(1) On or before the sixth day of each month, the minimum price for Class I milk computed pursuant to § 1103.51(a) and the Class I butterfat differential computed pursuant to § 1103.52(a), both for the current month and the minimum price for Class II milk computed pursuant to § 1103.51(b) and the Class II butterfat differential computed pursuant to § 1103.52(b), both for the previous month;

(2) On or before the 10th day after the end of each month the applicable weighted average price or uniform price computed pursuant to § 1103.71, and the butterfat differential computed pursuant to § 1103.91;

(j) On or before the 12th day after the end of each month, report to each cooperative association which so requests, the percentage of producer milk delivered by members of such association, which was used in each class by each handler receiving such milk. For the purpose of this report, the milk so received shall be prorated to each class in accordance with the total utilization of producer milk by each handler;

(k) Prepare and disseminate to the public such statistics and such information as he deems advisable and as do not reveal confidential information;

(l) On or before the 10th day after the end of each month, the market administrator shall mail to each handler, who submitted the report(s) prescribed in § 1103.30, at his last known address, a

statement showing any of the applicable following values:

- (1) The amount and value of his producer milk in each class and the totals thereof;
- (2) [Reserved]
- (3) The amounts to be paid by such handler pursuant to §§ 1103.62, 1103.93(a), 1103.94(a), 1103.95, 1103.97 and 1103.99 and the amount due such handler pursuant to §§ 1103.93 and 1103.98;
- (m) Whenever required for purpose of allocating receipts from other order plants pursuant to § 1103.46(a) (8) and the corresponding step of § 1103.46(b), the market administrator shall estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;
- (n) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1103.46 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and
- (o) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

REPORTS, RECORDS, AND FACILITIES

§ 1103.30 Reports of receipts and utilization.

- (a) On or before the sixth day after the end of each month each handler, for each of his pool plants, and each cooperative association which is a handler pursuant to § 1103.13 (c) or (d) shall deliver to the market administrator a report in the detail and on the form

prescribed by the market administrator showing the following:

- (1) The quantities of skim milk and butterfat contained in:
- (i) Receipts of producer milk, including such handler's own production;
- (ii) Receipts of fluid milk products from other pool plants and from cooperative associations which are handlers pursuant to § 1103.13(d);
- (iii) Receipts of other source milk; and
- (iv) Inventories of fluid milk products on hand at the beginning and end of the month, separately in bulk and in packaged form;
- (2) Utilization of all skim milk and butterfat required to be reported pursuant to this section including a statement of the route of disposition of fluid milk products outside the marketing area and a statement showing separately in-area and outside area route disposition of filled milk;
- (3) Such other information with respect to sources and utilization of skim milk and butterfat as the market administrator may prescribe;
- (b) Each handler specified in § 1103.13 (b) who operates a partially regulated distributing plant shall report as required in paragraph (a) of this section, except that receipts of Grade A milk from dairy farmers shall be reported in lieu of those in producer milk; such report shall include a separate statement showing Class I disposition on routes in the marketing area of each of the following: skim milk and butterfat, respectively in fluid milk products and the quantity thereof which is reconstituted skim milk;
- (c) Each handler operating an unregulated supply plant shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe; and
- (d) Each pool handler, with respect to fluid milk products disposed of for animal feed shall report to the market administrator such information and at such time as the market administrator may require.

§ 1103.31 Payroll reports.

- (a) On or before the 20th day of each month each handler operating a pool plant(s) and each cooperative association which is a handler pursuant to § 1103.13 (c) or (d), shall report its pro-

ducer payroll for the preceding month which shall show for each producer:

- (1) His name and, if not previously reported, address of each producer;
- (2) The daily and total pounds of milk received from such producer;
- (3) The number of days on which milk was received from such producer;
- (4) The average butterfat content of such milk; and
- (5) The net amount of such handler's payment, the price paid and the amount and nature of any deductions;
- (b) Each handler who received producer milk for which payment is to be made to a cooperative association pursuant to § 1103.90(c) shall report to such cooperative association with respect to each such producer as follows:
- (1) On or before the 20th day of each month, the total pounds of milk received during the first 15 days of the month;
- (2) On or before the 10th day after the end of each month;
- (i) The daily and total pounds of milk received during the month and the average butterfat test thereof; and
- (ii) The amount or rate and nature of any deductions; and
- (c) On or before the 20th day after the end of the month each handler operating a partially regulated distributing plant except one who elects at the time of reporting pursuant to § 1103.30 to make payments pursuant to § 1103.62(b) shall report his payments to dairy farmers qualified to be producers as if such plant were a pool plant showing for each such dairy farmer:
- (1) The pounds of milk received;
- (2) The average butterfat content thereof; and
- (3) The date and net amount of payment to such dairy farmer with a statement of the prices, deductions and charges used in computing such payment and the nature of each.

§ 1103.32 Other reports.

- (a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator shall prescribe.

§ 1103.33 Records and facilities.

Each handler shall maintain and make available to the market administrator during the usual hours of business such accounts and records of his operations

together with such facilities as are necessary for the market administrator to verify or establish the correct data for each month with respect to:

- (a) The receipt and utilization of all skim milk and butterfat handled in any form;
- (b) The weights and tests for butterfat and other content of all milk and milk products (including filled milk) handled;
- (c) The pounds of skim milk and butterfat contained in or represented by all milk and milk products (including filled milk) on hand at the beginning and end of each month; and
- (d) Payments to producers, including any deductions authorized by producers and disbursement of money so deducted.

§ 1103.34 Retention of records.

All books and records required under this Part to be made available to the market administrator shall be retained by the handler for a period of 3 years to begin at the end of the calendar month, to which such books and records pertain: *Provided*, That if, within such three-year period, the market administrator notifies the handler in writing that the retention of such books and records, or of specific books and records, is necessary in connection with a proceeding under section 8c(15) (A) of the Act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case, the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 1103.40 Skim milk and butterfat to be classified.

All skim milk and butterfat required to be reported pursuant to § 1103.30 shall be classified pursuant to the provisions of §§ 1103.41 through 1103.46.

§ 1103.41 Classes of utilization.

Subject to the conditions set forth in §§ 1103.42 through 1103.46 the classes of utilization shall be as follows:

- (a) *Class I milk*. Class I milk shall be all skim milk and butterfat.

(1) Disposed of in the form of fluid milk products, except those classified pursuant to paragraph (b) (2) and (3) of this section;

(2) In inventory of fluid milk products in packaged form on hand at the end of the month; and

(3) Not accounted for as Class II milk; and

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Used to produce any product other than a fluid milk product;

(2) Contained in fluid milk products dumped, provided that the market administrator is notified during the usual hours of business and not less than 4 hours prior to dumping and is given opportunity to verify such dumping;

(3) Disposed of for livestock feed if the conditions of § 1103.30(d) are met;

(4) Contained in inventories of bulk fluid milk products on hand at the end of the month;

(5) Contained in actual shrinkage of skim milk and butterfat, respectively, not to exceed the amounts calculated for each pool plant and for each cooperative association in its capacity as a handler pursuant to § 1103.13(d) as follows:

(i) Two percent of receipts of skim milk and butterfat directly from producers; plus

(ii) One and one-half percent of fluid milk products received in bulk (except bulk cream) from other pool plants and from cooperative associations in their capacity as handlers pursuant to § 1103.13(d) except that where the handler is purchasing milk from a cooperative association in its capacity as a handler pursuant to § 1103.13(d) and files with the market administrator, prior to the first day of the month, notice that he is purchasing such milk on the basis of the butterfat tests of farm drawn samples and weights determined at the farm, the applicable percentage on such milk shall be 2 percent; plus

(iii) One and one-half percent of receipts of fluid milk products in bulk from an other order plant, exclusive of the quantity for which Class II utilization was requested by the operator of such plant and the handler; plus

(iv) One and one-half percent of receipts of fluid milk products in bulk from unregulated supply plants, exclusive of the quantity for which Class

II utilization was requested by the handler; less

(v) One and one-half percent of bulk transfers of fluid milk products (except bulk cream) and diversions to a pool plant of other handlers (in the case of a cooperative association selling milk to a handler on the basis of farm weights and tests as provided in subdivision (ii) of this subparagraph, the percentage on such milk shall be 2 percent); less

(vi) One and one-half percent of bulk transfers or diversion in the form of fluid milk products to nonpool plants; plus

(vii) Shrinkage on other source milk determined pursuant to § 1103.42(b) (2); and

(6) Skim milk contained in any fortified fluid milk products in excess of the pounds of skim milk in such product classified as Class I pursuant to paragraph (a) of this section by virtue of the proviso of § 1103.18.

