

[Docket No. FI 449]

## PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

## Status of Participating Communities

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence a new entry to the table. In this entry, a complete chronology of effective dates appears for each listed community. Each date appearing in the fourth column of the table is followed by a designation which indicates whether the date signifies the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. The entry reads as follows:

## § 1914.4 Status of participating communities.

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	State map repository	Local map repository
Alabama	Shelby	Pelham, city of	January 13, 1975	Emergency	June 21, 1974	
Florida	Bay	Callaway, city of	do	do	Aug. 9, 1974	
Illinois	Lake	Wauconda, village of	do	do	Apr. 5, 1974	
Do	DuPage	Oak Brook, village of	do	do	Mar. 29, 1974	
Do	St. Clair	Swansea, village of	do	do	Apr. 5, 1974	
Do	Cook	Ahstip, village of	do	do	Mar. 22, 1974	
Do	do	Lansing, village of	do	do	Feb. 1, 1974	
Maine	Kennebec	Hallowell, city of	do	do	do	
New York	Lawrence	Massena, village of	do	do	Oct. 25, 1974	
Pennsylvania	Bedford	Everett, borough of	do	do	Aug. 9, 1974	
Do	Snyder	Chapman, township of	do	do	do	
Do	Adams	Freedom, township of	do	do	do	
Do	Lancaster	Paradise, township of	do	do	Sept. 6, 1974	
Do	Potter	Ulysses, township of	do	do	do	
Do	Lancaster	Earl, township of	do	do	Sept. 30, 1974	
Do	Adams	Straban, township of	do	do	do	
Rhode Island	Providence	Scituate, town of	do	do	Sept. 6, 1974	
South Carolina	Clarendon	Summerton, town of	do	do	May 24, 1974	

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408-410, Pub. L. 91-152, Dec. 24, 1969), 42 U.S.C. 4001-4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969) as amended 39 FR 2787, Jan. 24, 1974.

Issued: January 6, 1975.

J. ROBERT HUNTER,  
Acting Federal Insurance Administrator.

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[Docket No. FI-310]

## PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

## Deletion of Certain Iowa Communities From List of Eligibles, Correction

On July 12, 1974, in 39 FR 25649, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas and the map number and locations where Flood Insurance Rate Maps were available for public inspection. This list included the City of Davenport, Iowa, as an eligible community and included Map No. H 190242 11 which indicates that Lots No. 1 through 11 of Peaceful Valley, Third Addition, Scott County, Davenport, Iowa, as recorded in Deed Book Volume D, pages 5 and 12 of the records of the Recorder of Scott County, Iowa, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in view of additional, recently acquired, flood information that the above property is not within the Special Flood Hazard Area. Accordingly, effective June 21, 1974, Map No. H 190242 11 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (secs.

408-410, Pub. L. 91-152, December 24, 1969), (42 U.S.C. 4001-4127); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974)

Issued: January 13, 1975.

J. ROBERT HUNTER,  
Acting Federal Insurance  
Administrator.

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## Title 25—Indians

CHAPTER I—BUREAU OF INDIAN  
AFFAIRS, DEPARTMENT OF THE INTERIOR  
SUBCHAPTER I—CREDIT ACTIVITIES  
PART 91—LOANS TO INDIANS FROM  
THE REVOLVING LOAN FUND

## Revision of Part

JANUARY 16, 1975.

This notice is published in exercise of rulemaking authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2. The authority to issue regulations is vested in the Secretary of the Interior by 5 U.S.C. 301 and sections 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9).

Beginning on page 31986 of the September 3, 1974, Federal Register (39 FR 31986), there was published a notice of proposed rulemaking to revise Part 91, Subchapter I, Chapter I, of Title 25 of

the Code of Federal Regulations. This revision is made pursuant to the authority contained in section 109 of the Act of April 12, 1974 (88 Stat. 77).

The purpose of this revision of Part 91 is to update the regulations to reflect the provisions of the Indian Financing Act of 1974 (Pub. L. 93-262, 88 Stat. 77) which provides for financing the economic development of Indians, Indian organizations and Indian tribe.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections regarding the proposed revision. During this period, comments and suggestions were submitted by interested persons. All comments and suggestions received were analyzed and considered in revising the proposed regulations. Some of the comments and suggestions pertained to changes which would require legislative action to change the Indian Financing Act of 1974.

