the quantity after drying or blending, and such quantity shall reflect a minimum shrink in the receiving weight of 1.2 times the percentage difference between the moisture content of the soybeans when received, and 14 percent.

(b) *On farm.* The quantity of soybeans eligible to be placed under a farm storage loan shall be determined in accordance with § 1421.18 of the general regulations. The quantity acquired by CCC from farm storage shall be determined by weight.

§ 1421.370 Warehouse receipts.

Warehouse receipts tendered to CCC in connection with a loan or purchase must meet the requirements of this section.

(a) *Separate receipt.* A separate warehouse receipt must be submitted for each grade and class of soybeans. In the case of approved cooperative marketing associations, a separate warehouse receipt also must be submitted for each county support rate at which price support is obtained.

(b) *Entries.* Each warehouse receipt or the warehouseman's supplemental certificate (in duplicate), properly identified with the warehouse receipt, must show all of the following: (1) Gross weight and net bushels, (2) class, (3) grade, (4) test weight, (5) moisture, (6) percentage of foreign material, (7) any other grading factor(s) when such factor(s), and not test weight or moisture, determine the grade, (8) for soybeans grading No. 2, 3, or 4, the percentage of total damage, (9) for soybeans grading No. 3 or No. 4, the percentage of splits, and heat damage, (10) whether the soybeans were received by rail, truck, or barge, and (11) the date the soybeans were received or deposited in the warehouse.

(c) *Where warehouse receipt shows "Weevily", or moisture over 14 percent, or both.* If a warehouse receipt tendered for a loan shows that the soybeans grade "Weevily" or contained over 14 percent moisture, or both, the warehouse receipt must be accompanied by a supplemental certificate as provided in § 1421.367(b) (2) and (3) in order for the soybeans to be eligible for price support. The grade, grading factors, quantity to be delivered, and other information must be shown on the supplemental certificate as follows: (1) When the warehouse receipt shows "Weevily" and the soybeans have been conditioned to correct the "Weevily" condition, the supplemental certificate must show the same grade without the "Weevily" designation and the same grading factors and quantity as shown on the warehouse receipt; (2) when the warehouse receipt shows moisture content over 14 percent and the soybeans have been dried or blended, the supplemental certificate must show the grade, grading factors, and quantity after drying or blending the soybeans to a moisture content of not over 14 percent. The quantity shown on the supplemental certificate shall reflect a drying or blending shrink specified in § 1421.369(a); (3) the supplemental certificate must state that no lien for processing will be claimed by the warehouseman from Commodity Credit Corporation or any subsequent holder of the warehouse receipt; (4) in the case of conditions specified in subparagraphs (1) and (2) of this paragraph, the grade, grading factors, and the quantity shown on the supplemental certificate shall supersede the entries for such items on the warehouse receipt.

(d) *Liens.* The warehouse receipts may be subject to liens for warehouse charges only to the extent indicated in § 1421.372.

§ 1421.371 Fees and charges.

The producer shall pay a loan service fee and delivery charge as specified in § 1421.11 of the general regulations.

§ 1421.372 Warehouse charges.

(a) *Handling and storage liens.* Warehouse receipts and the soybeans represented thereby stored in approved warehouses operating under the Uniform Grain Storage Agreement may be subject to liens for warehouse handling and storage charges at not to exceed the Uniform Grain Storage Agreement rates from the date the soybeans are deposited in the warehouse for storage. Warehouse receipts and the soybeans represented thereby stored in approved warehouses operated by Eastern common carriers may be subject to liens for warehouse elevation (receiving and delivering) and storage charges from the date of deposit at rates approved by the Interstate Commerce Commission. In no event shall a warehouseman be entitled to satisfy the lien by sale of the soybeans when CCC is holder of the warehouse receipt.

(b) *Deduction of storage charges—UGSA warehouses.* The table set forth in the annual soybean crop supplement will provide the deduction for storage charges to be made from the amount of the loan or purchase price in the case of soybeans stored in approved warehouses operated under the Uniform Grain Storage Agreement. Such deduction shall be based on entries shown on the warehouse receipts. If written evidence is submitted with the warehouse receipt that all warehouse charges except receiving and loading out charges have been prepaid through the loan maturity date, no storage deduction shall be made. If such written evidence is not submitted, the beginning date to be used for computing the storage deduction on soybeans stored in warehouses operating under the Uniform Grain Storage Agreement shall be the latest of the following: (1) The date the soybeans were received or deposited in the warehouse, (2) the date storage charges start, or (3) the day following the date through which storage charges have been paid.

(c) *Deduction of storage charges—Eastern common carriers.* The table set forth in the annual crop year supplement will provide the deduction for storage charges to be made from the amount of the loan or purchase price in the case of soybeans stored in an approved warehouse operated by an Eastern common carrier. Such deduction shall be based on entries shown on the warehouseman's supplemental certificate and delivery order. If written evidence is submitted with the supplemental certificate and delivery order that all warehouse charges except elevation charges have been prepaid through the applicable loan maturity date, no storage deduction shall be made. Where the producer presents evidence showing that the elevation charges have been prepaid, the amount of the storage charges to be deducted shall be reduced by the amount of the elevation charges set forth in the table in the annual crop year supplement.

§ 1421.373 Maturity of loans.

Loans will mature on demand but not later than the date specified in the annual soybean crop supplement to the regulations in this part.

§ 1421.374 Support rates.

The basic county support rates and the schedule of premiums and discounts for use in making loans and for use in settling loans and for purchases shall be as set forth in the annual soybean crop supplement to the regulations in this part.

Effective date. Upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on August 27, 1970.

KENNETH E. FRICK,
Executive Vice President,
Commodity Credit Corporation.

[F.R. Doc. 70-11682; Filed Sept. 2, 1970; 8:50 a.m.]

Chapter XVIII—Farmers Home Administration, Department of Agriculture

SUBCHAPTER D—SPECIAL TYPES OF LOANS

PART 1841—LOANS TO INDIANS

Subchapter D, Chapter XVIII, Title 7, Code of Federal Regulations is amended by revoking Part 1841, the only regulations in this subchapter. Subchapter D is hereby vacated and reserved.

Dated: August 17, 1970.

JOSEPH HASPRAY,
Deputy Administrator,
Farmers Home Administration.

[F.R. Doc. 70-11652; Filed, Sept. 2, 1970; 8:48 a.m.]

SUBCHAPTER G—MISCELLANEOUS REGULATIONS

[AL 17(400), 703(440), 797(400), 843(440), 889(443), 965(465), 969(440)]

ADDITIONS TO SUBCHAPTER

New Parts 1890, 1890a, 1890b, 1890c, 1890d, 1890e, and 1890f, administrative directives supplementing certain preceding parts of this chapter are added to Chapter XVIII, Title 7, Code of Federal Regulations to read as follows:

PART 1890 — NONDISCRIMINATION BY RECIPIENTS OF FINANCIAL ASSISTANCE

Sec.
1890.1 Purpose.
1890.2 Definitions.
1890.3 Scope.

Sec.

AUTHORITY: The provisions of this Part 1890 issued under R.S. 161, sec. 510, 63 Stat. 437, sec. 4, 64 Stat. 100, sec. 339, 75 Stat. 318, sec. 602, 78 Stat. 528; 5 U.S.C. 301, 42 U.S.C. 1480, 40 U.S.C. 442, 7 U.S.C. 1989, 42 U.S.C. 2942; Orders of Secretary of Agriculture, 29 F.R. 16210, 32 F.R. 6650, Order of Director of Office of Economic Opportunity, 29 F.R. 14764.

§ 1890.1 Purpose.

This part supplements Subpart A of Part 1821, Subparts C, D, E, F, G, and I of Part 1822, Subparts A, B, C, D, E, F, and H of Part 1823, and Subpart A of Part 1831 of this chapter. The purpose of this part is to implement the regulations of the Department of Agriculture issued pursuant to title VI of the Civil Rights Act of 1964 as they relate to the activities of the Farmers Home Administration (FHA). Title VI provides that no person shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

§ 1890.2 Definitions.

As used in this part:

(a) "FHA assistance" means any advance of funds in the form of a U.S. Treasury Check delivered to, or for the account of, a "recipient" as defined in paragraph (b) of this section on or after the date specified for each type of financial assistance as shown in § 1890.3, irrespective of the date of approval or closing.

(b) "Recipient" means any party receiving FHA assistance on or after the date specified for each type of financial assistance as shown in § 1890.3, directly or through another recipient, including any successor, assignee, or transferee of another recipient. "Recipient" does not include any person who is an ultimate beneficiary of FHA assistance, such as actual users of recreational facilities, occupants of housing, members of grazing associations, water users, members of cooperative associations, and persons served by other projects to which this part is applicable.

(c) "Facility or activity" means any property, facility, project, activity, service right, privilege, financial aid, or other benefit which is provided, directly or indirectly, with the aid of FHA assistance.

(d) "Discrimination" means being on the ground of race, color, or national origin, directly or indirectly, wholly or partially, excluded from participation in, denied the benefits of, or treated in any respect differently from others with respect to, any facility or activity as defined in paragraph (c) of this section.

(e) "Department" means U.S. Department of Agriculture.

(f) "Effective date of this part" means, for each advance of "FHA assistance" as defined in paragraph (a) of this section, above, the respective date specified in § 1890.3 for the respective type of financial assistance.

§ 1890.3 Scope.

This part applies to advances of "FHA assistance," as defined in § 1890.2(a), made on or after the dates set forth below for the types of financial assistance listed.

(a) *On or after January 3, 1965.* (1) Direct Association loans.

(2) Planning advances for water and waste disposal.

(3) Direct Senior Citizens Rental Housing (SCH) loans, now Rural Rental Housing (RRH) loans.

(4) Direct Farm Ownership (FO) loans to install or improve recreational facilities.

(5) Operating loans (OL) to install or improve recreational facilities.

(6) Rural Renewal (RN) loans and advances.

(7) Watershed (WS) loans and advances.

(8) Economic Opportunity (EO) loans to cooperative associations.

(9) Resource Conservation and Development (RCD) loans.

(b) *On or after March 9, 1966.* (1) Development grants for water and waste disposal.