§ 1103.42 Assignment of shrinkage.

The market administrator shall allocate shrinkage over a handler's receipts at each pool plant as follows:

(a) Compute the total shrinkage of skim milk and butterfat, respectively, for such plant; and

(b) Prorate the resulting amounts between the skim milk and butterfat contained in:

(1) Receipts specified in § 1103.41 (b) (5) (i) through (iv); and

(2) Remaining receipts of other source milk in the form of fluid milk products in bulk.

§ 1103.43 Responsibility of handlers and reclassification of milk.

(a) All skim milk and butterfat shall be Class I milk unless the handler who first received such skim milk or butterfat can prove to the satisfaction of the market administrator that such skim milk or butterfat should be classified otherwise; and

(b) Any skim milk or butterfat shall be reclassified if verification by the market administrator discloses that the original classification was incorrect.

§ 1103.44 Transfers.

Skim milk or butterfat in the form of a fluid milk product shall be classified:

(a) At the utilization reported pursuant to § 1103.30 by the transferor and transferee handlers, if transferred or diverted in bulk from a pool plant to another pool plant or transferred by a cooperative association in its capacity as a handler pursuant to § 1103.13(d), to a pool plant of another handler, otherwise as Class I milk, subject in either event to the following conditions:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1103.46(a) (8) and the corresponding step of § 1103.46 (b);

(2) If the transferor plant received during the month, other source milk to be allocated pursuant to § 1103.46(a) (3) the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk;

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1103.46(a) (7) or (8) and the corresponding steps of § 1103.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant; and

(4) If a specified utilization of skim milk and butterfat transferred to a pool plant of another handler by a cooperative association in its capacity as a handler pursuant to § 1103.13(d) is not claimed by both handlers, such skim milk and butterfat shall be classified pro rata to the respective amounts remaining in each class at the pool plant of the receiving handler after making the assignments pursuant to § 1103.46(a) (8) and the corresponding step of § 1103.46(b) and after assignment of milk for which specified classification has been claimed by handlers pursuant to this paragraph;

(b) As Class I milk, if transferred in bulk as milk, filled milk, skim milk or cream or diverted to a nonpool plant that is neither an other order plant nor a producer-handler plant, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so trans-

ferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignments set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1103.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants.

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute the regular source of supply of Grade A milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute the regular source of supply of Grade A milk for such nonpool plant;

(iii) Remaining Class I utilization (exclusive of transfers to Federal order plants) shall be assigned first to the receipts from dairy farmers who the market administrator determine constitute the regular source of supply of Grade A milk for such nonpool plant, and all assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II milk;

(c) As follows, if transferred or diverted (pursuant to § 1103.15), to an other order plant in excess of receipts from order plant in the same category as described in subparagraphs (1), (2), or (3) of this paragraph:

(1) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred or diverted in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and the transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers or divisions in bulk form shall be classified as Class II to the extent of the Class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the transferee order provides for more than two classes of utilization, skim milk and butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and skim milk and butterfat allocated to other classes shall be classified as Class II; and

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1103.41.

§ 1103.45 Computation of the skim milk and butterfat in each class.

For each month, the market administrator shall correct for mathematical and

for other obvious errors the reports of receipts and utilization of each handler submitted pursuant to this part and shall compute the total pounds of skim milk and butterfat, respectively, in each class at each pool plant of such handler:

Provided, That if any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk disposed of in such product shall be considered to be an amount equivalent to the nonfat dry milk solids contained in such product, plus all of the water originally associated with such solids.

§ 1103.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1103.45, the market administrator shall determine the classification of producer milk received at each pool plant for each handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk classified:

(i) From Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under this or any other order issued pursuant to the Act is classified and priced as Class I milk and is not used as an offset on any other payment obligation under this or any other order;

(ii) From Class II the pounds of skim milk classified as Class II pursuant to § 1103.41(b) (5) (i) through (vi);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants, except that to be subtracted pursuant to subparagraph (3) (v) of this paragraph, as follows:

(i) From Class II milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(2-a) Subtract from the remaining pounds of skim milk in Class I milk, the pounds of skim milk in inventory of fluid milk products in packaged form on hand at the beginning of the month;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established, and receipts of fluid milk products from unidentified sources;

(iii) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order;

(iv) Receipts of reconstituted skim milk in filled milk from unregulated supply plants that were not subtracted pursuant to subparagraph (1) (i) of this paragraph; and

(v) Receipts of reconstituted skim milk in filled milk from other order plants which are regulated under an order providing for individual handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor plant;

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II:

(i) The pounds of skim milk in receipts of fluid milk products from unregulated supply plants, that were not subtracted pursuant to subparagraphs (1) (i) and (3) (iv) of this paragraph, for which the handler requests Class II utilization, but not in excess of the pounds of skim milk remaining in Class II;

(ii) The pounds of skim milk remaining in receipts of fluid milk products from unregulated supply plants, that were not subtracted pursuant to subparagraphs (1) (i) and (3) (iv) of this paragraph and subdivision (i) of this subparagraph, which are in excess of the pounds of skim milk determined as follows:

(a) Multiply the pounds of skim milk remaining in Class I milk (exclusive of Class I transfers between pool plants of the same handler) at all pool plants of the handler by 1.25;

(b) Subtract from the result the sum of the pounds of skim milk at all such plants in producer milk, in receipts from other pool handlers and in receipts in bulk from other order plants, that were

not subtracted pursuant to subparagraph (3) (v) of this paragraph; and

(c) (1) Multiply any resulting plus quantity by the percentage that receipts of skim milk in fluid milk products from unregulated supply plants remaining at this plant is of all such receipts remaining at all pool plants of such handler, after any deductions pursuant to subdivision (i) of this subparagraph.

(2) Should such computation result in a quantity to be subtracted from Class II which is in excess of the pounds of skim milk remaining in Class II, the pounds of skim milk in Class II shall be increased to the quantity to be subtracted and the pounds of skim milk in Class I shall be decreased a like amount. In such case the utilization of skim milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made;

(iii) The pounds of skim milk in receipts of fluid milk products in bulk from an other order plant, that were not subtracted pursuant to subparagraph (3) (v) of this paragraph, in excess of similar transfers to such plant, but not in excess of the pounds of skim milk remaining in Class II milk, if Class II utilization was requested by the operator of such plant and the handler; and

(iv) The pounds of skim milk in receipts of milk by diversion from an other order plant for which Class II utilization was requested by the receiving handler and by the diverting handler under the other order, but not in excess of the pounds of skim milk remaining in Class II milk;

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in inventory of bulk fluid milk products on hand at the beginning of the month;

(6) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) (ii) of this paragraph;

(7) (i) Subtract from the pounds of skim milk remaining in each class, pro rata to the total pounds of skim milk remaining in each class in all pool plants of the receiving handler, the pounds of

such plant from a cooperative association as a handler pursuant to § 1103.13 (d) and classified as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section and for other source milk for which a location adjustment is applicable, the price specified in § 1103.51(a) shall be reduced at the following rates (where mileage determinations are applicable these distances shall be determined by the market administrator by applying the shortest hard-surfaced highway distance open to commercial truck traffic):

Location:	Rate per hundred-weight (cents)
(1) For milk received at a pool plant located in the Mississippi marketing area except that part in George, Greene, Hancock, Harrison, Jackson, Pearl River, and Stone Counties-----	16.0
(2) For milk received at a pool plant located outside the marketing area and:	
(i) More than 60 but not more than 160 miles from the courthouse in Gulfport, or Pascagoula, Miss., whichever is nearer-----	10.0
(ii) For each additional 10 miles or fraction thereof, an additional-----	1.5

§ 1103.51 Class prices.
Subject to the provisions of §§ 1103.52 and 1103.53, the minimum prices per hundredweight for the month shall be as follows:

(a) *Class I milk price.* The minimum Class I price for the month shall be the basic formula price for the preceding month plus \$2.27, plus 20 cents.