The following major revisions were made to the proposed regulations as a result of the comments received:

1. § 91.1 *Definitions*. Several changes were made to the definitions in § 91.1. Unterminated California rancherias were added in the definition of "reservation" in paragraph (h). Agricultural was added to the definition of "economic enterprise" in paragraph (i). "Relending organization" was defined in a new paragraph (n). "Default" was defined in a

new paragraph (o). "Mortgage" was defined in a new paragraph (p). "Financing Statement" was defined in a new paragraph (q). "Applicant" was defined in a new paragraph (r). "Cooperative association" was defined in a new paragraph (s). "Corporation" was defined in a new paragraph (t). "Partnership" was defined in a new paragraph (u).

2. § 91.2 *Kinds of loans.* This section was revised to clarify the intent and to differentiate between United States direct loans and loans made by relending organizations.

3. § 91.3 *Eligible borrowers under United States direct loan program.* This section was formerly entitled "Eligible borrowers". The title was changed to show that it relates to United States direct loans only.

4. § 91.4 *Applications.* This section was expanded to provide for submittal of additional financial information on economic enterprises.

5. § 91.5 *Approval of loans.* This section was revised to differentiate between approvals of United States direct loans and loans made by a relending organization. A provision was added that economic enterprises which are or will be operated on a reservation must comply with the requirement of applicable rules, resolutions and ordinances enacted by the governing body of the tribe, if applicable.

6. § 91.6 *Modification of loans.* This section was revised and expanded to clarify and separate modification of United States direct loans and loans made by relending organizations.

7. § 91.9 *Preservation of historical and archaeological data.* This section was expanded to include procedures to be followed by relending organizations in considering loan applications and modifications, where the use of funds might require archaeological clearance.

8. § 91.10 *Federal Reserve Regulation Z and Fair Credit Reporting Act.* This is a new section to call attention to the need for compliance with the applicable provisions of these Acts.

9. § 91.11 *Interest.* Paragraph (e) of this section was revised to provide that the interest rate on advances made before April 12, 1974 will remain in effect until the loan is paid in full, refinanced or modified to extend the repayment terms.

10. § 91.13 *Security.* This section was revised to provide more details on the kinds of property and income which may be given as security for both United States direct loans and loans made by relending organizations. A provision was added requiring written notice to the tribe of a reservation in advance of a foreclosure which involves the sale of individually owned trust or restricted land which is mortgaged as security for a loan.

11. § 91.16 *Default on loans made by relending organizations.* This is a new section which provides that the procedures to be followed by relending organizations in correcting defaults on loans will be included in their declarations of policy and plans of operation.

12. § 91.18 *Uncollectible loans made by relending organizations.* This is a new section and was added to prescribe the procedures to be followed by relending organizations in taking action on uncollectible loans as compared to cancellation of United States direct loans as prescribed in § 91.17.

13. § 91.19 *Assignment of loans.* This section was revised and expanded to include both United States direct loans and loans made by relending organizations.

14. § 91.22 *Repayments on United States direct loans.* This section was formerly titled "Repayments". Procedures were added for collecting, applying and processing of payments made by borrowers on loans made by a relending organization which loans have been declared in default and the assets, including loans and securities, taken over by the United States.

15. § 91.23 *Repayments on loans made by relending organizations.* This new section was added to differentiate between collection and deposit procedures on United States direct loans and loans made by relending organizations.

16. § 91.25 *Loans for expert assistance for preparation and trial of Indian claims.* The title of this section was expanded to avoid misunderstandings regarding the purpose. Paragraph (a) was expanded to clearly identify the source of funds for making loans under this section. Paragraph (c) on approvals of contracts for expert assistance was added. Paragraph (d) was added to prescribe the procedures and requirements in processing vouchers or claims submitted by experts for payment of expenses and services pursuant to the terms of the contract. Paragraph (e) includes a requirement that a copy of the expert's voucher or claim will accompany requests for advance of funds.

Other revisions were made for the purpose of clarification and understanding.