(2) Grants for comprehensive planning for water and sewer systems.

(3) Direct Rural Rental Housing (RRH) loans.

(4) Labor Housing (LH) grants.

(5) Direct Rural Cooperative Housing (RCH) loans.

(c) *On or after May 11, 1968.* (1) Insured Association loans made out of the Agricultural Credit Insurance Fund (ACIF) and insured Association Recreation loans made with funds of private lenders.

(2) Insured FO loans made out of the ACIF to install or improve recreation facilities.

(3) Insured LH loans made out of the Rural Housing Insurance Fund (RHIF).

(4) Insured RRH loans made out of the RHIF.

(5) Insured RCH loans made out of the RHIF.

(d) *On or after September 24, 1969.* (1) Direct and insured RL loans to individual owners or tenants of farms to finance outdoor recreational enterprises or convert to recreational uses their farming or ranching operations.

(2) Rural Housing site loans.

§ 1890.4 Discrimination.

(a) *General.* No recipient as defined in § 1890.2(b) shall directly or through contractual or other arrangements, subject or cause any person to be subjected to discrimination, on the ground of race, color, or national origin, with respect to any facility or activity as defined in § 1890.2(c). This prohibition applies but is not limited to unequal treatment in priority, quantity, methods, or charges for service, use, occupancy, or benefit, or participation in the service or benefit available, or in the use, occupancy, or benefit of any structure, facility, or improvement under any facility or activity provided with the aid of FHA assistance.

(b) *Specific discriminatory actions prohibited.* Without limiting the general applicability of paragraph (a) of this section, no recipient shall, directly, or through contractual or other arrangements, on the ground of race, color, or national origin:

(1) Deny to any person any use, occupancy, or enjoyment of the whole or any part of any real or personal property or related facilities or any service, financial aid, or other benefit under any facility or activity.

(2) Provide any person with any service, use, occupancy, or other benefit which is different from that provided others by the facility or activity.

(3) Provide any person with any service, use, occupancy, or other benefit in a manner different from that provided others by the facility or activity.

(4) Restrict or burden in any way any person's enjoyment of any right, privilege, or advantage enjoyed by others through the facility or activity.

(5) Treat any person differently from others in determining whether he satisfies any requirements or conditions for any admission, membership, or purchase of stock in the recipient or in any other organization, place, or arrangement, which is prerequisite to or which substantially affects any person's enjoyment of any service, use, occupancy, or other benefit provided by the facility or activity.

(6) Deny to any person any opportunity, or restrict any opportunity of any person, to participate in a facility or activity by refusing or failing to provide him with notice or services provided others for the purpose of encouraging or facilitating participation in the facility or activity, or by providing any person with such notice or services different from the notice or services provided others.

(7) Utilize criteria or methods of administration so as to have the effect of subjecting any person to discrimination with respect to any facility or activity or so as to defeat or substantially impair with respect to any person or persons of a particular race, color or national origin, achievement of the objectives of a facility or activity.

§ 1890.5 Information concerning the nondiscrimination agreement.

(a) *Form FHA 400–4, "Nondiscrimination agreement."* Every recipient to which this part applies will, as early in the negotiations as possible, be given a copy of Form FHA 400–4, and will be informed that the FHA assistance will be conditioned upon compliance with the requirements of this part and upon the execution of Form FHA 400–4 in an original and one copy. The original will be made a part of the loan docket and after the loan is approved will be placed in the county office case file. The copy will be given to the recipient.

(1) In the case of FHA assistance to an association, the execution of Form

FHA 400–4 must be authorized by the board of directors or other governing body of the recipient before the FHA assistance is approved. Any assistance approved before the effective date of this part, as defined in § 1890.2(f), for which all advances were not completed prior to that date will also be subject to this part. In such cases, the loan approval official will reconfirm the remaining advances by a memorandum to the County Supervisor after he has inspected the executed Form FHA 400–4 and the authorization by the governing body of the recipient. In any case, the resolution or authorizing action of the governing body of the recipient will contain the text of Form FHA 400–4 or refer to a copy thereof attached to the resolution or identify it by specific reference to Form FHA 400–4.

(2) A recipient who is an individual will execute the agreement before the earliest following event which has not yet occured on the effective date of this part as defined in § 1890.2(f): (i) The loan is approved, (ii) the loan is closed, or (iii) the advance of the "FHA assistance" as defined in § 1890.2(a) is made.

(3) In the event there is an assumption or credit sale involving real property included in the definition of "facility or activity" set forth in § 1890.2(c), the recipient transferee will sign the original Form FHA 400–4 just below the signature that evidenced its execution by the original recipient and just above a newly typed line which should read "Recipient, effective _____, 19__."

(b) *Duration of the obligations of the "Nondiscrimination Agreement" (Form FHA 400–4).* The obligations of the "Nondiscrimination Agreement" shall continue:

(1) As to any real property, including any structures, provided with the aid of FHA assistance, so long as such real property is used for a purpose for which the FHA assistance is rendered or which affords similar services or benefits.

(2) As to any personal property provided with the aid of FHA assistance, so long as the initial recipient retains ownership or possession of the property.

(3) As to any other facility or activity, as defined in § 1890.2(c), until the last advance of funds under the FHA assistance has been made. An example of such assistance would be an advance for planning a domestic water system.

§ 1890.6 Compliance reviews and reports.

State Directors and field personnel will to the fullest extent practicable seek the cooperation of recipients in obtaining compliance with this part and will provide assistance and guidance to recipients to help them comply voluntarily.

(a) *Compliance review officer.* The compliance review officer shall be the County Supervisor when the type of financial assistance shown in § 1890.3 was received by an individual. When the type of assistance described in § 1890.3 was received by an association, organization, or unincorporated cooperative, the compliance review officer shall be the District Supervisor or the State Director may designate a program loan officer for specific case(s).

(b) *Time of reviews.* For property described in § 1890.5(b) (1) or (2), the compliance review officer will check compliance with the requirements of this part once each year. For a facility or activity described in § 1890.5(b)(3), an annual review will be required each year up to and including the year in which the last advance of funds is made. Compliance reviews may be completed in connection with visits for other purposes, but they must be completed at the location of the facility or activity. All required compliance reviews are to be completed by October 31 each year. The reporting period for these annual reviews is the 12-month period from November 1 through October 31. These reviews and reports may be made anytime during the reporting period, provided there is a minimum of 90 days between reviews for each particular recipient. The compliance review officer will enter in the "Running Record," the date of the compliance review, and his determination that the borrower was in compliance per the requirements of this subpart.

(c) *Type of review.* Compliance reviews will include a check of:

(1) The appropriate records of the recipient such as copies of applications for membership, applications for occupancy, or requests for service and the written records of the disposition of such applications and requests.

(2) The published or posted operating regulations and policies of the recipient, including the manner in which and the extent to which the recipient gives notice to the public of the availability of, or the opportunity to participate in the facility or activity.

(3) The operating practices of the recipient based on personal knowledge and reasonable inquiry of informed sources in the area in which the facility or activity is located.

§ 1890.7 Complaints.

(a) Any person who believes he or any specific class of persons have been subjected to discrimination prohibited by this part or the regulations of the Department, may himself or by an authorized representative, file a written complaint with the county supervisor, or, if he prefers, with the State director or the Administrator or the Secretary of Agriculture. A complaint must be filed not later than 90 days after the date of the alleged discrimination, unless the time for filing is extended by the Secretary of Agriculture. A complaint filed with the county supervisor or the State director will be referred promptly to the National Office, Attention: Civil Rights Coordinator.

(b) A written complaint filed with the county supervisor or the State director must be signed by the complainant or his authorized representative. If it is signed by a representative, the authority of the representative must be shown. Such a complaint must include the following information:

(1) The name and address (including telephone number) of the complainant and if the complaint is filed by an authorized representative, the name and address (including telephone number) of the authorized representative.

(2) The name and address and any other helpful identification of the facility, project, or activity with respect to which such alleged discrimination occurred.

(3) The name and address of the person or persons alleged to have committed such discrimination.

(4) A description of the acts considered to be discriminatory.

(5) Any other pertinent information that will assist in investigating and resolving the complaint.

(c) Where a complaint does not include all of the required information, the county supervisor and to the extent practicable, other persons receiving the complaint will assist the complainant in obtaining the missing information and in completing the written complaint. If additional information is not readily available, the incomplete but signed complaint will be forwarded to the State director and by him to the Administrator promptly and will be supplemented by additional written information as soon as it is received from the complainant.

(d) Attached to the complaint should be a statement from the county supervisor or State director identifying the recipient and the type of assistance provided by the FHA, stating whether the file contains a "Nondiscrimination Agreement" in accordance with § 1890.5, and giving any other information he has pertaining to the complaint. However, in no event shall the county supervisor or State director investigate any complaint unless directed by the Administrator.

§ 1890.8 Intimidatory or retaliatory acts prohibited.

No recipient or other person shall intimidate, threaten, coerce, or discriminate against any person for the purpose of interfering with any right or privilege secured by this part or the regulations of the Department, or because he has made a complaint or has testified, assisted, or participated in any manner in an investigation, proceeding, or hearing related thereto. The identity of complainants shall be kept confidential except to the extend necessary to carry out the purposes of this part and the regulations of the Department.

§ 1890.9 Effect on other nondiscrimination regulations pertaining to equal opportunity in housing.

The compliance reviews and complaint procedures in this part will be followed for FHA assisted housing cases (including Resource and Conservation Development (RCD) and Rural Renewal (RN)) subject to requirements of or pursuant to Executive Order 11063, or other authority concerning equal opportunity in housing.

PART 1890a—LOANS TO POULTRYMEN

Sec.

AUTHORITY: The provisions of this Part 1890a issued under sec. 510, 63 Stat. 437, sec. 4, 64 Stat. 100, sec. 339, 75 Stat. 318, sec. 602, 78 Stat. 528; 42 U.S.C. 1480, 40 U.S.C. 442, 7 U.S.C. 1989, 42 U.S.C. 2942; Orders of Secretary of Agriculture, 29 F.R. 16210, 32 F.R. 6650, Order of Director of Office of Economic Opportunity, 29 F.R. 14764.