(b) *Class II milk prices.* The Class II milk price during the months of September through January shall be the basic formula price for the month computed pursuant to § 1103.50 and during all other months shall be the basic formula price minus 10 cents but not less than a price computed as follows:

(1) Multiply by 4.2 the Chicago butter price for the month;

(2) Multiply by 8.2 the weighted average of carlot prices per pound of spray process nonfat dry milk for human consumption, f.o.b. manufacturing plants in the Chicago area, as published by the Department for the period from the 26th day of the immediately preceding month through the 25th day of the current month; and

(3) From the sum of the results arrived at under subparagraphs (1) and (2) of this paragraph, subtract 48 cents and round to the nearest cent. The result shall be the Class II price except as provided in subparagraph (4) of this paragraph.

(4) If the price computed pursuant to subparagraphs (1), (2), and (3) of this paragraph exceeds the basic formula price, the basic formula price shall be the Class II price.

§ 1103.52 Butterfat differential to handlers.

For milk containing more or less than 3.5 percent butterfat, the class prices calculated pursuant to § 1103.51 shall be increased or decreased, respectively, for each one-tenth percent butterfat at the appropriate rate determined as follows:

(a) *Class I price.* Multiply the Chicago butter price for the preceding month by 0.12; and

(b) *Class II price.* Multiply the Chicago butter price for the month by 0.11.

§ 1103.53 Location differential to handlers.

(a) For that milk which is received from producers at a pool plant or at

pounds of skim milk remaining in such class in the pool plant at which such skim milk was received, the pounds of skim milk in such class shall be increased to the amount to be subtracted and the pounds of skim milk in the other class shall be decreased a like amount. In such case the utilization of milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made;

(9) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from other pool plants and from a cooperative association as a handler pursuant to § 1103.13(d) according to the classification assigned pursuant to § 1103.44(a); and

(10) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

MINIMUM PRICES

§ 1103.50 Basic formula price.

The basic formula price shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis by a butterfat differential (rounded to the nearest one-tenth cent) computed at 0.12 times the Chicago butter price. The basic formula price shall be rounded to the nearest full cent. For the purpose of computing Class I prices from the effective date hereof, the basic formula price shall not be less than \$4.33.

skim milk in receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraphs (1) (i), (3) (iv), and (4) (i) or (ii) of this paragraph:

(i) Should such proration result in the amount to be subtracted from any class exceeding the pounds of skim milk remaining in such class in the pool plant at which such skim milk was received, the pounds of skim milk in such class shall be increased to the amount to be subtracted and the pounds of skim milk in the other class shall be decreased a like amount. In such case the utilization of skim milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made;

(8) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products in bulk from an other order plant, in excess in each case of similar transfers to the same plant, that were not subtracted pursuant to subparagraphs (3) (v) or (4) (iii) of this paragraph pursuant to the following procedure:

(i) Subject to the provisions of subdivisions (ii) and (iii) of this subparagraph, such subtraction shall be pro rata to whichever of the following represents the higher proportion of Class II milk:

(a) The estimated utilization of skim milk in each class, by all handlers, as announced for the month pursuant to § 1103.22(m); or

(b) The pounds of skim milk in each class remaining at all pool plants of the handler;

(ii) Should proration pursuant to subdivision (i) result in the total pounds of skim milk to be subtracted from Class II at all pool plants of the handler exceeding the pounds of skim milk remaining in Class II at such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plant at which received;

(iii) Except as provided in subdivision (ii), should proration pursuant to either subdivision (i) or (ii) of this subparagraph result in the amount to be subtracted from either class exceeding the

APPLICATION OF PROVISIONS

§ 1103.60 Producer-handler.

Sections 1103.42 through 1103.46, 1103.50 through 1103.54, 1103.61, 1103.62, 1103.70 through 1103.72, 1103.80 through 1103.83 and 1103.90 through 1103.99 shall not apply to a producer-handler.

§ 1103.61 Plants subject to other Federal orders.

In the case of a handler in his capacity as the operator of a plant specified in paragraphs (a), (b), and (c) of this section the provisions of this part shall not apply except as specified in paragraphs (d) and (e):

(a) A plant meeting the requirements of § 1103.11(a) which also meets the pooling requirements of another Federal order, and from which the Secretary determines a greater quantity of Class I milk, except filled milk, is disposed of during the month as route dispositions in such other Federal order marketing area than is disposed of as route dispositions in this marketing area; except that if such plant was subject to all the provisions of this part in the immediately preceding month, it shall continue to be subject to all the provisions of this part until the third consecutive month in which a greater proportion of such Class I disposition is made in such other marketing area unless, notwithstanding the provisions of this paragraph, it is regulated under such other order:

(b) A plant meeting the requirements of § 1103.11(a) which also meets the pooling requirements of another Federal order on the basis of distribution in such other marketing area and from which, the Secretary determines a greater quantity of Class I milk, except filled milk, is disposed of during the month as route dispositions in this marketing area than is so disposed of in such other marketing area but which plant is nevertheless, fully regulated under such other Federal order; and

(c) A plant meeting the requirements of § 1103.11(b) which also meets the pooling requirements of another Federal order and from which greater qualifying shipments are made during the month to plants regulated under such other order than are made to plants regulated under this part except during the months of February through August if such

plant retains automatic pooling status under this part.

(d) Each handler operating a plant described in paragraph (a), (b), or (c) of this section shall, with respect to total receipts and utilization or disposition of skim milk and butterfat at such plant, report to the market administrator at such time and in such manner as the market administrator may require (in lieu of reports pursuant to §§ 1103.30 and 1103.31) and allow verification of such reports by the market administrator.

(e) Each handler operating a plant specified in paragraph (a) or (b) of this section, if such plant is subject to the classification and pricing provisions of another order which provides for individual handler pooling, shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk disposed of on routes in the marketing area which was allocated to Class I at such other order plant. If reconstituted skim milk in filled milk is disposed of from such plant on routes in marketing areas regulated by two or more market pool orders, the reconstituted skim milk assigned to Class I shall be prorated according to such disposition in each area; and

(2) Compute the value of the quantity assigned in subparagraph (1) of this paragraph to Class I disposition in this area at the Class I price under this part applicable at the location of the other order and subtract its value at the Class II price, but in no event shall such adjustment result in a Class I price lower than the Class II price.

§ 1103.62 Obligations of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to §§ 1103.30(b) and 1103.31(c) the information necessary to compute the amount

specified in paragraph (a), he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows: (1) (i) The obligation that would have been computed pursuant to § 1103.70 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or another order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or another order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the weighted average price of the respective order if so allocated to Class I milk, except that reconstituted skim milk in filled milk shall be valued at the Class II price. There shall be included in the obligation so computed a charge in the amount specified in § 1103.70(e) and a credit in the amount specified in § 1103.97(b) (2) with respect to receipts from an unregulated supply plant, except that the credit for receipts of reconstituted skim milk in filled milk shall be at the Class II price, unless an obligation with respect to such plant is computed as specified below in this subparagraph; and

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant to §§ 1103.30(b) and 1103.31(c) similar reports with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1103.11(b), with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply

plant(s) included in the computations pursuant to subparagraph (1) of this paragraph, and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows: (1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk route dispositions in the marketing area;

(2) Deduct the respective amounts of skim milk and butterfat received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants except that deducted under a similar provision of another order issued pursuant to the Act; and

(ii) Received from a nonpool plant which is not an other order plant to the extent that an equivalent amount disposed of to such plant by handlers fully regulated under this or any other order issued pursuant to the Act is classified and priced as Class I milk and is not used as an offset on any other payment obligation under this or any other order;

(3) Deduct from the remainder the quantity of reconstituted skim milk in fluid milk products disposed of on routes in the marketing area;

(4) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(5) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the weighted average price applicable at such location or the Class II price, whichever is higher and add for the quantity of reconstituted skim milk subtracted pursuant to subparagraph (3) of this paragraph its value computed at the Class I price applicable at the location of the nonpool plant less the value of such skim milk at the Class II price.

DETERMINATION OF PRICES TO PRODUCERS
§ 1103.70 Computation of the net pool obligation of each pool handler.