It is necessary that this program be initiated as soon as possible in order to prevent eligible Indians and Indian organizations from losing the business and educational opportunities for which they immediately need the loans authorized by these regulations. Therefore, good cause is found for dispensing with the 30-day deferred effective date of these regulations under the exception provided in subsection (d) (3) of 5 U.S.C. 553 (1970). Accordingly, these regulations will become effective January 23, 1975.

As revised, Part 91 of Subchapter I, Chapter I, Title 25 of the Code of Federal Regulations reads as follows:

**PART 91—LOANS TO INDIANS FROM THE REVOLVING LOAN FUND**

- Sec. 91.1 Definitions.
- 91.2 Kinds of loans.
- 91.3 Eligible borrowers under United States direct loan program.
- 91.4 Applications.
- 91.5 Approval of loans.
- 91.6 Modification of loans.
- 91.7 Management and technical assistance.
- 91.8 Environmental and Flood Disaster Acts.

- 91.9 Preservation of historical and archaeological data.
- 91.10 Federal Reserve Regulation Z and Fair Credit Reporting Act.
- 91.11 Interest.
- 91.12 Records and reports.
- 91.13 Security.
- 91.14 Maturity.
- 91.15 Penalties on default.
- 91.16 Default on loans made by relending organizations.
- 91.17 Uncollectible loans made by the United States.
- 91.18 Uncollectible loans made by relending organizations.
- 91.19 Assignment of loans.
- 91.20 Tribal funds.
- 91.21 Relending by borrower.
- 91.22 Repayments on United States direct loans.
- 91.23 Repayments on loans made by relending organizations.
- 91.24 Approval of articles of association and bylaws.
- 91.25 Loans for expert assistance for preparation and trial of Indian claims.

AUTHORITY: Sec. 109, 88 Stat. 77.

**§ 91.1 Definitions.**

Wherever used in the regulations in this Part, the terms defined in this section shall have the meanings stated:

(a) "Secretary" means the Secretary of the Interior.

(b) "Commissioner" means the Commissioner of Indian Affairs or his authorized representative.

(c) "Indian" means any person who is a member of any Indian tribe, band, group, pueblo or community which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs and any "Native" as defined in paragraph (d) of this section.

(d) "Native" means a citizen of the United States who is a person of one-fourth degree or more Alaskan Indian (including Tsimshian Indians not enrolled in the Metlakatla Indian Community), Eskimo, or Aleut blood, or combination thereof. The term includes any Native as so defined either or both of whose adoptive parents are not Natives. It also includes, in the absence of proof of a minimum blood quantum, any citizen of the United States who is regarded as an Alaska Native by the Native village or Native group of which he claims to be a member and whose father or mother is (or, if deceased, was) regarded as Native by any village or group.

(e) "Tribe" means any Indian tribe, band, group, pueblo, or community, including Native villages and Native groups (including corporations organized by Kenai, Juneau, Sitka, and Kodiak) as defined in paragraphs (f) and (g) of this section, which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs.

(f) "Native village" means any tribe, band, clan, group, village, community, or association in Alaska listed in sections 11 and 16 of the Alaska Native Claims Settlement Act (85 Stat. 688) or which meets the requirements of this Act, and which the Secretary determines was, on the 1970 census enumeration date (as shown by the census or other evidence satisfactory to the Secretary, who

shall make findings of fact in each instance), composed of twenty-five or more Natives.

(g) "Native group" means any tribe, band, clan, village, community, or village association of Natives in Alaska composed of less than twenty-five Natives, who comprise a majority of the residents of the locality.

(h) "Reservation" means Indian reservations, untermated California rancherías, public domain Indian allotments, former Indian reservations in Oklahoma, and land held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act (85 Stat. 688).

(i) "Economic enterprise" means any Indian-owned, commercial, industrial, agricultural or business activity established or organized for the purpose of profit, provided that eligible Indian ownership constitutes not less than 51 percent of the enterprise.

(j) "Organization" means the governing body of any Indian tribe, as defined in paragraph (e) of this section, or entity established or recognized by such governing body for the purpose of this Act.

(k) "Other organizations" means any non-Indian individual, firm, corporation, partnership, or association.

(l) "Profits" mean the net income earned after deducting operating expenses from operating revenues.