§ 1890a.1 Purpose.

This part supplements Subparts A and B of Part 1821, Subparts A, B, and C of Part 1822, Subpart A of Part 1831, and Subpart A of Part 1833, all of this chapter. This part prescribes the policies not provided for in other Farmers Home Administration (FHA) loan making regulations which are to be observed in making FHA loans to individuals in connection with the establishment or expansion of poultry enterprises.

§ 1890a.2 General.

The production of poultry and poultry products in the United States has expanded greatly during recent years due to production efficiencies, rapid expansion of integrated types of operations, and increased consumer demand. During this period, production has periodically exceeded consumer demand resulting in frequent depressed prices and major financial difficulties for producers. Because of these trends the FHA has not, for a number of years, made loans to establish individuals in large scale commercial poultry enterprises.

§ 1890a.3 Policy—loan making.

The following policies will be observed in considering applications for FHA loans for poultry production:

(a) FHA loans may be made to established farm operators who are engaged in a significant poultry enterprise to finance their normal level of operations or to make reasonable adjustments as necessary for a sound operation, provided they will be conducting not larger than an adequate family farming operation after the loan is made.

(b) FHA loans may be made to other farm operators to establish, maintain or expand a small poultry enterprise needed to supplement their income provided the poultry enterprise will not exceed (1) 12,000-broiler capacity, or (2) 2,000-layer capacity, and the total farming operation will not exceed an adequate family farming operation. For other types of poultry enterprises the labor requirements should not be greater than that required for 12,000 broilers or 2,000 layers. Additional loans will not be made to such producers to expand the poultry enterprise above these limits.

(c) Rural Housing and Emergency loans may be made to established operators of larger than family farms to finance their normal level of poultry operation.

(d) FHA loans will not be made to establish new operators in large scale commercial poultry enterprises for the production of meat birds or eggs. However, loans other than Emergency loans may be made to finance eligible applicants who are taking over already established or recently operated poultry farms provided the farming operations will not exceed that for an adequate family farm after the loan is made.

(e) The above policies do not prohibit making FHA loans to poultry producers for purposes other than the production of poultry.

PART 1890b—EQUAL OPPORTUNITY IN EMPLOYMENT IN CONSTRUCTION

Sec.

AUTHORITY: The provisions of this Part 1890b issued under R.S. 161, sec. 510,, 63 Stat. 437, sec. 4, 64 Stat. 100, sec. 339, 75 Stat. 318, sec. 602, 78 Stat. 528; 5 U.S.C. 301, 42 U.S.C. 1480, 40 U.S.C. 442, 7 U.S.C. 1989, 42 U.S.C. 2942; Orders of Secretary of Agriculture 29 F.R. 16210, 32 F.R. 6650, Order of Director of Office of Economic Opportunity 29 F.R. 14764.

§ 1890b.1 General.

This part supplements Subparts A and B of Part 1804, Subparts A and B of Part 1821, Subparts A, C, D, F, and G of Part 1822, Subparts A, B, C, D, E, F, and H of Part 1823, Subpart A of Part 1831, and Subpart A of Part 1832, all of this chapter. The purpose of this part is to implement the regulations of the Secretary of Labor issued pursuant to Executive Order 11246, as they relate to the promotion and assurance of equal employment opportunity for qualified persons without regard to race, creed, color, or national origin for employment on construction work financed through any type of Farmers Home Administration (FHA) direct loan, insured loan, or grant.

§ 1890b.2 Definitions.

As used in this part:

(a) "Secretary" means the Secretary of Labor acting under Executive Order 11246, and includes the Office of Federal Contract Compliance and any other agency with authority delegated by the Secretary.

(b) "Applicant" means an applicant for an FHA direct or insured loan or an FHA grant and includes such an applicant after receiving an FHA loan or grant.

(c) "Construction contract" means a legally binding agreement between an applicant and another party for construction work paid for in whole or in part with an FHA loan or grant and, in the case of borrower construction, means the agreement to make the loan or grant. A "construction contract" as defined in this paragraph is a "Federally-assisted construction contract" as used in the Secretary's regulations and forms.

(d) "Construction work" means the construction, rehabilitation, alteration, conversion, extension, demolition, or repair of buildings, roads, or other changes or improvements to real property such as drainage, land leveling, terracing, fencing, ponds, reservoirs, and wells. "Construction work" financed in whole or in part by Soil and Water Association or Watershed loans is also included.

(e) "Contractor" means the general or prime contractor, or the applicant in case of borrower construction.

(f) "Subcontract" means an agreement or purchase order between a contractor or subcontractor and another party for supplies or services a material part of which is obtained for use in the performance of a construction contract.

(g) "Subcontractor" means a party to a subcontract other than a contractor. Any person holding a subcontract with a contractor (including the applicant in the case of borrower construction) is referred to as a first-tier subcontractor, and between a first-tier subcontractor and a third party is referred to as a second-tier subcontractor.

(h) "Standard commercial supplies" means an article:

(1) Which in the normal course of business is customarily maintained in stock by the manufacturer or other commercial dealer for the marketing of such articles; or

(2) Which is manufactured and sold by two or more persons for general commercial or industrial use or which is identical in every material respect with an article so manufactured and sold.

(i) "Site of Construction" means the physical location of any building, road, or change or improvement to real property which is undergoing construction, rehabilitation, alteration, conversion, extension, demolition, or repair and any temporary location or facility established by a contractor or subcontractor specifically to meet the demands of his contract or subcontract.

§ 1890b.3 Scope.

This part applies to any FHA loan or grant which may involve construction work exceeding $10,000 to be paid for in whole or in part with funds obtained from the FHA, whether performed by the applicant under the borrower method or by construction contract between the applicant and a contractor, and to any such contract or subcontract which exceeds $10,000, including purchase orders, except the following which are specifically exempt:

(a) Any applicant no part of whose loan is used to finance, wholly or partially, materials or services to be used in construction work.

(b) Any construction work to be performed by the applicant under the borrower method the cash cost of which does not exceed $10,000.

(c) Any contract or subcontract which does not exceed $10,000.

(d) A subcontract which is below the second-tier unless it calls for construction work at the site of construction or unless a special order is issued by the Secretary.

(e) A subcontract not exceeding $100,000 for standard commercial supplies or raw materials unless exemption with respect to specified articles of raw material is withdrawn by the Secretary.

(f) A contract or subcontract under which work is performed outside the United States and recruitment of workers within the United States is not involved.

(g) Any governmental agency (public body) which performs all the construction work through its own permanent work force.

(h) Any exemption granted by the Secretary on the basis of special circumstances in the national interest.

§ 1890b.4 Determination of applicability to applicants and construction contracts.

A determination as to whether this part will apply to an applicant will be made at the time of loan or grant approval based on the estimated cash cost of construction. A determination as to whether this part will apply to a construction contract between the applicant and a contractor will be made at the time the contract is executed. In case of an open-end contract, the determination will be based on the estimated contract amount. This part will apply to any construction, regardless of when the loan or grant was approved or the contract executed, involving a change order which includes additional funds, whether furnished by the applicant or through a subsequent loan or grant, if these additional funds would cause the total amount of the construction contract or cash cost of construction in case of borrower method to exceed $10,000, and to changes in methods of construction which would result either in the construction contract or borrower construction exceeding $10,000.

(a) If construction work subject to this part is partially financed through the participation of another Federal agency and the county supervisor is unable to reach an agreement as to which agency will administer the equal employment opportunity provisions, the county supervisor will refer the case to the State director for instructions. In such case the State director should contact the other agency and determine which agency will administer the equal employment opportunity provisions.

§ 1890b.5 Agreement by applicant.

Each applicant who is subject to the provisions of this part will, before closing of the loan or grant, execute Form FHA 400–1, "Equal Opportunity Agreement," to which will be attached a copy of Form FHA 400–2, "Equal Opportunity Clause." In case the applicant is an incorporated association, the execution Form FHA 400–1 will have to be specifically authorized by a resolution of the governing body. In the case of municipalities or other public bodies, this can best be accomplished by incorporating a suitable reference to the "Equal Opportunity Agreement" and the "Equal Opportunity Clause" in the loan resolution before it is adopted by the applicant organization.

§ 1890b.6 Compliance reports from bidders and prospective contractors.

Each bidder, prospective contractor, and prospective subcontractor subject to this part will be required to state whether he has participated in any previous contract or subcontract subject to equal employment opportunity regulations under Executive Order 11246 or earlier authority. If he has so participated, he must state whether he has filed all compliance reports required of him. This will be done by his executing and filing Form FHA 400–6, "Compliance Statement," before or as a part of the bid or negotiation. If he has participated in such a contract or subcontract and has failed to file compliance reports required of him, he may not be considered an eligible bidder or prospective contractor or subcontractor unless and until he files the reports or makes satisfactory arrangements in regard to filing them.

§ 1890b.7 Equal opportunity clause in construction contract and subcontracts.

The county supervisor will be responsible for including in each construction contract subject to the provisions of this part the provisions of Form FHA 400–2. The "Clause" will obligate the contractor to include the same provision in any subcontract subject to the provisions of this part. The county supervisor will also be responsible for including the provisions of Form FHA 400–2 in change orders in contracts whenever the contract does not include the required provision but, because of the change order when additional funds are involved, becomes subject to § 1890b.8. Any question as to the applicability of the provisions of this part to any contract will be referred to the State Director for appropriate determination.

§ 1890b.8 Posters and notices.

Any reference to Federal Government contract or contractor in the standard forms or posters will be interpreted to include any construction contract or construction work performed by the applicant financed in whole or in part with an FHA loan or grant.

(a) *Forms.* The following forms, equal employment opportunity posters, and notices to labor unions or other organizations of workers required by Form FHA 400–2 will be available for requisition by the county supervisor from the Finance Office: "Equal Employment Opportunity Poster"; Standard Form 38, "Notice to Labor Unions or Other Organizations of Workers"; and Standard Form 100, "Employer Information Report EEO–1."