For each month the market administrator shall compute the obligation of each handler operating a pool plant(s) and cooperative association acting as a handler pursuant to § 1103.13 (c) or (d) by making the computations provided in

paragraphs (a) through (e) of this section and adding together the resulting totals:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1103.46(c), by the applicable class prices (adjusted pursuant to §§ 1103.52 and 1103.53);

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1103.46(a)(10) and the corresponding step of § 1103.46(b) by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1103.46(a)(5) and the corresponding step of § 1103.46(b);

(c-1) Add an amount determined by multiplying the difference between the Class I price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1103.46(a)(2-a) and the corresponding step of § 1103.46(b). If the Class I price for the current month is less than the Class I price for the preceding month, the result shall be a minus amount;

(d) Add an amount equal to the difference between the value at the Class I price applicable at the pool plant and the value at the Class II price, with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1103.46(a)(3) and the corresponding step of § 1103.46(b), except that for receipts of fluid milk products assigned to Class I pursuant to § 1103.46(a)(3) (iv) and (v) and the corresponding steps of § 1103.46(b) the Class I price shall be adjusted to the location of the transferor plant, but in no event shall such adjustment result in a Class I price lower than the Class II price; and

(e) With respect to skim milk and butterfat subtracted from the Class I pursuant to § 1103.46(a)(7) and the corresponding step of § 1103.46(b) (excluding such skim milk or butterfat in bulk receipts of fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim

milk or butterfat disposed of to such plant by handlers under this or any other order issued pursuant to the Act is classified and priced as Class I milk and is not used as an offset on any other payment obligation under this or any other order), add an amount equal to the value at the Class I price, adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received, but in no event shall such adjustment result in a Class I price lower than the Class II price.

§ 1103.71 Computation of the weighted average price and uniform price.

For each month the market administrator shall compute the weighted average price per hundredweight for milk of 3.5 percent butterfat content as follows:

(a) Combine into one total the values computed pursuant to § 1103.70 for all handlers specified in § 1103.13 (a), (c), and (d) who filed reports prescribed by § 1103.30, and who made payments pursuant to § 1103.90 and § 1103.97 for the preceding month;

(b) Subtract, if the average butterfat content of the milk included under paragraph (e) of this section is greater than 3.5 percent, or add, if such average butterfat content is less than 3.5 percent, an amount computed as follows: Multiply the variation in the average butterfat content of such milk from 3.5 percent by the butterfat differential computed pursuant to § 1103.91, and multiply the result by the total hundredweight of such milk;

(c) Add an amount equal to the sum of the deductions to be made for location differentials pursuant to § 1103.92; and

(d) Add not less than one-half of the unregulated balance on hand in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1103.70 (e); and

(f) Subtract not less than 4 cents nor more than 5 cents.

The result shall be the "weighted average price" or the "uniform price" for milk received from producers.

PAYMENTS

§ 1103.90 Time and method of payment.

Each handler shall make payment as follows:

(a) On or before the 15th day after the end of each month during which the milk was received, to each producer for whom payment is not made pursuant to paragraph (c) of this section, at not less than the uniform price pursuant to § 1103.71 adjusted by the producer butterfat differential computed pursuant to § 1103.91, subject to the location adjustment to producers pursuant to § 1103.92, and less the following amounts:

(1) The payments made pursuant to paragraph (b) of this section;

(2) Marketing service deductions pursuant to § 1103.94; and

(3) Any proper deductions authorized in writing by the producer: *Provided*, That if by such date such handler has not received full payment for such month pursuant to § 1103.98 he may reduce his total payment to all producers uniformly by not more than the amount of reduction in payment from the market administrator; the handler shall, however, complete such payments not later than the date for making such payments pursuant to this paragraph next following receipt of the balance from the market administrator;

(b) On or before the last day of each month to each producer (1) for whom payment is not received from the handler by a cooperative association pursuant to paragraph (c) of this section, and (2) who had not discontinued shipping milk to such handler before the 18th day of the month, a partial payment equal to the Class II price for the preceding month for milk testing 3.5 percent butterfat multiplied by the hundredweight of milk received from such producer during the first 15 days of the current month.

(c) To a cooperative association which has filed request for such payment with such handler and with respect to producers for whose milk the market administrator determines such cooperative association is authorized to collect payment as follows:

(1) On or before the 26th day of the month, an amount equal to not less than the sum of the individual payments

otherwise payable to producers pursuant to paragraph (b) of this section; and

(2) On or before the 13th day after the end of each month an amount equal to not less than the sum of the individual payments otherwise payable to producers pursuant to paragraph (a) of this section, less proper deductions authorized in writing by such cooperative association;

(d) In making payments to producers pursuant to paragraph (a) of this section, each handler shall furnish each producer with a supporting statement in such form that it may be retained by the producer which shall show:

(1) The month and the identity of the handler and of the producer;

(2) The pounds per shipment, the date, the total pounds, and the average butterfat test of milk delivered by the producer;

(3) The minimum rate or rates at which payment to such producer is required pursuant to this part;

(4) The rate which is used in making the payment if such rate is other than the applicable minimum rate;

(5) The amount or the rate per hundredweight of each deduction claimed by the handler, including any deduction claimed under paragraph (b) of this section and § 1103.94, together with a description of the respective deduction; and

(6) The net amount of payment to the producer; or

(e) To a cooperative association for milk received from such association in its capacity as a handler as follows:

(1) On or before the 26th day of each month an amount equal to not less than the Class II price for 3.5 percent milk for the preceding month multiplied by the hundredweight of milk received from such association during the first 15 days of the current month; and

(2) On or before the 13th day after the end of each month during which the milk was received an amount equal to not less than the utilization value of such milk computed at the applicable class prices less amounts paid pursuant to subparagraph (1) of this paragraph.

§ 1103.91 Producer butterfat differential.

In making payments pursuant to § 1103.90, the uniform price(s) shall be

increased or decreased for each one-tenth of one percent that the butterfat content in milk received from each producer is above or below 3.5 percent, as the case may be, by a butterfat differential equal to the average of the butterfat differentials pursuant to § 1103.52 weighted by the pounds of butterfat in producer milk in each class rounded to the nearest one-tenth cent.

§ 1103.92 Location differential to producers and on nonpool milk.

(a) In making payments to producers pursuant to § 1103.90, the uniform price pursuant to § 1103.71 to be paid for milk received at a pool plant shall be reduced according to the location of the pool plant at the rates set forth in § 1103.53; and

(b) For purposes of computations pursuant to §§ 1103.97 and 1103.98 the weighted average price shall be adjusted at the rates set forth in § 1103.53 applicable at the location of the nonpool plant from which the milk was received.

§ 1103.93 Adjustment of accounts.

Whenever audit by the market administrator of any handler's reports, books, records, or accounts, or verification of weights and butterfat tests of milk or milk products discloses errors resulting in money due (a) the market administrator from such handler, (b) such handler from the market administrator, or (c) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth under which such error occurred.

§ 1103.94 Marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler in making payments to producers for milk (other than milk of his own production) pursuant to § 1103.90(a), shall deduct 7 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to all milk received by such handler from producers during the month, and shall pay such deductions to the market administrator on or before the 15th day after the end of such month. Such monies shall be used by the market

administrator to provide market information and to check the accuracy of the testing and weighing of the milk for producers who are not receiving such services from a cooperative association. Such services shall be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him; and

(b) In the case of producers who are members of a cooperative association which the Secretary has determined is actually performing the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deduction specified in paragraph (a) of this section, such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers on or before the 15th day after the end of each month, and pay such deductions to such cooperative association.

§ 1103.95 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler, excluding a cooperative association in its capacity as a handler pursuant to § 1103.13(d), shall pay to the market administrator on or before the 15th day after the end of the month 5 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to:

- (a) Producer milk (including such handler's own production);
- (b) Other source milk allocated to Class I pursuant to § 1103.46(a) (3) and (7) and the corresponding steps of § 1103.46(b), except such other source milk on which no handler obligation applies pursuant to § 1103.70(e);
- (c) Class I milk disposed of from a partially regulated distributing plant on routes in the marketing area that exceeds Class I milk specified in § 1103.62 (b) (2); and
- (d) Milk received from a cooperative association in its capacity as a handler pursuant to § 1103.13(d).

§ 1103.96 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all applicable pay-

ments made by handlers pursuant to §§ 1103.61, 1103.62, 1103.93(a), and 1103.97, and out of which he shall make all applicable payments pursuant to §§ 1103.93(b) and 1103.98: *Provided*, That any payments due to any handler shall be offset by any payments due from such handler.