(m) "Revolving loan fund" means all funds that are now or hereafter a part of the revolving fund authorized by the Act of June 18, 1934 (48 Stat. 986), the Act of June 26, 1936 (49 Stat. 1968), and the Act of April 19, 1950 (64 Stat. 44), as amended and supplemented including sums received in settlement of debts for livestock pursuant to the Act of May 24, 1950 (64 Stat. 190) and sums collected in repayment of loans made including interest or other charges on loans and any funds appropriated pursuant to Section 108 of the Indian Financing Act of 1974 (88 Stat. 77).

(n) "Relending Organization" means tribes as defined in paragraph (e) of this section, Indian credit associations and associations whose members have a common bond of occupation and/or residence which are organized for the purpose of borrowing from the revolving loan fund in order to conduct a relending program.

(o) "Default" means failure of a borrower to make scheduled payments on a loan, failure to obtain the lender's approval for disposal of assets mortgaged as security for a loan, or failure to comply with the covenants, obligations or other provisions of a loan agreement.

(p) "Mortgages" mean mortgages and deeds of trust evidencing an encumbrance of trust or restricted land, mortgages and security agreements executed as evidence of liens against crops and chattels, and mortgages and deeds of trust evidencing a lien on leasehold interests.

(q) "Financing statement" means the document filed or recorded in county or

state offices pursuant to the provisions of the Uniform Commercial Code notifying third parties that a lender has a lien on the chattels and/or crops of a borrower.

(r) "Applicant" means an applicant for a United States direct loan from the revolving loan fund or a loan from a relending organization.

(s) "Cooperative Association" means an association of individuals organized pursuant to state, federal or tribal law, for the purpose of owning and operating an economic enterprise for profit, with profits distributed or allocated to patrons who are members of the organization.

(t) "Corporation" means an entity organized pursuant to state, federal or tribal law, with or without stock, for the purpose of owning and operating an economic enterprise.

(u) "Partnership" means two or more persons engaged in the same business, sharing its profits and risks, and organized pursuant to state, federal, or tribal law.

#### § 91.2 Kinds of loans.

Loans from the Indian Revolving Loan Fund shall be made for purposes which will improve and promote the economic development on Indian reservations.

(a) Loans may be made by the United States to eligible relending organizations for relending to members for economic enterprises and to eligible tribes for relending to members, eligible corporations, cooperative associations, partnerships and subordinate bands and for financing tribal economic enterprises, which will promote the economic development of a reservation and/or the group or members thereon. Loans made by tribes or relending organizations may be for the following purposes:

(1) To individual Indians or Natives, cooperative associations, corporations and partnerships, to finance economic enterprises operated for profit, the operation of which will contribute to the improvement of the economy of a reservation and/or the members thereon.

(2) To individual Indians or Natives for purposes of purchasing, constructing or improving housing on a reservation and to be occupied by the borrower.

(3) To individual Indians and Natives for purposes of obtaining a college or graduate education and degree in a field which will provide employment opportunities, provided that adequate funds are not available from sources such as grants, scholarships or other loan sources.

(4) To individual Indians and Natives for purposes of attending vocational schools which provide training in desired skills in a field in which there are employment opportunities, provided that adequate funds and/or training are not available from grant or scholarship sources, or federal or state training programs.

Loans may also be made by the United States to tribes for loaning to or investing in other organizations subject to the

provisions in paragraph (d) of this section.

(b) Direct loans may be made by the United States to eligible tribes, individual Indians and Natives, corporations, partnerships or cooperative associations. Direct loans from the United States will be made for the following purposes:

(1) To eligible tribes, individual Indians, Natives, or associations thereof, corporations and partnerships, to finance economic enterprises operated for profit, the operation of which will contribute to the improvement of the economy of a reservation and/or the members thereon.

(2) To individual Indians and Natives for purposes of purchasing, constructing or improving housing on a reservation and to be occupied by the borrower.

(3) To individual Indians and Natives for purposes of obtaining a college or graduate education and degree in a field which will provide employment opportunities, provided that adequate funds are not available from sources such as grants, scholarships or other loan sources.

(4) To individual Indians and Natives for purposes of attending vocational schools which provide training in desired skills in a field in which there are employment opportunities, provided that adequate funds and/or training are not available from grants or scholarship sources or federal or state training programs.