(b) *Delivery of posters and notices to contractors and applicants.* Posters, Standard Form 38, and Form FHA 400–3, "Notice to Contractors and Applicants," will be sent to the contractor along with a notification of the contract award or delivered to the contractor at the time the contract is signed if it is signed by the contractor and the applicant simultaneously. In case the applicant performs the construction work by borrower method, the posters and notices will be delivered to the applicant at the time of loan or grant closing or prior to starting of construction work. Standard Form 38 will not be used by the applicant or contractor unless they have a collective bargaining agreement or other contract of understanding with a labor union or other organizations of workers.

§ 1890b.9 Compliance reports.

Any person or entity subject to Executive Order 11246 is required to submit Standard Form 100 in quadruplicate to the Joint Reporting Committee, 1800 G Street NW., Washington, D.C. 20506, if such person or entity:

(a) Has 50 or more employees; and

(b) Is a primary contractor or first-tier subcontractor, or a subcontractor below first-tier who performs construction work at the site of construction; and

(c) Has a contract or subcontract or purchase order amounting to $50,000 or more ($100,000 or more, if solely for standard commercial supplies and raw materials). General information as to who must file and information on preparation of report is provided with Standard Form 100. Contractors or subcontractors may omit questions 8 and 9 pertaining to apprenticeship programs and union job referral assignments. Notice of exemption was published in the FEDERAL REGISTER dated March 10, 1966 (31 F.R. 4258). The county supervisor will provide a set of Standard Form 100 to each contractor or subcontractor subject to the reporting requirements who has not made an annual report. The Office of Federal Contract Compliance has mailed Standard Form 100 to each employer in the United States (on the Social Security List) who is believed to have 50 or more employees. The prime contractor will obtain the necessary report forms and inform first-tier contractors subject to the reporting requirements of their responsibility to submit a report. One copy of each report submitted in accordance with this part will be filed in the borrower's case folder.

§ 1890b.10 Duties of the FHA.

The FHA will be primarily responsible for seeing that the Equal Opportunity Agreement is executed by the applicant and included in the docket, that the provisions of § 1887.6 of this chapter are carried out, that the Equal Opportunity Clause is included in the contracts, that the contractor is notified of the compliance requirements, and that the required compliance reports are filed. The FHA will also be primarily responsible for receiving and transmitting complaints and for routine compliance reviews. Routine compliance reviews will be conducted by the county supervisor whenever an inspection of the construction financed with an FHA loan or grant is performed. A routine compliance review consists of observation of whether the contractor or subcontractor has posted the required notices and of any evidence of discrimination in employment. Noncompliance (other than complaints of alleged discrimination) such as failure to set up posters or filing reports should be resolved by the county supervisor. The county supervisor will record his findings on the county office copy of Form

FHA 424–12, "Inspection Report." Failure to achieve compliance will be reported to the State director. The State director should check the case to determine the basis for noncompliance and, if possible, resolve the matter informally. If the State director is unable to obtain compliance, he will make a report of the facts to the National Office.

§ 1890b.11 Special compliance review.

Special compliance reviews may be conducted from time to time as directed by the Department contracts compliance officer. A special compliance review consists of comprehensive review of the employment practices of the contractor, subcontractor, or work performed by the applicant with respect to the requirements of the Secretary. Special compliance reviews may be conducted when special circumstances, including complaints, warrant.

§ 1890b.12 Complaints.

(a) Any complaint received by the county supervisor or State director must be in writing and contain the information required by paragraph (b) of this section. Any such complaint will be referred to the National Office immediately since it must be referred by the National Office to the Secretary within 10 days after the FHA receives it from the complainant.

(b) A written complaint of alleged discrimination must be signed by the complainant and should include the following information:

(1) The name and address (including the telephone number) of the complainant.

(2) The name and address of the person committing the alleged discrimination.

(3) A description of the acts considered to be discriminatory.

(4) Any other pertinent information that will assist in the investigation and resolution of the complaint.

(c) Where a complaint does not include all the information required by paragraph (b) of this section, the county supervisor or State director receiving the complaint shall immediately inform the complainant of the required information and shall not refer the complaint to the National Office until the required information is received.

(d) Attached to the written complaint should be a statement from the county supervisor or State director giving the amount of the contract and whether it contains the "Equal Opportunity Clause" and a brief statement or any other information they may have pertaining to the complaint. However, in no event shall the county supervisor or State director investigate any complaint.

PART 1890c—LOANS SECURED BY REAL ESTATE ON RECLAMATION PROJECTS

Sec.

AUTHORITY: The provisions of this Part 1890c issued under R.S. 161, sec. 510, 63 Stat. 437, sec. 4, 64 Stat. 100, sec. 339, 75 Stat. 318, sec. 602, 78 Stat. 528; 5 U.S.C. 301, 42 U.S.C. 1480, 40 U.S.C. 442, 7 U.S.C. 1989, 42 U.S.C. 2942; Orders of Secretary of Agriculture 29 F.R. 16210, 32 F.R. 6650, Order of Director of Office of Economic Opportunity 29 F.R. 14764.

§ 1890c.1 General.

This part supplements Part 1807, Subparts A and B of Part 1821, Subparts A and C of Part 1822, Subpart A of Part 1831, Subpart A of Part 1832, Subpart A of Part 1871, and Subparts A and C of Part 1872, all of this chapter. The policies and procedures to be followed in: Making, servicing, and liquidating Farmers Home Administration (FHA) loans to individuals secured by real estate on the Columbia Basin Project in the State of Washington and on the Wellton-Mohawk Division of the Gila Project in Arizona, and; disposing of acquired property by FHA or the Bureau of Reclamation (Bureau) are outlined in this part which includes the Memorandum of Understanding (quoted below) between the Secretary of Agriculture and the acting Secretary of Interior:

MEMORANDUM OF UNDERSTANDING BETWEEN THE DEPARTMENT OF AGRICULTURE AND THE DEPARTMENT OF THE INTERIOR RELATING TO THE FARMERS HOME ADMINISTRATION LOANS ON RECLAMATION PROJECTS

PART I

Purpose and Definition

A. *Purpose.* The purpose of this memorandum is to outline the general procedure to be followed by the Farmers Home Administration (FHA) and the Bureau of Reclamation (Bureau) in accordance with their respective laws and regulations when FHA makes, insures, or services loans to contract purchasers or fee owners (applicants) on the Columbia Basin Project in Washington, the Wellton Mohawk Division of the Gila Project in Arizona, or such other reclamation projects as may hereafter be included by letter agreement between the Administrator, Farmers Home Administration, and the Commissioner, Bureau of Reclamation, which letter shall then be a supplement of this memorandum.

B. *Definitions.* Unless otherwise indicated in this memorandum:

(1) The term "unit" will be used to describe a family-size farm unit, a part-time farm unit, a portion of a farm unit, or any other tract of land;

(2) The term "contract" will be used to describe the Bureau's land sale or exchange contract under which the purchase was made;

(3) The term "FHA" also includes its insured lenders;

(4) The term "outstanding balance" includes (a) the unpaid indebtedness under the FHA mortgage and the Bureau's contract, (b) any unpaid costs owed to the Bureau for construction by it of a special distribution system to serve a part-time farm unit where such costs have been allocated to the unit as a separate item from the purchase price in the contract. and (c) any portion of an SW Association loan made by FHA for construction of a domestic water system to serve the unit and secured by a lien on the unit. It does not include any portion of an SW Association loan made by FHA for construction of a domestic water system to serve the unit and not secured by a lien on the unit, nor project construction costs charged to the unit.

(5) Public Law 361, 81st Congress (7 U.S.C. 1006a and 1006b), is referred to as "P.L. 361." It applies to Farm Ownership (FO), Operating (OL), and Soil and Water Conservation (SW) loans made under the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1921) and prior laws. It does not apply to Emergency (EM) loans made under that act or prior laws, nor to Housing (RH) loans made under title V of the Housing Act of 1949 (42 U.S.C. 1471).

(6) The term "Project officer" refers either to the Project Manager or such other Bureau of Reclamation officer as may properly hold the requisite responsibility for the project in question.

PART II

General Provisions

A. FHA regulations will govern making and servicing FHA loans, including the taking of mortgages as additional security for existing FHA loans.

B. In connection with applications for FHA loans or assumptions, the Project officer, upon the written request of the county supervisor, will furnish the following:

1. Written consent to make the applicant an FHA loan or to secure an existing FHA loan.

2. Any information which the Bureau has concerning the applicant, provided the request has the following authorization attached to it:

Date ----------, 19--

I hereby authorize the Bureau of Reclamation to make available to the Farmers Home Administration any information the Bureau may have concerning my transactions with it. This information may be used by the Farmers Home Administration in determining my eligibility and qualifications for a loan, and is to be treated as confidential.

(Type name of Applicant below signature)

(Signed) ----------
(Applicant)

3. A statement of account, showing the applicant's outstanding balance owed to the Bureau (principal balance, accrued unpaid interest, and daily interest accrual rate on the contract, any other charges and any unpaid special distribution system costs, and the amount of any delinquency).

4. A report on any development and residence requirements which have not been completed and on eligibility of the unit for water, including full information on the status of any excess land.

5. Advice as to whether the applicant is in default because of failure to pay water charges, or because of breach of any other agreements with the Bureau.

6. Copies of any needed title evidence, such as abstracts of title, title opinions or certificates, or title insurance policies, which the Bureau has pertaining to the unit. If requested any such material will be returned to the project officer.

C. The Bureau's contract must contain provisions satisfactory to FHA and must be recorded in the appropriate county records. No contract amendments will be made or excess land redesignations approved which will adversely affect FHA.

D. The FHA mortgage will contain provisions imposing development and residence requirements at least equal to those which have not been completed under the Bureau's contract.

E. When the outstanding balance owed to the Bureau has been paid in full and FHA has a mortgage on the property, the Bureau will execute and deliver a deed to the contract purchaser. The deed will recite that it is subject to the existing FHA mortgage, and the project officer will notify the county supervisor of the issuance of the deed.

F. When the FHA mortgage has been satisfied, the county supervisor will notify the project officer to that effect.

PART III

Defaults under Mortgages and Contracts

A. The county supervisor will notify the project officer of any default under an FHA mortgage unless the project officer has previously notified the county supervisor that the contract has been completed and that the deed has been issued. Likewise, the project officer will notify the county supervisor of any default under the contract unless the county supervisor has previously notified the project officer that the mortgage has been satisfied.