§ 1103.97 Payments to the producer-settlement fund.

On or before the 12th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amounts specified in paragraph (a) of this section exceed the amounts specified in paragraph (b) of this section:

- (a) The total of the net pool obligation computed pursuant to § 1103.70 for such handler;
- (b) The sum of:
 - (1) The value of such handler's producer milk at the applicable uniform prices specified in § 1103.90; and
 - (2) The value at the weighted average price(s) applicable at the location of the plant(s), from which received (not to be less than the value at the Class II price) with respect to other source milk for which a value is computed pursuant to § 1103.70(e).

§ 1103.98 Payments out of the producer-settlement fund.

On or before the 13th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1103.97(b) exceeds the amount computed pursuant to § 1103.97(a). If, at such time, the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the appropriate funds are available.

§ 1103.99 Overdue accounts.

Any unpaid obligation of a handler pursuant to §§ 1103.62, 1103.93(a), 1103.94(a), 1103.95 or 1103.97 shall be increased one-half of 1 percent each month or fraction thereof starting the third day after the date such obligation is due until such obligation is paid. Any

remittance received by the market administrator postmarked not later than the date such obligation is due shall be considered to have been received when due.

§ 1103.100 Termination of obligations.

The provisions of this section shall apply to any obligation under this part for the payment of money:

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate 2 years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the skim milk and butterfat involved in such obligation unless within such 2-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain but need not be limited to, the following information:

- (1) The amount of the obligation;
- (2) The month(s) during which the skim milk and butterfat, with respect to which the obligation exists, were received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of such producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator or his representatives all books and records required by this part to be made available, the market administrator may, within the 2-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said 2-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives;

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section,

a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed; and

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate 2 years after the end of the calendar month during which the skim milk and butterfat involved in the claim were received if an under payment is claimed, or 2 years after the end of the calendar month during which the payment (including deduction or set-off by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time files, pursuant to section 8c(15) (A) of the Act, a petition claiming such money.

MISCELLANEOUS PROVISIONS

§ 1103.105 Effective time.

The provision of this part or any amendment to this part shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to § 1103.106.

§ 1103.106 Suspension or termination.

The Secretary may suspend or terminate this part or any provision of this part whenever he finds that it obstructs or does not tend to effectuate the declared policy of the Act. This part shall terminate, in any event, whenever the provisions of the Act authorizing it cease to be in effect.

§ 1103.107 Continuing obligations.

If, upon the suspension or termination of any or all provisions of this part, there are any obligations thereunder, the final accrual or ascertainment of which requires further acts by any person (including the market administrator), such further acts shall be performed

notwithstanding such suspension or termination.

§ 1103.108 Liquidation.

Upon the suspension or termination of the provisions of this part, except this section, the market administrator, or such liquidating agent as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated, all assets, books, and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidating and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

§ 1103.109 Agents.

The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this part.

§ 1103.110 Separability of provisions.

If any provision of this part, or its application to any persons or circumstances, is held invalid, the application of such provision, and of the remaining provisions of this part to other persons or circumstances shall not be affected thereby.

Effective date: July 1, 1970.

Signed at Washington, D.C., on June 25, 1970.

RICHARD E. LYNG,
Assistant Secretary.

[F.R. Doc. 70-8327; Filed June 30, 1970;
8:45 a.m.]

Chapter XVIII—Farmers Home Administration, Department of Agriculture

SUBCHAPTER B—LOANS AND GRANTS PRIMARILY FOR REAL ESTATE PURPOSES

[FHA Instruction 444.8]

PART 1822—RURAL HOUSING LOANS AND GRANTS

Subpart G—Rural Housing Site Loan Policies, Procedures, and Authorizations

Part 1822, Title 7, Code of Federal Regulations is amended by adding a new Subpart G, reading as follows:

Subpart G—Rural Housing Site Loan Policies, Procedures, and Authorizations

- Sec.
- 1822.261 General.
 - 1822.262 Objective.
 - 1822.263 Definitions.
 - 1822.264 Eligibility requirements.
 - 1822.265 Loan purposes.
 - 1822.266 Limitations.
 - 1822.267 Special conditions.
 - 1822.268 Rates, terms, and sources of funds.
 - 1822.269 Security.
 - 1822.270 Technical, legal, and other services.
 - 1822.271 Processing applications.
 - 1822.272 Approval or disapproval of a loan.
 - 1822.273 Actions subsequent to loan approval.
 - 1822.274 Loan closing.
 - 1822.275 Actions after sites are developed.
 - 1822.276 Subsequent RHS loans.
 - 1822.277 Complaints regarding discrimination in opportunity to buy developed sites.
 - 1822.278 Special requirements for RHS section 503 loans (loans to organizations providing sites for self-help housing).

AUTHORITY: The provisions of this Subpart G issued under sec. 523, 82 Stat. 553, 42 U.S.C. 1490C; sec. 524, 83 Stat. 399; sec. 502, 63 Stat. 433, as amended, 42 U.S.C. 1472; sec. 101(a), 82 Stat. 477, 12 U.S.C. 17152; sec. 201, 82 Stat. 498, U.S.C. 17152-1; Orders of Sec. of Agr., 29 F.R. 16210, 32 F.R. 6650.

§ 1822.261 General.

(This subpart is modified by Subparts E, K, and Y of Part 1890 of this chapter.) This subpart sets forth the policies and procedures and delegates authority for making Rural Housing Site (RHS) loans under sections 523 and 524 of the Housing Act of 1949. Section 523 loans are direct loans for the purchase and development of building sites for housing to be built by the self-help method; they have additional requirements which are contained in § 1822.278.

§ 1822.262 Objective.

The basic objective of RHS loans is to assist public or private nonprofit organizations interested in providing sites for housing, to acquire and develop land in rural areas. This land will be subdivided into adequate building sites and sold on a nonprofit basis to (a) families eligible for low and moderate income section 502 Rural Housing (RH) loans, including self-help housing; (b) cooperative Rural Cooperative Housing (RCH) applicants and broadly based nonprofit Rural Rental Housing (RRH) applicants; and (c) applicants eligible for

Housing and Urban Development (HUD) sections 235 and 236 insured mortgages.

§ 1822.263 Definitions.

As used in this subpart:

(a) A "private nonprofit organization" is a corporation which: is owned and controlled by private persons; is organized and operated for purposes other than making gains or profits for the corporation or members; and, is legally precluded from distributing to its members any gains or profits.

(b) A "public nonprofit organization" is a nonprofit corporation other than a private nonprofit corporation, including a municipal corporation or other corporate agency of a State or local government.

(c) "Rural areas" means open country or places of 5,500 persons or less which are not part of or associated with urban areas and are further defined in § 1822.3(c).

(d) "Development cost" means the cost of purchasing and developing the site including engineering and legal fees, streets, roads, utilities, minimum essential administrative costs, necessary equipment and estimated interest which the borrower cannot pay from other sources.

(e) "RHS section 523 loan" means a loan to an organization which will provide sites for housing to be built by the self-help method.

(f) "RHS section 524 loan" means a loan to an organization which will provide sites for housing to be built with no limitation as to the method of construction that will be used.

(g) "OGC" means the Office of the General Counsel, including the regional attorney or attorney in charge serving the State in which the RHS project is located.

§ 1822.264 Eligibility requirements.

(a) *Eligibility of applicant.* To be eligible for an RHS loan, the applicant must be a private or public nonprofit organization as defined in § 1822.263 (a) or (b) which is authorized to provide housing sites on a nonprofit basis.

(1) If it is a private nonprofit organization as defined in § 1822.263(a), it should also:

(i) Have a membership of at least 10 community leaders.

(ii) Plan to adopt, if it is being newly organized, articles of incorporation and bylaws that generally conform to model articles and bylaws provided by the State director which will be consistent with State law and with changes appropriate to the purposes and powers of an eligible applicant under this subpart.

(b) *Authorized representative of applicant.* The Farmers Home Administration (FHA) will deal only with the applicant or bona fide representative of the applicant or the representative's technical advisors. An authorized representative of the applicant must have no pecuniary interest in the award of the engineering, architectural or construction contracts, necessary equipment, or the purchase or development of the land.

§ 1822.265 Loan purposes.