(c) Before a United State direct loan is approved, the Commissioner may require the applicants to prepare a market and capacity report on existing or proposed economic enterprises for which financing is requested if the operation involves manufacturing, selling or providing services.

(d) Loans may be made to eligible tribes and Indian organizations for use in attracting industries and economic enterprises, the operation of which will contribute to the economy of a reservation. Tribes and Indian organizations may receive loans from the revolving loan fund for investment in or lending to other organizations regardless of whether they are organizations of Indians. However, not more than 50 percent of the loan made to an Indian organization may be used for the purpose of making a loan to or investing in other organizations. Applications for loans to provide funds for lending to or investing in other organizations already in operation will be accompanied by: (1) audited balance sheets and operating statements of the other organization for the immediate three preceding years; (2) pro forma operating statement and balance sheets for the succeeding three years reflecting the results of operations after injection of the additional funds; (3) names of owners or if a corporation and stock has been issued, names of major stockholders and shares of stock owned by each; (4) a copy of the articles of incorporation and bylaws, if incorporated, or other organization papers if not incorporated; (5) names of members of the board of directors and officers with

a resume of education and experience, and the number of shares of stock owned by each in the corporation; (6) purposes for which loan or investment will be used; and (7) if for manufacturing, selling or providing services, a market and capacity report will be prepared. If a proposed operation is to be established, the information in subparagraphs (2) through (7) of this paragraph will be furnished. The Commissioner may require additional information on the other organization, if needed, to adequately evaluate the benefits which the Indian organization will receive and the economic benefits which will accrue to a reservation. If the loan is for relending to another organization, the application must show what security is being offered. If the loan is for investment in another organization, the equity to be obtained must be shown. Copies of all agreements, contracts or other documents to be executed by the Indian organization and the other organization in connection with a loan or investment shall be submitted with the application for a loan and will require Commissioner approval prior to disbursement of loan funds to the Indian organization.

#### § 91.3 Eligible borrowers under United States direct loan program.

(a) Loans may be made from the revolving loan fund to eligible tribes and relending organizations, and corporations, cooperative associations and partnerships, having a form of organization satisfactory to the Commissioner. Individual Indians and Natives who are members of tribes which are not making loans to its members and are not members of or eligible for membership in an organization which is making loans to its members, are eligible for United States direct loans. Loans may be made to applicants only when, in the judgment of the Commissioner, there is a reasonable prospect of repayment. Loans may be made only to an applicant who, in the opinion of the Commissioner, is unable to obtain financing on reasonable terms and conditions from other sources such as banks, Farmers Home Administration, Small Business Administration, Production Credit Associations, Federal Land Banks, and is also unable to obtain a guaranteed or insured loan pursuant to Title II of the Indian Financing Act of 1974 (88 Stat. 77).

(b) The establishment of a United States direct revolving loan program on a reservation(s) for making direct loans will require the approval of the Commissioner. All requests for establishing a United States direct revolving loan program on a reservation will be accompanied by reasons for need, estimate of financing needs, and other sources of financing available to meet the needs. The Commissioner, in approving a United States direct loan program, may require the preparation and approval of a plan of operation for conducting the program.

(c) If local lending conditions and/or the information in an application for a loan indicate a probability that an appli-

cant may be able to obtain the loan from other sources, the Commissioner, before approving a United States direct loan, will require the applicant to furnish letters from two customary lenders in the area who are making loans for similar purposes, stating whether or not they are willing to make a loan to the applicant for the same purposes and amount. If a customary lender will make the loan on reasonable terms and conditions, the Commissioner will not approve a United States direct loan.