B. Defaults on mortgages or contracts, where both are still in effect, will be handled as follows:

1. If either the county supervisor or the project officer determines that the applicant cannot continue with the purchase and operation of the unit, he will request a conference with representatives of the other Agency for the purpose of working out a future course of action satisfactory to both Agencies.

2. The two Agencies, after consultation, may make a further effort to make arrangements which will permit the applicant to continue with the purchase and operation of the unit if they consider it advisable or worthwhile to do so. If they conclude, either before or after making such further effort, that the applicant will not be permitted to continue with the purchase and operation of the unit, they will take one or more of the following actions:

(a) Make an effort to have the applicant assign his interest in the contract to another person meeting the eligibility requirements of both Agencies; such transfer will be subject to the existing FHA mortgage and the assignee will assume and agree to pay the indebtedness secured thereby or such portion thereof as required by FHA.

(b) Make an effort to obtain, subject to the FHA mortgage, a document terminating or canceling the applicant's interest under the contract.

(c) If a satisfactory solution cannot be accomplished as suggested above, the Bureau, after giving the required notice to the applicant, will terminate the contract for default, subject to the FHA mortgage.

PART IV

Voluntary Conveyance to Bureau

When a unit which is subject to an FHA mortgage is being conveyed to the Bureau by an applicant, the following actions will be taken:

A. Before accepting such a conveyance the project officer will consult with the county supervisor concerning FHA's financial interest in the applicant and the unit.

B. Pending acceptance of the conveyance by the Bureau, the county supervisor and the project officer will take any action necessary to protect the interests of FHA and the Bureau.

C. The county supervisor will inform the project officer whether it is satisfactory to FHA for the Bureau to accept the conveyance. He also will inform the project officer as to the type of FHA loan involved.

D. When the county supervisor notifies the project officer that FHA approves acceptance of the conveyance, the project officer will require the applicant to take any curative action necessary for the Bureau to obtain good title to the unit subject to the FHA mortgage but free from other encumbrances. When such title is obtained, the project officer will notify the county supervisor.

E. The conveyance to the Bureau will be made subject to the FHA mortgage.

F. The county supervisor will take appropriate steps to prevent removal of improvements which are part of FHA security. If any improvements on the unit are not part of FHA security, the county supervisor will notify the project officer to that effect.

G. FHA will recognize the conveyance to the Bureau as equivalent to a voluntary conveyance to FHA under its regulations for the purpose of considering release of the applicant from personal liability for the amount of the FHA mortgage claim in excess of the value of its interest in the acquired unit.

PART V

Amendments

When an applicant's unit, subject to an FHA mortgage, is being amended or is being used for amendment purposes, the Bureau's approval of the amendment will be contingent on spreading the FHA mortgage to the entire amended unit. The FHA mortgage on any part of the unit which before amendment was not security for an FHA loan will be the best lien obtainable, except that where a new FHA loan is being made the lien must meet the security requirements for the type of loan being made.

A. The project officer will consult with the county supervisor about the eligibility of the applicant and will furnish the county supervisor a description of the proposed amended unit. If a new FHA loan is being made, the applicant must be eligible for the type of loan involved.

B. When the new loan, transfer, or credit sale has been approved by FHA subject to the Bureau's final approval of the proposed amendment of the unit, the FHA mortgage will cover the entire amended unit.

C. When the county supervisor is prepared to close the loan he will notify the project officer that FHA is ready for final approval of the amended unit.

D. The project officer will then take appropriate steps to have a notice of amendment issued and will furnish a copy of such notice to the county supervisor. The notice will provide for the FHA mortgage to be spread over the entire amended unit.

E. The county supervisor will take the steps necessary to complete the FHA transaction.

PART VI

Sale of Units by the Bureau

If the Bureau terminates an FHA borrower's contract by acceptance of a conveyance or other document or by cancellation for default, the Bureau will endeavor to resell the unit to an applicant who is eligible for the purchase of a family-size unit and for an FHA loan, if the FHA and the Bureau determine that it is a family-size unit. However, if they determine that the unit is not family-size the Bureau will negotiate a resale of the unit to an applicant without regard to eligibility for an FHA loan: *Provided*, That if the sale of the FHA's interest is on credit, the prospective purchaser is satisfactory to FHA and agrees to comply with FHA requirements, and the FHA mortgage is spread to cover the entire unit.

A. *One-Year Limit.* Under Public Law 361, sales by the Bureau can be made only during 1 year after the contract termination date where the FHA mortgage is subject to Public Law 361 (FO, OL, & SW). In other cases, such as RH and EM, the 1-year limitation does not apply, but the Bureau will nevertheless sell within the 1-year period if it is practicable to do so.

B. *Custody and Expenses.* While the Bureau has disposal authority it will assume custodial responsibility for the unit, but the county supervisor and the project officer will determine the actions necessary to protect the interests of both FHA and the Bureau. Any expenses incurred for protection of FHA's interest will be paid by FHA and added to the mortgage debt.

C. *Establishment of Sale Price.* The sale price for each unit will be determined by the Bureau and the FHA. In establishing the sale price, consideration will be given to reappraisals made by FHA and the Bureau or to a joint reappraisal made by them. The sale price will not be less than the latest reappraisal. The appraisal reports will show both (a) normal value (long-term earning capacity value wherever appropriate), and (b) present market value.

D. *FHA Mortgage Subject to Public Law 361.* If only part of the unit being sold is covered by the FHA mortgage, there will be deducted from the total sale price of the entire unit the cost or unpaid balance on the terminated contract covering the part that is not subject to the FHA mortgage and that amount will be payable to the Bureau. If the amount of the total sale price after such deduction, or the total sale price where the FHA mortgage covers the entire unit, is larger than the outstanding balance, the difference will be payable to the Bureau. The remainder of the sale price after such deduction when the FHA mortgage covers part of the unit, or the total sale price if equal to or less than the outstanding balance when the FHA mortgage covers the entire unit, will be prorated between the Bureau and FHA in proportion to the outstanding balance owed to each.

1. If the sale is for all cash, or the Bureau's part of the net sale price is paid to it from an FHA loan or from other sources, and all of the Bureau's development and residence requirements have been met, the Bureau will execute and deliver a deed to the new purchaser, subject to the FHA mortgage.

2. If a deed cannot be executed and delivered under 1 above, a new contract will be entered into by the new purchaser and the Bureau for the unpaid amount of the Bureau's share of the sale price. The new purchaser will be required to assume FHA's unpaid share of the sale price by executing an assumption agreement secured or indemnified by the existing mortgage or by executing a new note and mortgage. The new contract also will provide that it may be terminated if default occurs under the FHA mortgage or note or assumption agreement. When all payments have been made under the mortgage, note or assumption agreement, and new contract, and all development and residence requirements have been met, the Bureau will execute and deliver a deed to the new purchaser.

E. *FHA Mortgage Not Subject to Public Law 361 (RH, EM, etc.).* The Bureau's and the FHA's shares of the total sale price will be determined as provided in Part VI D. Any cash downpayment will be applied first to the Bureau's share of the total sale price.

1. If the cash downpayment equals or exceeds the Bureau's share of the total sale price, the Bureau will execute and deliver a deed to the new purchaser. The new purchaser will be required to assume any unpaid share of the sale price owed to FHA by executing an assumption agreement secured or indemnified by the existing mortgage, or by executing a new note and mortgage.

2. If the cash downpayment is not sufficient to pay the Bureau's share of the total sale price, a new contract, and an assumption agreement or note and mortgage will be entered into as provided for in paragraph VI D 2. When the Bureau has received all payments owed to it under the new contract, it will execute and deliver a deed to the new purchaser.

3. If a new mortgage is required by FHA, it will contain provisions imposing development and residence requirements at least

equal to those which were not completed under the terminated contract. If the FHA mortgage is satisfied before or at the time the Bureau's deed is executed, the Bureau will provide for such development and residence requirements.

PART VII

Sale of Units by FHA When Mortgage Is Subject to Public Law 361 (FO, OL, SW)

If the Bureau terminates an FHA borrower's contract by acceptance of a conveyance or other document or by cancellation for default and the unit is not sold by the Bureau within 1 year after such termination, the part thereof covered by the FHA mortgage may be disposed of by FHA under its authority. If the sale price is larger than the outstanding balance, the difference will be payable to the Bureau. If the sale price is equal to or less than the outstanding balance, any cash downpayment will be applied first to the Bureau's share of the sale price.

A. FHA will, if practicable, endeavor to sell the unit within its program to a person who is eligible under FHA regulations.

1. If the cash downpayment equals or exceeds the Bureau's share of the sale price, paragraph VI E 1 and 3 will apply, except that the deed will be executed by FHA.

2. If the cash downpayment is not sufficient to pay the Bureau's share of the sale price, a new contract and an assumption agreement or note and mortgage will be entered into as provided in paragraph VI D 2. When the Bureau has received its share of the sale price, FHA will execute and deliver a deed to the purchaser subject to the FHA mortgage, and the new contract will be satisfied of record.

B. If it is impracticable for FHA to sell the unit under Part VII A, the sale price will be the best price obtainable for cash or part cash and secured credit. If the sale is on part credit, FHA will obtain an initial cash downpayment at least equal to 20 percent of the sale price or the Bureau's share of the sale price, whichever is greater. Upon closing the sale, such amounts owed to the Bureau will be paid to it, and FHA will execute and deliver a deed to the purchaser, and an assumption agreement or note and mortgage will be obtained with respect to FHA's unpaid share of the sale price.

C. If FHA acquires or reacquires a unit by voluntary conveyance or foreclosure, or transfer for disposal from the Bureau as provided under this Part, the deed issued thereafter by FHA, or the assumption agreement or note or mortgage, if the unit is sold on credit or part credit, will include development and residence requirements at last equivalent to those which have not been completed.

PART VIII

Project Status

A. It is agreed that any sales or resales of land on any Reclamation project covered by this memorandum by the Bureau or by FHA will be subject to project construction costs then allocated thereto, and that such sales will not terminate the project status of such lands or the availability of water service to said unit.