RHS loans may be made to qualified applicants:

(a) For the purchase and development of adequate sites, including the construction of essential access roads, streets, utility lines, and necessary equipment which will become a permanent part of the development. If public water and waste disposal facilities are not available and cannot reasonably be provided on a community basis with other financing, including FHA Water and Waste Disposal Association loans, funds may be included for this purpose.

(b) For the payment of necessary engineering fees, legal fees, and closing costs.

(c) For the payment of actual cash cost of incidental administrative expenses such as postage, telephone, advertising, and temporary secretarial help, if funds to pay these expenses are not otherwise available. The estimated cost of these items should be identified and shown in the budget.

(d) To provide for needed landscaping, planting, seeding, or sodding, or other necessary facilities related to buildings such as walks, parking areas, and driveways.

(e) To pay estimated interest which the applicant cannot pay from other sources.

§ 1822.266 Limitations.

(a) *Loan limits.* No RHS loan(s) will be made to any applicant which will result in the applicant's owing an unpaid principal balance of more than \$100,000 on such loan(s) unless prior authorization for a larger loan is obtained from the national office. No such loan will exceed the development cost as defined in § 1822.263(d), or the value of the property as improved with the loan. These limitations also apply to cases in which the same persons hold a majority of the membership interests or constitute a majority of the directors of two or more applicants.

(b) *Limitations of use of loan funds.* Loans will not be made for:

(1) The purchase of land in excess of the immediate and identified needs in the locality.

(2) The purchase of land from a member of an applicant-organization, or from another organization in which any member of the applicant-organization has an interest, without prior consent of the national office.

(3) Refinancing of debts, except in accordance with paragraph (e) of this section.

(4) Payment of any fee, charge, or commission to any broker, negotiator, or other person for the referral of a prospective applicant or solicitation of a loan.

(5) Payment of any fee, salary, commission, profit, or compensation to an applicant, or to any officer, director, trustee, stockholder, member or agent of an applicant, except as provided in § 1822.265(b). No contract or agreement for services to be paid for with loan

funds should be executed by the applicant without prior approval by the State director.

(c) *Sale of developed sites.* The developed sites may be sold only to:

(1) Families having a low or moderate income who qualify for a section 502 RH loan or a section 235 HUD insured mortgage; or,

(2) Nonprofit organizations eligible for an RRH or RCH loan or a HUD section 236 insured mortgage.

(d) *Suitability of sites.* Sites will meet the requirements of the planned use; for example, individual housing or multiple housing or any combination thereof. Building sites must be well located and designed to provide a desirable living environment. Generally a loan will not be made for the development of less than 10 units, but they need not be contiguous.

(e) *Obligations incurred before loan closing.* When an applicant files an application for a loan, the county supervisor will advise the applicant that development work must not be started and obligations for work, materials, or land purchase must not be incurred before the loan is closed. If, nevertheless, the applicant incurs obligations for work, materials, or land purchase before the loan is closed, the State director may authorize the use of loan funds to pay such obligations only when he finds that all the following conditions exist:

(1) The obligations were incurred after the applicant filed a written application for a loan.

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

(3) The obligations were incurred for authorized loan purposes.

(4) Contracts, materials, development and any land purchase meet FHA standards and requirements.

(5) Payment of the obligations will remove any liens which have attached, and any basis for liens that may attach, to the property on account of such obligations or such work, materials, or land purchase.

§ 1822.267 Special conditions.

(a) *Evidence of need.* Loans will be made on the basis of the applicant providing firm information as to the number of sites to be developed and evidence of a need for the proposed building sites in the locality.

(b) *Nondiscrimination.* The borrower will be required to agree not to discriminate or permit discrimination, in accordance with section 3 of the loan resolution form "((Rural Housing Site) Loan to Nonprofit Corporation)," available at all FHA offices.

(c) *Supervisory assistance.* Supervision will be provided borrowers to the extent necessary to achieve the objectives of the loan and to protect the interests of the Government. County supervisors will counsel with applicants in selecting locations that will provide essential services and facilities and will result in the development of desirable residential communities.

(d) *Loan resolution.* A Loan Resolution will be adopted by the applicant's Board of Directors or similar governing body using a form entitled, "((Rural Housing Site) Loan to Nonprofit Corporation)" available at all FHA offices. If any provisions are not appropriate to a particular case, proposed substitute language should be submitted to the national office with the recommendations of the State director.

(e) *Development policies.* Development will be planned and performed in accordance with Subpart A, Part 1804 of this chapter, and certain information in a guide entitled "Planning and Developing Building Sites" available at all FHA offices.

(f) *Water and waste disposal facilities.* If public water and waste disposal facilities are not available and these facilities will be provided on a community basis with funds included in the RHS loan or with other financing, provision should be made to form an organization with members who will provide continuing maintenance and management of facilities. The cost of the facilities should be considered as a cost of developing the sites and included in the price charged for the lots when they are sold.

(g) *Compliance with local codes and regulations.* Planning and development of sites will be for housing that will conform with any applicable laws, ordinances, codes, and regulations governing such matters as construction, heating, plumbing, electrical installation, fire prevention, health, and sanitation.

(h) *Optioning of land.* If a loan includes funds to purchase real estate, the applicable provisions of § 1821.15 regarding options will be followed. After the loan is approved, the county supervisor will have Form FHA 440-35, "Form Letter—Acceptance of Option," or other appropriate form of acceptance, completed, signed by the applicant, and mailed to the seller.

(i) *Use of and accountability for loan funds.* Supervised bank accounts will not be used except when their requirement is made or authorized by the State director for cases where adequate bonding is not available. If a supervised bank account is used, collateral for deposits of funds will be pledged when the supervised bank account exceeds \$20,000. All loan funds and funds from other sources to be used to pay the development costs of the site, as well as proceeds from the sale of any sites, will be deposited in a bank which is a member of the Federal Deposit Insurance Corporation. The county supervisor will see that funds for land purchase are paid to the seller simultaneously with loan closing. After the loan is closed, monthly reports will be provided to FHA of all disbursements made and income received by the borrower. Reports for each month will be submitted to the FHA county office during the first 10 days of the next month. No expenditures will be made without prior FHA consent for items which are not included in the FHA approved development cost estimate or for amounts greater than those set forth in such estimate.

(j) *Insurance.* The State director will determine the minimum amounts and types of insurance the applicant will carry.

(1) Suitable workman's compensation insurance will be carried by the applicant for all its employees.

(2) The applicant will be advised of the possibility of incurring liability and encouraged, or required when appropriate, to obtain liability insurance.

(k) *Bonding.* (1) Approved corporate surety bonds will be required in all cases involving a development contract in excess of \$20,000, unless an exception is made by the national office. In other cases, the county supervisor will determine whether a surety bond is required.

(2) The applicant will provide fidelity bond coverage for its officers and employees entrusted with the receipt, custody, and disbursement of its funds and the custody of any other negotiable or readily saleable personal property. The amount of the bond will be at least equal to the maximum amount of such funds including funds in bank accounts, and property that the applicant will have in its possession or control at any one time. If permitted by State law, the United States will be named coobligee in the bond. Form FHA 440-24, "Position Fidelity Schedule Bond," may be used if permitted by State law.

§ 1822.268 Rates, terms, and source of funds.

(a) *Interest.* Current information regarding interest rates may be obtained from any county or State office of the Farmers Home Administration or from its national office at 14th and Independence Avenue SW., Washington, D.C. 20250.

(b) *Repayment period.* Final payment will be due 2 years after the date of the loan. When necessary to carry out the loan purposes, the national office may authorize extension of maturity dates. As lots are sold before the final due date of the note, the proceeds of the sales will be applied on the account or any prior lien, or, with the prior approval of the national office, used in a manner consistent with the purposes of the loan and the security interest of the Government.

(c) *Source of funds.* Loans under this subpart will be made as insured loans, except that loans under § 1822.278 to develop building sites for sale in connection with self-help projects will be made as direct loans.

§ 1822.269 Security.

Each loan will be secured by a mortgage on the property purchased or improved with the loan, and a security interest in the funds held by the corporation in trust for the Government, in accordance with the provisions of the required Loan Resolution.

§ 1822.270 Technical, legal, and other services.

(a) *Appraisals.* The property will be appraised by an FHA employee authorized to make real estate appraisals. The appraisal will consist of a narrative statement prepared and signed by the

authorized employee describing in detail the items considered in arriving at the value of the property. Two values will be established by the appraiser:

(1) The fair market value of the total property "as is."