#### § 91.4 Applications.

An applicant for a United States direct loan or a loan from a relending organization conducting a relending program under this Part will submit an application on a form approved by the Commissioner. Applications will indicate the amount of the loan requested, purposes for which loan funds will be used, security to be offered, the period of the loan, assets and liabilities of the applicant, procedures to be followed in handling loan proceeds, repayment of the loan, budgets reflecting income and expenditures of the applicant, and any other information required to adequately evaluate the application. In addition, applications for loans to finance economic enterprises already in operation will be accompanied by: (a) a copy of operating statements, balance sheets and budgets for the prior two operating years or applicable period thereof preceding submittal of the application; (b) current budget, balance sheet and operating statements; and (c) pro forma budgets, operating statements and balance sheets showing the estimated results for operating the enterprise for two years after injection of the loan funds into the operation. A résumé of the applicant's management experience will be submitted with the application. Applications for loans and requests for advance of tribal trust funds for relending under the provisions of this Part shall be accompanied by a declaration of policy and plan of operation or other acceptable plan for conducting the program. Applications for loans or modifications thereof, to establish, acquire, operate, or expand an economic enterprise shall be accompanied by a plan of operation. Declarations of policy or other plans for conducting a relending program and plans of operation for economic enterprises require the approval of the Commissioner before becoming effective. An application from a corporation, partnership or cooperative association, for a United States direct loan or a loan under a relending program for financing an economic enterprise must, in addition to financial statements and budgets, include a copy of documents establishing the entity, or the proposed documents to be used in establishing it.

#### § 91.5 Approval of loans.

(a) Loan agreements, including those used by relending organizations in operating a relending program, must be executed on a form approved by the Com-

missioner. On direct United States loans, the Commissioner will approve the loan by issuing a commitment order covering the terms and conditions for making the loan.

(b) Applications for loans from relending organizations must be approved, if a tribe, by the governing body or designated committee, or other approving committee or body authorized to act on credit matters for a relending organization, before the Commissioner takes action on the application. This designated governing body of the tribe or committee must be authorized to act on behalf of the relending organization as evidenced in the organization's declaration of policy and plan of operation.

(c) Corporations, partnerships and cooperative associations organized for the purpose of establishing, acquiring, expanding, and operating an economic enterprise shall be organized pursuant to federal, state or tribal law. The form of organization shall be acceptable to the Commissioner. Economic enterprises which are or will be operated on a reservation(s) must comply with the requirements of applicable rules, resolutions and ordinances enacted by the governing body of the tribe.

#### § 91.6 Modification of loans.

(a) *United States direct loans.* Any modification of the terms and provisions of a United States direct loan agreement must be requested in writing by the borrower and approved by the Commissioner. The borrower will submit the request for modification and will indicate the section(s) of the loan agreement to be modified together with a justification for the modification. Requests for modifications of loan agreements will include an agreement to abide by the provisions of the regulations in this Part and future amendments and modifications thereof.

(b) *Relending program.* Any modification of the terms and provisions of a loan agreement of a borrower from an organization conducting a relending program must be in writing, agreed to by the borrower, and must be approved by the body authorized to act on loans and modifications thereof as provided in an approved declaration of policy and plan of operation or other plan. If a request for modification of a loan has been disapproved by the body authorized to act on the request, the rejected borrower may request the Commissioner to make a direct loan from the revolving loan fund if the Commissioner determines that the rejection is unwarranted.

#### § 91.7 Management and technical assistance.

Concurrent with the approval of a United States direct loan to finance an economic enterprise, the Commissioner will assure under Title V of the Indian Financing Act of 1974 that competent management and technical assistance is available to the borrower consistent with the borrower's knowledge and experience and the nature and complexity of the

economic enterprise being financed. Assistance may be provided by available Bureau of Indian Affairs staff, other government agencies, including states, the tribe or other sources which the Commissioner considers competent to provide needed assistance. Contracting for management and technical assistance may be used only when adequate assistance is not available without additional cost. Contracts for providing borrowers with competent management and technical assistance shall be in accordance with applicable Federal Procurement Regulations and the Buy Indian Act of April 30, 1908, chapter 153 (35 Stat. 71), as amended June 25, 1910, chapter 431, section 25 (36 Stat. 861).

#### § 91.8 Environmental and Flood Disaster Acts.

Loans will not be approved until there is assurance of compliance with any applicable provisions of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234, 87 Stat. 975), the National Environmental Policy Act of 1969 (Pub. L. 91-190), (42 U.S.C. 4321) and Executive Order 11514.

#### § 91.9 Preservation of historical and archaeological data.

(a) On United States direct loans from the revolving loan fund and modifications thereof to provide additional loan funds which will involve excavations, road or street construction, land development or disturbance of land on known or reported historical or archaeological sites, the Commissioner will take or require appropriate action to assure compliance with the applicable provisions of the Act of June 27, 1960 (74 Stat. 220; (16 U.S.C. 469)), as amended by the Act of May 24, 1974 (Pub. L. 93-291, 88 Stat. 174).