PART IX

This Memorandum of Understanding supersedes the 1953 Memorandum of Understanding relating the Wellton-Mohawk Division of the Gila Project in Arizona and the 1961 Memorandum of Understanding relating to the Columbia Basin Project in Washington.

§ 1890c.2 Policies, procedures, and authorizations.

Existing FHA policies, procedures, and authorizations will apply to making, servicing, and liquidating FHA loans and to the disposition of such acquired property by FHA, except as modified by the Memorandum of Understanding in § 1890c.1 and except as follows:

(a) *Loans subject to purchase contracts.* When real estate is to be taken as security for any type of FHA loan, such security may be taken subject to an outstanding purchase contract with the Bureau. If an FHA loan does not include funds to meet the development and residence requirements prescribed by the Bureau, the applicant must have the capital or credit resources available for that purpose and his farm and home plan or farm development plan must show how the requirements will be met and the sources of funds.

(1) An FHA loan to be secured by the applicant's farm may be made even though the applicant owns some land which the Bureau has designated as excess. However, it will be expected that the excess land will be disposed of as required by the Bureau and the proceeds applied on the liens against the farm. Therefore, the excess land will not be considered in determining whether the applicant or the farm qualifies for a loan. If the normal value of the applicant's nonexcess land is not sufficient to adequately secure a Rural Housing, Farm Ownership, or Soil and Water loan, the excess land may be relied upon as security to the extent of its value, but not exceeding $2,500 in the same manner as nonreal estate property. The value of the excess land must be determined separately, and cannot exceed its appraised normal value or its estimated sale value under the Bureau's regulations, whichever is less. Loan funds will not be used for improvements on excess land.

(2) The antispeculation provisions of reclamation law are applicable only to excess lands. Therefore, the sale value of the borrower's excess land will be restricted by that law. Generally, that value is on a dry land unimproved basis. However, the value of improvements to the unit on the excess land is not affected by the antispeculation provisions of that law.

(b) *Development and residence requirements.* If an FHA mortgage is being taken subject to an outstanding purchase contract with the Bureau, Form FHA 427–3, "Rider to Real Estate Mortgage or Deed of Trust," will be made a part of the mortgage. Form FHA 427–3 is not applicable when a purchase contract has been paid in full and a deed has been issued. Therefore, if the balance owed on a contract is refinanced with an FHA loan or is otherwise paid so that the borrower will receive a deed before all development and residence requirements have been met, the Office of the General Counsel will prepare a rider or insertion to be placed in the deed, mortgage, note, or assumption agreement, as appropriate, to obligate the borrower to complete such requirements.

PART 1890d — FARM OWNERSHIP LOANS ON LEASEHOLD INTEREST IN HAWAII

Sec.
1890d.1 General.
1890d.2 Policies, procedures and authorizations.

AUTHORITY: The provisions of this Part 1890d issued under sec. 339, 75 Stat. 318, 7 U.S.C. 1989; Orders of Secretary of Agriculture, 29 F.R. 16210, 32 F.R. 6650.

§ 1890d.1 General.

This part supplements Part 1807, Subpart A of Part 1821, and Subparts A and C of Part 1872 of this chapter. This part outlines the additional policies and requirements for making Farm Ownership (FO) loans on leasehold interests in Hawaii. Public Law 89–586 and Public Law 90–426 amended the Consolidated Farmers Home Administration Act of 1961, as amended, to provide that the term "owner-operator" will in the State of Hawaii include the lessee-operator of real property in any case in which the land cannot be acquired in fee simple by the applicant, who can provide adequate security for the loan, and has reasonable probability of accomplishing the objectives and repayment of the loan. FO loans cannot be made to lessee-operators of Hawaiian Home Commission lands until adequate security can be given for the loan as required in § 1821.10 of this chapter.

§ 1890d.2 Policies, procedures, and authorizations.

An FO loan may be made on a leasehold interest only if the county supervisor specifically determines that an applicant cannot acquire fee simple title to land which qualifies for an FO loan and documents such determinations in the file. Existing Farmers Home Administration (FHA) policies, procedures, and authorizations applicable to making, servicing, and liquidating FO loans and to the disposition of acquired property, will apply to FO loans on leasehold interests except as modified by this part.

(a) *FO loans subject to leasehold interests in Hawaii.* (1) An FO loan may be made to a lessee of a farm where: The unexpired term of the lease runs beyond the payment of the loan and the applicant's equity in his farm leasehold is at least equal to the amount of the loan; there is a reasonable probability of accomplishing the objectives for which the loan is made; the applicant can give upon his farm leasehold a recorded mortgage constituting a valid and enforceable lien; the applicant can comply with other loan security requirements specified in Subpart A of Part 1821 of this chapter and; the unexpired term of the lease runs for at least 10 years and extends beyond the repayment period of the loan sufficiently to provide a reasonable likelihood of achieving the objectives of the loan. Moreover, the unexpired term of the lease must be at least 50 percent longer than the repayment period of the loan unless the borrower gives other security of sufficient value to compensate for a shorter period. This other security may include a lien on the

borrower's right to receive from his lessor compensation at the expiration of the lease for the unexhausted value of the improvements made with the FO loan.

(i) A loan secured by a mortgage upon a farm leasehold, if otherwise proper, may be made where the lessor owns the fee simple title marketable in fact, and neither the leasehold nor the fee simple title is subject to a prior lien. If in any case involving a prior lien the State Director concludes that a sound loan can be made upon a leasehold, he will submit complete information to the National Office for review and special authorization prior to approval of the loan.

(2) With respect to achieving the purpose of the loan, obtaining adequate security, and being able to service the loan and enforce the security, the Government as holder of the mortgage upon a leasehold interest should be in a position substantially as good as if it held a second mortgage on a fee simple title. This includes, besides lessor's consent to the FO mortgage, such matters as:

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

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

(iii) The right of FHA to bid at foreclosure sale or to accept voluntary conveyance of the security in lieu of foreclosure.

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

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

(vi) Advance notice to FHA of lessor's intention to cancel, terminate, or foreclose upon the lease. Such advance notice will be long enough to permit FHA to ascertain the amount of the delinquencies, the total amount of the lessor's and any other prior interest, and the market value of the leasehold interest and, if litigation is involved, to refer the case with a report of the facts to the U.S. attorney and permit him to take appropriate action.

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

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

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

PART 1890e—REAL ESTATE SECURITY—EO LOANS

Sec.
1890e.1 General.
1890e.2 Servicing of nonsecurity real property purchased, refinanced, or improved with EO loan funds.

AUTHORITY: The provisions of this Part 1890e issued under sec. 602, 78 Stat. 528, 42 U.S.C. 2942; Orders of Secretary of Agriculture 29 F.R. 16210, 32 F.R. 6650, Order of Director of Office of Economic Opportunity 29 F.R. 14764.

§ 1890e.1 General.

This part supplements Subparts A and B of Part 1871 and Subpart A of 1872 of this chapter. This part provides the policies and authorities for (a) servicing and liquidation of real estate purchased, refinanced, or improved with Economic Opportunity (EO) loan funds when such property does not serve as security for such loans, and (b) taking real estate as security for EO loans in addition to the security policies contained in loan making procedures of this chapter. In the servicing of EO loans, liens on real estate will be taken and serviced in accordance with the applicable provisions of Subpart A of Part 1872 of this chapter.

§ 1890e.2 Servicing of nonsecurity real property purchased, refinanced, or improved with EO loan funds.

Borrowers will be expected to maintain such real property so as to accomplish the objectives of the loan. County supervisors will provide borrowers with appropriate supervision to protect the interest of the borrower as well as the Farmers Home Administration (FHA). The EO loans of deceased borrowers will be serviced in accordance with the provisions of § 1871.37 of this chapter. If an EO borrower becomes involved in bankruptcy or insolvency, the case will be serviced in accordance with the provisions of § 1871.36 of this chapter.

(a) *Sale or transfer by the borrower.* If the borrower is reliable and can obtain a reasonable price for the nonsecurity real property, he will be requested to sell it and apply the necessary proceeds representing his equity on the EO debt.

(1) Transfer with assumption of EO debt. If a satisfactory sale of such property cannot be made for cash, sale with assumption of the EO debt may be accomplished in accordance with the provisions of § 1871.38 except that:

(i) The transferring borrower will not be released of liability since the EO property involved is not security.

(ii) The assuming party will be required to make as large a downpayment on the EO debt as he is financially able to under the circumstances. However, the assumption may be approved without any downpayment if the assuming party is not financially able to make a downpayment, and the approval official determines that the assumption will be in the best financial interest of the FHA.

(b) *Voluntary conveyance of the nonsecurity real property to FHA.* If the nonsecurity real property is not sold as provided for in paragraph (a) of this section and it appears that FHA could realize a substantial net amount on the borrower's equity in the property, he will be encouraged to deed it to FHA. This will be done with the understanding that his EO account will be credited with an amount equal to his equity determined by FHA on the basis of a present market value appraisal of the property. The borrower will not be released from personal liability since security property is not involved. Before such actions are taken, the case should be referred to the Office of the General Counsel (OGC) for advice, particularly with respect to whether FHA will receive marketable title to the property. Any cash costs in connection with title examination and transfer will be paid from EO loan funds and charged to nonrecoverable costs. If real property is deeded to FHA, it will be managed and sold in accordance with the applicable provisions of Subpart C of Part 1872 of this chapter.

(c) *Referral of facts to OGC.* If the nonsecurity real property cannot be disposed of in accordance with paragraph (a) or (b) of this section, then subject to the limitations in § 1871.27(a)(5)(i) of this chapter, the facts in the case will be referred to OGC for any appropriate action to protect the interests of FHA. Such action may involve taking possession of the property under the loan agreement through court action or obtaining judgment and levying on the property or other actions deemed appropriate by OGC.

PART 1890f—LOANS TO INDIANS

Sec.
1890f.1 General.
1890f.2 Loan making.

AUTHORITY: The provisions of this Part 1890f issued under sec. 510, 63 Stat. 437; 42 U.S.C. 1480, sec. 339, 75 Stat. 318; 7 U.S.C. 1989, 29 F.R. 16210, 32 F.R. 6650, 33 F.R. 9677.