(2) The aggregate fair market value of the building sites after development.

(i) In determining the value of the property, the appraiser will consider the value and selling prices of similar building sites in the area. The selling prices of similar sites must be fully documented.

(b) *Title clearance and legal services.* For a loan to a public nonprofit organization, title clearance and legal services will be obtained in accordance with instructions from the OGC, observing the provisions of Part 1807 of this chapter, insofar as feasible. For a loan to a private nonprofit organization, the provisions of Part 1807 of this chapter regarding title clearance and legal services will apply. The applicant will be encouraged to have the same designated attorney, where practicable, perform the title clearance work in connection with the purchase of land and the sale of the individual sites.

(c) *Contracts for legal services.* On projects requiring more legal services than are customarily required for title clearance alone, the applicant will be required to have a written contract when loan funds will be used for legal services. All such contracts will be subject to review and approval by the State director and therefore should be submitted to him before execution by the applicant. Contracts will provide for the types of service to be performed and the amount of fees to be paid either in lump sum on the completion of all services or in installments as services are performed.

(d) *Engineering services.* On projects requiring engineering services, a written contract will be required between the engineer and the borrower. All such contracts will be subject to review and approval by the State director and therefore should be submitted to him before execution by the applicant. The form of contract must conform with standard professional practices and describe the types of services to be performed and fees to be paid.

§ 1822.271 Processing applications.

(a) *Application.* The application will be in the form of a letter to the county supervisor with the following information included in or attached to the letter:

(1) Name and address of applicant.
(2) A copy of, or an accurate citation to, the specific provisions of State law under which the applicant is organized; a copy of the applicant's articles of incorporation, bylaws, and other authorizing documents; the names and addresses of the applicant's members, directors, and officers; and if another organization is a member of the applicant organization its name, address, and principal business.

(3) A current, dated, and signed financial statement showing assets, and liabilities, together with information on the repayment schedule and status of each debt.

(4) Evidence of inability to obtain credit from other sources.

(5) General description of the project.
(i) Location and size of tract or tracts to be bought and/or developed.

(ii) Number and size of individual sites planned together with a detailed plot plan.

(iii) Preliminary engineering plans, if available.

(6) Estimated cost and amount of loan needed.

(7) Explanation of applicant's financial contribution to the project.

(8) A map showing the location of and other supporting information on neighborhood and existing facilities such as distance to shopping area, neighborhood churches, available transportation, drainage, sanitation facilities, water supply available or planned, and access to essential services such as doctors, dentists, and hospitals.

(9) If facilities such as water and sewage systems, paved streets, and utilities are not currently available, information on when and how they will be provided.

(10) Evidence of the need for the proposed sites in the locality by low- and moderate-income families and other qualified applicants that are likely to be able to obtain financing for a home.

(b) *County supervisor's review and evaluation of applications.* The county supervisor will:

(1) Determine that the applicant meets the eligibility requirements of § 1822.264.

(2) Verify that the information provided is accurate and complete.

(3) Determine that:

(i) The sites will be located in a good residential area and that essential facilities and services will be provided.

(ii) The lots will be reasonable in cost and of a type FHA can appropriately finance.

(iii) There is an immediate and ready market for the proposed sites in the planned location.

(iv) The total number of sites planned does not exceed the number of loans the county supervisor can reasonably expect to include in the rural housing program or for which other credit is reasonably assured when the sites are developed.

(v) Proposed subdivisions will comply with the local codes and ordinances and also meet the requirements of the guide "Planning and Developing Building Sites" available at all FHA offices.

(4) Evaluate the manner in which the applicant plans to conduct its business and financial affairs.

(5) Comment on the background of the members, directors and officials.

(6) If he has questions about the proposal, send the incomplete docket to the State office for advice.

(7) If for any reason the loan cannot be made, inform the applicant.

(c) *Completion of the docket.* If the county supervisor determines that the applicant is eligible and the loan will be sound and proper, he should request the applicant to make any needed revisions.

In addition to the items required in the application the docket must include:

(1) A plot plan and detailed preliminary plans and specifications for development of the building sites.

(2) A detailed cost breakdown of the project for such items as land and rights-of-way, utility installations or connections, on-site improvements, engineering and legal services, and estimated interest.

(3) If water and sanitary facilities are not publicly owned, a complete statement as to how they will be provided and details about their ownership and operation.

(4) Satisfactory evidence of review and approval of the proposed development by applicable State and local officials whose approval is required by State or local laws, ordinances, or regulations.

(d) *Preparation of docket forms—*

(1) *Record of actions.* Form FHA 440-3, "Record of Actions," will be prepared in the normal manner except that in the "Type of Assistance" section the "other" block will be checked and "RHS sec. 524" or "RHS sec. 523" inserted in the blank space. For an RHS section 524 loan the "Insurance Fund" block will be checked in the "Source of Funds" section; for an RHS section 523 loan the "direct" block will be checked. The interest rates for both section 524 and section 523 loans will be as provided by current information regarding interest rates which may be obtained from any county or State office of the Farmers House Administration or from its national office at 14th and Independence Avenue SW., Washington, D.C. 20250.

(2) *County committee certification or recommendation.* Before executing Form FHA 440-2, "County Committee Certification or Recommendation," the county committee will consider all pertinent information concerning the applicant and the proposed project, and will be given an opportunity to talk with the applicant's representative if the committee desires to do so. Form FHA 440-2 will be completed by checking the "other" block in the "Type of Assistance" section and inserting "RHS" in the blank, and also typing as item 10 the following, "For RHS assistance, we certify the amount of \$-----."

(3) *Fund analysis.* Form FHA 444-5, "RRH-RCH-LH Fund Analysis," will be completed by adding in the "Type of Assistance" block, the following: "6. RHS loan." Items 1 and 2 of Part I of the form will be left blank, with items 3 through 9 being completed when appropriate. The only entry to be made in Part II of this form will be in the "Number of Units" block of section A. In the blank space in this block, show the number of sites that will be offered for sale by adding the following: "----- sites."

(4) *Payment authorization.* Form FHA 440-1, "Payment Authorization," will be completed in the normal manner, except that the "Type of Assistance" will be completed by inserting "RHS—sec. 524—Initial" or "RHS—sec. 524 Subsequent"; or "RHS—sec. 523—Initial" or

"RHS—sec. 523—Subsequent"; the "Number of Installments" will be "1"; and the "First Installment Due" block will have inserted the phrase "2 years from note date."

(e) *Loan docket items.* The loan docket will consist of the following prepared and executed forms or documents as appropriate:

- Application letter and attachments.
- Evidence of legal authority (copy or citation of specific provisions of State statutory authority).
- Proof of organization (certified copy of articles of incorporation).
- Certified copy of bylaws.
- List of names and addresses of officers, directors and members.
- Narrative plan and other supporting information.
- Evidence of need.
- Certified copy of loan resolution—"((Rural Housing Site) Loan to Nonprofit Corporation)".
- FHA 400-4 Nondiscrimination Agreement.
- FHA 400-1 Equal Opportunity Agreement (when applicable).
- FHA 400-2 Equal Opportunity Clause (when applicable).
- Survey of land given as security plans, specifications, cost estimates, and proposed manner of development.
- Operating budget (if administrative expenses are to be included in loan).
- Appraisal report with attachments.
- Preliminary title opinion and a final title opinion or a title insurance binder and a mortgage title insurance policy.
- Option or copy of deed, purchase contract, or other instrument of ownership.
- FHA 440-3 Record of Actions.
- FHA 440-2 County Committee Certification or Recommendation.
- FHA 444-5 RRH-RCH-LH Fund Analysis.
- FHA 440-1 Payment Authorization.
- FHA 440-37 Notice of Approval (Financial Assistance).

(f) *Submission of complete docket.* The complete docket will be sent to the State office together with the county supervisor's comments and recommendations and a draft for a press release.

(g) *State office action.* The State director is authorized to approve or disapprove RHS loans in accordance with this subpart. The State director may redelegate approval authority to qualified State office employees other than district supervisors. When a docket or preliminary application is received in the State office, the State director will:

(1) Utilize the services of technicians on his staff and from other agencies in evaluating the application.

(2) Review the applicant's articles of incorporation and bylaws. If they conform to approved forms for the State as provided in § 1822.264(a)(1)(ii), the State director need not obtain a preliminary opinion from the OGC. In all other cases the State director will, and in any case may, submit the docket with any comments or questions he may have, to the OGC for a preliminary opinion as to whether the applicant and the proposed loan meet or can meet the requirements of State law and this subpart.

(3) If additional information is needed to adequately evaluate the application, return the loan docket to the county supervisor with his comments and recommendations for further processing.

(4) If the docket is sufficiently complete to enable him to determine that the applicant is eligible and the loan would be sound and proper, issue a proposed memorandum of approval listing any specific conditions that must be met before loan closing.

(5) If the applicant is not eligible or the loan would not be sound and proper and the deficiencies cannot be corrected, inform the county supervisor accordingly.

§ 1822.272 Approval or disapproval of a loan.

(a) *Approval.* When a loan is approved the approval official, in addition to reviewing the docket and determining that all requirements are met, will:

(1) Prepare Form FHA 440-3. Indicate on Form FHA 440-3, including all copies, any conditions that must be met at or before the time the loan is closed, including the amount of surety and fidelity bond coverage and other insurance, the title evidence and any other special requirements. If more space is needed, Form FHA 440-3 will be supplemented by a memorandum.

(2) Sign the original and two copies of completed Form FHA 440-3, and insert his title in the space provided.

(3) After completing Form FHA 440-1, sign the original and insert his title in the space provided.

(4) Prepare and sign Form FHA 440-37, "Notice of Approval (Financial Assistance)," and mail it on the day it and Form FHA 440-1 are signed.

(5) After the loan is approved, distribute the contents of the docket in accordance with normal procedure.

(b) *Disapproval.* If a loan is disapproved, the reason for such action will be shown on the original Form FHA 440-3, the applicant will be notified of the disapproval and the reasons therefor, and the docket will be handled in the normal manner.

§ 1822.273 Actions subsequent to loan approval.

After the loan is approved, actions to be taken will be in accordance with § 1822.94.

§ 1822.274 Loan closing.

(a) *Applicable instructions.* The complete loan docket will be sent to the OGC for closing instructions. RHS loans will be closed in accordance with applicable provisions of Part 1807 of this chapter, any provisions set forth by the State director which supplement this subpart, and closing instructions of the OGC, and with the assistance of the designated attorney, representative of the title insurance company, or local attorney, whichever is appropriate.

(b) *Mortgage.* Unless the OGC determines the form to be inappropriate, real estate mortgage Form FHA 427-1 (State), "Real Estate _____ for _____ (Insured loans to Individuals)," will be used for all RHS Section 524 loans modified as prescribed by or with the advice of the OGC with respect to the name, address, and other identification of the borrower, the style

of execution, and the acknowledgment. Additional paragraphs will be included in the mortgage to read as follows:

Borrower covenants and agrees that it does not and will not decline to sell or otherwise make available to a prospective purchaser because of his race, color, creed or national origin of the properties in the said tract or project. It further agrees to comply with all Federal, State, and local laws and ordinances prohibiting discrimination and that its failure or refusal to comply with this agreement and any such laws or ordinances shall be a proper basis for the Farmers Home Administration (FHA) to reject requests for future business with which borrower is identified or to take other corrective action as it may deem necessary to carry out the requirements of FHA regulations.

This instrument also secures the obligations and covenants of borrower set forth in borrower's loan resolution of (Date), which is hereby incorporated herein by reference.

(c) *Promissory note.* (1) Form FHA 440-22, "Promissory Note (Insured Loan to Non-Tax Exempt Association or Organization)," will be used for RHS insured loans unless legally inappropriate. The following revisions will be made and initiated by persons signing the note:

(i) In the "Kind of Loan" block change "RRH" to "RHS sec. 524."

(ii) The second sentence (lines 7-11) will be revised to read: "The said principal and interest shall be paid at the end of the two (2) years from the date of this note, except that prepayments may be made as provided herein below."

(iii) In the last paragraph, line 3, change "RRH" to "RHS."

(2) The total amount to be shown in the note will be amount of the loan shown on Form FHA 440-3. The note will be dated the date of loan closing.

(d) *Recorded mortgage.* When the real estate mortgage is returned by the recording official, the county supervisor will retain the original in the borrower's case folder. If the original is retained by the recording official for the county records, a conformed copy including the recording data showing the date and place of recordation and book and page number will be prepared and filed in the borrower's case folder. A copy of the mortgage will be delivered to the borrower but will be conformed only if required by State law or if it is the custom of other lenders in the area.

(e) *Date of loan closing.* An RHS loan is considered closed when the mortgage is filed of record.

§ 1822.275 Actions after sites are developed.

The building sites will be sold on a nonprofit basis to eligible families or organizations as described in § 1822.266 (c).

(a) An option, Form FHA 440-34, "Option to Purchase Real Property," will be executed. The site will be clearly identified by a land survey.

(b) The sale price of each individual site will not be more than a sufficient amount to pay a proportionate part of the RHS loan and any other actual costs of buying, developing, and selling the building site.

(c) The proceeds from sale of the building sites will be applied on the RHS loan and any prior lien or, with the prior approval of the national office, used in a manner consistent with the purposes of the loan and security interest of the Government. The sites will be released from the mortgage in accordance with § 1872.3 or otherwise in accordance with prior approval of the national office.

§ 1822.276 Subsequent RHS loans.

A subsequent RHS loan is an RHS loan to an applicant indebted for an initial RHS loan. Subsequent RHS loans will be made on the same basis as initial RHS loans.

§ 1822.277 Complaints regarding discrimination in opportunity to buy developed sites.

Any applicant wishing to purchase a site financed by an RHS loan who believes he has been discriminated against because of race, color, creed, or national origin may file a complaint with the county supervisor or State director. Any such complaint will be handled in accordance with § 1822.97.

§ 1822.278 Special requirements for RHS section 523 loans (loans to organizations providing sites for self-help housing).

Loans to organizations which will provide sites for self-help housing (RHS sec. 523 loans) will be made under the

provisions of this subpart with the following exceptions:

(a) *Eligibility.* The applicant must be a nonprofit organization engaged in assisting self-help projects.

(b) *Interest.* The interest rate will be 3 percent per annum on the unpaid principal balance.

(c) *Source of funds.* These will be direct loans made from the self-help fund.

(d) *Evidence of need.* Loans to newly formed organizations will be made on the basis of the applicant's providing firm information as to the number of sites to be developed and the names of eligible bona fide prospective purchasers who are assured of available home financing. Loans to organizations currently involved in mutual self-help housing projects may be made without submitting a list of the names of prospective site purchasers. There must, however, be definite evidence that enough families are available who are eligible and who will buy the sites when they are developed.

(e) *Multiple advances.* These loans may be disbursed in not more than three advances over a period not to exceed 18 months from the date of the first advance.

(f) *Note forms.* Form FHA 440-23, "Promissory Note (Direct Loan to Association or Organization)," will be used. Revisions similar to those required in subdivisions (i), (ii), and (iii) of § 1822.274(c)(1) will be made and initialed by the persons signing the note.

(g) *Mortgage.* Unless the OGC determines the form to be inappropriate in any case, real estate mortgage Form FHA 427-2 (State), "Real Estate----- for ----- (Direct Loan)," will be used, modified as prescribed by or with the advice of the OGC with respect to the name, address, and other identification of the borrower, the style of execution, and the acknowledgment. Additional paragraphs will be included in the mortgage to read as follows:

Borrower covenants and agrees that it does not and will not decline to sell or otherwise make available to a prospective purchaser because of his race, color, creed or national origin any of the properties in the said tract or project. It further agrees to comply with all Federal, State, and local laws and ordinances prohibiting discrimination and that its failure or refusal to comply with this agreement and any such laws or ordinances shall be a proper basis for the Farmers Home Administration (FHA) to reject requests for future business with which borrower is identified or take such other corrective action as it may deem necessary to carry out the requirements of the FHA regulations.

This instrument also secures the obligations and covenants of borrower set forth in borrower's loan resolution of (Date), which is hereby incorporated herein by reference.

Dated: June 24, 1970.

JAMES V. SMITH,
Administrator,
Farmers Home Administration.

[F.R. Doc. 70-8370; Filed, June 30, 1970;
8:50 a.m.]