§ 1890f.1 General.

This part supplements Subparts A and B of Part 1821, Subparts A, B, C, D, E, F, and G of Part 1822, Subpart A of Part 1831, and Subpart A of Part 1832, all of this chapter. This part outlines the additional policies and procedures to be followed in making and servicing Farmers Home Administration (FHA) loans to Indians secured by trust or restricted land in the States of Florida, Michigan, Mississippi, North Carolina, Wisconsin, and all States west of the Mississippi River except Arkansas, Missouri, and Texas, and in selected counties of these states.

§ 1890f.2 Loan making.

The following is a joint statement by the Department of Agriculture and the Department of the Interior. This statement was prepared by representatives of the two Departments to make it possible to expedite and simplify the processing of FHA loans to eligible Indians.

(a)—

JOINT STATEMENT BY DEPARTMENT OF AGRICULTURE AND DEPARTMENT OF THE INTERIOR

Loans by Farmers Home Administration to Indians, and to Permittees and Lessees of Indian trust of restricted lands.

Whereas, the Secretary of Agriculture and the Secretary of the Interior executed a memorandum of understanding on August 27, 1957, and July 26, 1957, respectively, the purpose of which was to outline the general procedures to be followed by the Farmers Home Administration (FHA) and the Bureau of Indian Affairs (BIA) on loans by the FHA to Indians, and

Whereas, the working relationships between FHA and BIA have now been well established and are understood by field personnel, it is mutually agreed that the detailed provisions of said memorandum are no longer necessary; and

Whereas, we deem it advisable that Indian applicants for FHA financing should be treated in the same manner as non-Indians:

Therefore, it is agreed that said memorandum of understanding is hereby nullified and henceforth applications from Indians for loans will be handled by FHA in the same manner as applications from non-Indians, except in those instances where Indian trust or restricted property is involved. When a lien is to be taken on trust or restricted property in connection with a loan to be made or insured by FHA, the BIA will assist FHA to the fullest extent necessary in accordance with the statutory requirements affecting such property. This will include furnishing advice requested by FHA as to conditions under which BIA will approve a lien on the property. It is further agreed that upon request by FHA, BIA will furnish relevant information which it has with respect to the property and the individual loan applicant including that on his reputation for industry and payment of debts.

(1) It is the policy to accept and process applications from Indians in the same manner as non-Indians except in those instances where Indian trust or restricted property is to serve as security.

(2) FHA loans which are to be secured by real estate liens may be made to Indians holding land in severalty under trust patents or deeds containing restriction against alienation subject to statutes under which they may, with the approval of the Secretary of the Interior, give mortgages on their land which are valid and enforceable. These statutes include, but may not be limited to, the Act of March 29, 1956 (70 Stat. 62, 63).

(i) An Indian applicant who owns land in a trust or restricted status and applies for a loan to buy land to enlarge a farm will not be required to convert the trust or restricted land he owns to an unrestricted status.

(ii) Land in trust or restricted status purchased with FHA loan funds may be acquired and held by the Indian in trust or restricted status.

(3) When a lien is to be taken on trust or restricted property in connection with a loan to be made or insured by FHA, the local representatives of the Bureau of Indian Affairs will furnish requested advice and information with respect to the property and each applicant. The request will indicate the specific information needed.

(4) The FHA State director should arrange with the area director or other appropriate local official of the Bureau of Indian Affairs as to the manner in which the information will be requested and furnished. The State director will issue instructions to prescribe the actions to be taken by FHA personnel to implement the making of loans under such conditions.

(b) *Loan servicing.* Loans made to Indians will be serviced in accordance with the applicable procedures contained in this chapter.

Dated: August 14, 1970.

JOSEPH HASPRAY,
Acting Administrator,
Farmers Home Administration.

[F.R. Doc. 70-11654; Filed, Sept. 2, 1970; 8:48 a.m.]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER B—COOPERATIVE CONTROL AND ERADICATION OF ANIMAL DISEASES

PART 53—FOOT-AND-MOUTH DISEASE, PLEUROPNEUMONIA, RINDERPEST, AND CERTAIN OTHER COMMUNICABLE DISEASES OF LIVESTOCK OR POULTRY

Appraisal of Animals

Pursuant to the provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, and the Act of July 2, 1962 (21 U.S.C. 111–113, 114, 114a, 115, 117, 120, 121, 134b, and 134f), § 53.3(b) of Part 53, Title 9, Code of Federal Regulations relating to payment of indemnities for animals destroyed because of foot-and-mouth disease, pleuropneumonia, rinderpest, and certain other communicable diseases of livestock or poultry, is hereby amended to read as follows:

§ 53.3 **Appraisal of animals or materials.**

* * * * *

(b) The appraisal of animals shall be based on the fair market value and shall be determined by the meat, egg production, dairy or breeding value of such animals. Animals and poultry may be appraised in groups providing they are the same species and type and providing that where appraisal is by the head each animal or bird in the group is the same value per head or where appraisal is by the pound each animal or bird in the group is the same value per pound.

* * * * *

(Secs. 3 and 11, 23 Stat. 32, as amended, sec. 2, 32 Stat. 792, as amended, 76 Stat. 129–132; 21 U.S.C. 111–113, 114, 114a, 115, 117, 120, 121, 134b, 134f, 29 F.R. 16210, as amended)

The foregoing amendment shall become effective upon publication in the FEDERAL REGISTER.

The purpose of the amendment is to eliminate the restriction now contained in § 53.3(b) whereby an animal may not be appraised for more than three times its meat, egg production, or dairy value and to substitute for this restriction a provision whereby such animals may be appraised at the fair market value as stated in section 2(d) of Public Law 87–518.

It is believed the amendment will provide a more equitable approach in the appraisal of animals under the provisions of this part and will therefore be of benefit to affected persons. Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure concerning the amendment are impracticable and unnecessary; therefore, it may be made effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 28th day of August 1970.

F. J. MULHERN,
Acting Administrator,
Agricultural Research Service.

[F.R. Doc. 70-11651; Filed, Sept. 2, 1970; 8:48 a.m.]

Title 12—BANKS AND BANKING

Chapter V—Federal Home Loan Bank Board

SUBCHAPTER B—FEDERAL HOME LOAN BANK SYSTEM

[No. 70-175]

PART 526—LIMITATIONS ON RATE OF RETURN

Maximum Rate of Return Payable on Certain Certificate Accounts in the Commonwealth of Puerto Rico

AUGUST 25, 1970.

Resolved that the Federal Home Loan Bank Board considers it desirable to amend § 526.5–1 of the regulations for the Federal Home Loan Bank System (12 CFR 526.5–1) for the purpose of permitting member institutions located in the Commonwealth of Puerto Rico to pay a higher rate of return on certificate accounts of $50,000 or more, subject to restriction on advertising and promotion of such accounts. Accordingly, the Federal Home Loan Bank Board hereby amends said § 526.5–1 by adding a new paragraph (c) thereto, to read as follows, effective September 3, 1970:

§ 526.5–1 **Maximum rate of return payable on certificate accounts of $100,000 or more.**

* * * * *

(c) *Geographic exception.* In the case of certificate accounts issued by a member institution whose home office is located in the commonwealth of Puerto Rico, the minimum amount requirement specified in paragraph (a) of this section shall be $50,000 instead of $100,000, and the percentage limitation contained in paragraph (b) of this section shall apply to certificate accounts of $50,000 or more with a return at a rate in excess of 6 percent per annum: *Provided,* That no such institution may advertise or promote any such account outside of the Commonwealth of Puerto Rico.

(Sec. 5B, 47 Stat. 727, as added by sec. 4, 80 Stat. 824, as amended; sec. 17, 47 Stat. 736, as amended; 12 U.S.C. 1425b, 1437. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943–48 Comp., p. 1071)

Resolved further that, since affording notice and public procedure on the above amendment would delay it from becoming effective for a period of time and since it is in the public interest that the authority contained in the amendment become effective as soon as possible, the Board hereby finds that notice and public procedure on said amendment is contrary to the public interest under the provisions of 12 CFR 508.11 and 5 U.S.C. 553(b); and since the amendment relieves restriction, publication for the 30-day period specified in 12 CFR 508.14 and 5 U.S.C. 553(d) prior to the effective date of the amendment is unnecessary; and the Board hereby provides that the amendment shall become effective as hereinbefore set forth.

By the Federal Home Loan Bank Board.

[SEAL] GRENVILLE L. MILLARD, Jr.,
Assistant Secretary.

[F.R. Doc. 70-11686; Filed, Sept. 2, 1970; 8:50 a.m.]

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

[No. 70-176]

PART 545—OPERATIONS

Financing of Mobile Homes

AUGUST 25, 1970.

Resolved that, notice and public procedure having been duly afforded (35 F.R. 9019) and all relevant material presented or available having been considered by it, the Federal Home Loan Bank Board, upon the basis of such consideration, determines that it is advisable to amend § 545.7–1 of the rules and regulations for the Federal Savings and Loan System (12 CFR 545.7–1), relating to financing of mobile homes by Federal savings and loan associations, for the purpose of effecting the following clarification and liberalization of the provisions of said § 545.7–1:

1. *Definition of mobile home.* (a) Substitute an area requirement for the length requirement.

(b) Permit the financing of certain housing units which are transportable by methods other than towing them on their own chassis and undercarriage, e.g., transportable on flat-bed trailers.

2. *General.* Clarify "invest" to mean only "make or purchase whole loans or installment sale contracts" which will exclude participations.

3. *Inventory financing.* Permit associations in Alaska, Guam, Hawaii, Puerto Rico, and the Virgin Islands to finance up to 80 percent of certain freight costs.

4. *Retail financing.* (a) Remove the restriction that retail financing is authorized only in connection with purchase of mobile homes: Thereby continuing to authorize the purchase money financing of mobile homes and, at the same time, adding the authority to refinance mobile homes.

(b) Clarify that a time price differential on an installment sale contract or the interest on a loan (whether such interest is on an add-on, discount, or other gross charge basis) is not included in the "amount of the monetary obligation."

(c) Permit the financing of appropriate insurance.

(d) Permit associations in Alaska, Guam, Hawaii, Puerto Rico, and the Virgin Islands to finance up to 80 percent of certain freight costs.

(e) Permit investment on nationwide basis if FHA-insured or VA-guaranteed and serviced locally.

(f) Permit investment when mobile home unit is moved into an association's regular lending area.

On the basis of such consideration and for such purpose, the Federal Home Loan Bank Board hereby amends said § 545.7–1 to read as follows, effective September 4, 1970:

§ 545.7–1 Mobile home financing.

(a) *Definitions.* As used in this section—

(1) The term "mobile home" means a movable dwelling constructed in one or more units to be occupied on land, having a minimum width of 10 feet and a minimum area of 400 square feet and containing living facilities for year-round occupancy by one family, including permanent provision for eating, sleeping, cooking, and sanitation.

(2) The term "mobile home chattel paper" means written evidence of both a monetary obligation and a security interest of first priority in one or more mobile homes, and any equipment installed or to be installed therein.

(b) *General provisions.* A Federal association which has a charter in the form of Charter K (rev.) or Charter N may, after adoption of a mobile home financing plan by its board of directors, invest in mobile home chattel paper (make or purchase whole loans or installment sale contracts secured by or constituting first liens on mobile homes) subject to the provisions of this section.

(c) *Percent-of-assets limitation.* Any such association may make an investment in mobile home chattel paper under this section only if the amount of such investment and all other investments in such chattel paper then outstanding does not exceed 5 percent of the association's assets at the time of such investment.

(d) *Inventory financing.* Any such association may invest in mobile home chattel paper which finances the acquisition of inventory by a mobile home dealer only if:

(1) The inventory is to be held for sale in the ordinary course of business by the mobile home dealer within the association's regular lending areas; and

(2) The monetary obligation evidenced by such chattel paper is the obligation of the mobile home dealer and the amount thereof does not, except as otherwise provided in paragraph (f) of this section, exceed the following:

(i) In the case of new mobile homes, an amount equal to the total of (*a*) 100 percent of the manufacturer's invoice price of each such mobile home (including any installed equipment), excluding freight, and (*b*) 100 percent of the invoice price of the manufacturer of any new equipment to be installed by the dealer in such mobile home, excluding freight;

(ii) In the case of used mobile homes, an amount equal to 90 percent of the wholesale value of each such used mobile home (including any installed equipment) as established in the dealer's market.

(e) *Retail financing.* Any such association may invest in any retail mobile home chattel paper as to which the association's investment is insured or guaranteed, or the association has a commitment for such insurance or guarantee, under the provisions of the National Housing Act or chapter 37 of title 38, United States Code, as now or hereafter amended, if arrangements have been made for satisfactory local servicing of such chattel paper. Any such association may invest in other retail mobile home chattel paper only if:

(1) The mobile home is to be maintained as a residence of the owner (or beneficial owner), or a relative of such owner;

(2) The mobile home is located, at the time of the investment by such association in such chattel paper, or is to be located within 90 days thereof, at a mobile home park or other semipermanent site within the association's regular lending area;

(3) The amount of the monetary obligation evidenced by such chattel paper (exclusive of any time price differential or any interest, whether on an add-on, discount, or other gross charge basis) does not, except as otherwise provided in paragraph (f) of this section, exceed an amount equal to the total of the following:

(i) The cost of appropriate insurance for the protection of the association and the owner (or beneficial owner) of the mobile home;

(ii) Any sales or similar tax applicable in the case of the retail purchase of the mobile home; and

(iii) In the case of a new mobile home, (*a*) 100 percent of the manufacturer's invoice price of such mobile home (including any installed equipment), excluding freight, (*b*) 100 percent of the invoice price of the manufacturer of any new equipment installed or to be installed by the dealer, excluding freight, and (*c*) 10 percent of the total of such invoice prices, excluding freight, up to a limit of $500; or

(iv) In the case of a used mobile home, 100 percent of the wholesale value of such used mobile home (including any installed equipment) as established in the dealer's market; and

(4) The monetary obligation evidenced by such chattel paper is to be paid in substantially equal monthly installments within the following time limits from the date of the association's investment in such chattel paper:

(i) Up to 12 years in the case of a new mobile home; or

(ii) Up to 8 years in the case of a used mobile home.

(f) *Geographic exception.* If a new mobile home or new equipment to be installed by a mobile home dealer in a mobile home is shipped to a mobile home dealer in Alaska, Guam, Hawaii, Puerto Rico, or the Virgin Islands from outside such areas, the monetary obligation referred to in paragraphs (d)(2) and (e)(3) of this section may include, in addition to the amounts specified in each such paragraph, an amount not exceeding 80 percent of freight on such shipment.

(g) *Sound investment practices.* Investments by any such association in mobile home chattel paper shall be made in conformity with sound practices for such investments. Such chattel paper shall include provisions for protection of the association and shall provide specifically for protection with respect to insurance, taxes, other governmental levies, maintenance and repairs, and for other protection as may be lawful or appropriate. The association may pay taxes or other governmental levies, insurance premiums, or other similar charges for the protection of its security interest, and all such payments may, when lawful, be added to the monetary obligation evidenced by such chattel paper. The association shall in a timely manner take all steps necessary to perfect its security interest under applicable law.

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943–48 Comp., p. 1071)

Resolved further that, since the above amendment relieves restriction, publication of the amendment for the 30-day period specified in 12 CFR 508.14 and 5 U.S.C. 553(d) prior to the effective date of the amendment is unnecessary; and the Board hereby provides that the amendment shall become effective as hereinbefore set forth.

By the Federal Home Loan Bank Board.

[SEAL] GRENVILLE L. MILLARD, Jr.,
Assistant Secretary.

[F.R. Doc. 70-11685; Filed, Sept. 2, 1970; 8:50 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter II—Civil Aeronautics Board

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-643; Amdt. 11]

PART 298—CLASSIFICATION AND EXEMPTION OF AIR TAXI OPERATORS

Filing of Notice of Inauguration of Service; Publication and Filing of Flight Schedules

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 31st day of August 1970.

In ER-637,[1] 35 F.R. 13426, the Board amended § 298.21 of Part 298 by relaxing the prohibition against air taxi operators providing regular service between points where scheduled helicopter passenger service, or community center and interairport service, is provided by a holder of a certificate. Specifically, it was provided that the prohibition shall not apply to an air taxi operator with respect to pairs of points it has served continuously and without interruption on a regularly scheduled basis with a minimum of five round trips per week since at least 30 days immediately prior to the inauguration or resumption of service between points by the certificated carrier. In addition, inter alia, the Board accepted a suggestion of Los Angeles Airways that an air taxi operator which intends to inaugurate such service shall file a notice as to the time the service is to be inaugurated. To this end, § 298.21(e) was drafted to read, in part: "An air taxi operator which intends to inaugurate service on a regularly scheduled basis with a minimum of five round trips per week between points where it is not prohibited from providing such transportation by § 298.21(b) shall file a notice", etc.

It has been brought to our attention that the rule, as drafted, could be construed as requiring a notice in all instances where an air taxi operator intends to inaugurate service on a regularly scheduled basis with a minimum of five round trips per week, and that the notice provision is not clearly confined to the inauguration of services pursuant to § 298.21(b). In order to remove the ambiguity, § 298.21(e) is being editorially amended to conform to the Board's intent.

This regulation is issued by the undersigned pursuant to a delegation of authority from the Board to the General Counsel in 14 CFR 385.19, and shall become effective on September 24, 1970. Procedures for review of this amendment by the Board are set forth in Subpart C of Part 385 (14 CFR 385.50—385.54).

Accordingly, the Board hereby amends § 298.21(e) of Part 298 of the economic regulations (14 CFR Part 298) effective September 24, 1970, to read as follows:

§ 298.21 Scope of service authorized; geographical, equipment and mail service limitations, insurance and reporting requirements.

* * * * *

(e) *Filing of notice of inauguration of service; publication and filing of flight schedules.* An air taxi operator which intends to inaugurate service on a regularly scheduled basis with a minimum of five round trips per week pursuant to the provisions of paragraph (b) of this section shall file a notice with the Director, Bureau of Operating Rights, as to the time such service is to be inaugurated not later than 1 day prior to inauguration. The notice shall contain a certification that it has been served on the certificated carrier authorized to provide service between the points. The air taxi operator shall publish flight schedules for the service specifying the times, days of the week and places between which such flights are performed and within 30 days after commencing operations shall file such schedules pursuant to § 298.61.

* * * * *

(Sec. 204(a), Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324)

By the Civil Aeronautics Board.

[SEAL] R. TENNEY JOHNSON,
General Counsel.

[F.R. Doc. 70-11672; Filed, Sept. 2, 1970; 8:49 a.m.]

[1] Adopted Aug. 19, and effective Sept. 24, 1970.

Title 18—CONSERVATION OF POWER AND WATER RESOURCES

Chapter I—Federal Power Commission

[Docket No. R-381; Order 408]

ACCOUNTING TREATMENT FOR EXPENDITURES FOR RESEARCH AND DEVELOPMENT

AUGUST 26, 1970.

On January 27, 1970, in Docket No. R-381, the Commission issued a notice of proposed rule making (35 F.R. 2413, Feb. 3, 1970), with interested parties being given until March 16, 1970, to submit views and comments on the amendments proposed. On March 4, 1970, the Commission extended until April 16, 1970, the period of time for submission of views and comments (35 F.R. 4416, Mar. 12, 1970).

The Commission had proposed that amendments be made to the Uniform System of Accounts under the Federal Power Act and the Natural Gas Act to reflect changes in accounting for research and development expenditures.

The proposed rule making indicated two alternative methods of initial recording of research and development costs:

1-a. Under the first alternative, the proposed accounting is to treat the expenditures as deferred debits (Account 188). This method recognizes that the account, as a deferred debit category is generally preferred under sound accounting principles. The remaining balance in the deferred debit account at the end of any accounting period would be given consideration as a rate base item in any rate proceeding before the Commission.

1-b. Another treatment that may be given to the remaining balances in the deferred debit account at the end of the accounting period is to allow the accumulation of "carrying charges" on such balances rather than allowing such balances to be considered as a rate base