(b) On loans made by relending organizations conducting a relending program using revolving loan funds, the body authorized to act on loan applications and modifications thereof will, at the time of taking action on a loan or request for modification, inform the applicant of the applicability of this Act to the loan and advise the Commissioner of compliance or the need to obtain compliance.

#### § 91.10 Federal Reserve Regulation Z and Fair Credit Reporting Act.

(a) United States direct loans and loans made by a relending organization are subject to the provisions of Federal Reserve Regulation Z (Truth in Lending, 12 CFR Part 226; Pub. L. 91-508, 84 Stat. 1127). Economic enterprises which extend credit and require payment of finance charges on unpaid balances will determine the applicability of Regulation Z and comply with the requirements thereof. The Commissioner will issue any necessary instructions to assure compliance with Regulation Z on United States direct loans.

(b) Relending organizations, through their committee or other body authorized to act on loan matters on its behalf, will

assure compliance with the applicable provisions of this Act.

(c) The Commissioner will require adherence to the provisions and requirements of Title VI of the Fair Credit Reporting Act in making United States direct loans. Relending organizations, through the body authorized to act on credit matters, will require compliance with the requirements of the Fair Credit Reporting Act.

#### § 91.11 Interest.

(a) The interest to be charged on loans by the United States shall be at a rate determined by the Secretary of the Treasury in accordance with section 104, Title I, of the Indian Financing Act of 1974 (Pub. L. 93-262, 88 Stat. 77). The interest rate shall be determined monthly and shall be effective on advances made on loans during the current calendar month. The interest rate shall be stated in the promissory note(s) executed by the borrower(s) evidencing the advance(s).

(b) Additional charges to cover loan administration costs may be determined and charged borrowers.

(c) Educational loans may provide for waiver of interest accruals while the borrower is in school or in military service. Interest shall start on the first day of the month following one year from the date of completion of the educational course or receipt of a degree for which the loan was made. If the course is not completed, interest shall start on the first day of the month following the date the borrower drops out of school. For borrowers in the military service, interest will start on the first day of the month following discharge from service, or following completion of his or her initial enlistment term or four years, whichever is less. Military service for the purpose of this paragraph does not include activities or service in a reserve unit or National Guard which is intermittent or of a duration of less than six months.

(d) The interest rate on loans made by relending organizations which are conducting relending programs shall not be less than the rate the organization pays on its loan(s) from the United States. Relending organizations which adopt and follow the same procedure in calculating interest on educational loans as is followed on educational loans made by the United States, will not be charged interest on loans from the United States on the amount outstanding on educational loans during the period the organization is not charging its borrowers interest.

(e) Interest rates on loan advances made by the United States as shown on promissory notes dated before April 12, 1974, will remain in effect until the loan is paid in full, refinanced, or modified to extend the repayment terms. Unless otherwise specifically provided in a loan contract, the interest rate on advances made after April 12, 1974, will be at a rate determined pursuant to section 104 of Title I of the Indian Financing Act of 1974. The interest rate on loans for ex-

pert assistance will be at a rate established in § 91.25 herein.

#### § 91.12 Records and reports.

Loan agreements between the United States and tribes, corporations, partnerships, cooperative associations and individual Indians for financing economic enterprises, and to relending organizations, will require that borrowers establish and maintain accounting and operating records that are satisfactory to the Commissioner and submit written reports as required by the Commissioner. The records, accounts, and loan files shall be available for examination and audit by the Commissioner at any reasonable time. Unless an exception is approved by the Commissioner, borrowers will be required to have an annual audit made of the records of relending programs and economic enterprises financed with revolving loan funds, by a certified public accountant or a firm of certified public accountants or other qualified public accountants satisfactory to the Commissioner.

#### § 91.13 Security.

(a) United States direct loans shall be secured by such security as the Commissioner may require. A lack of security will not preclude the making of a loan if the proposed use of the funds is sound and the information in the application and supporting papers correctly show that expected income will be adequate to pay all expenses and the loan principal and interest payments, indicating reasonable assurance that the loan will be repaid. Loans made by relending organizations conducting a relending program using revolving loan funds will require borrowers to give security for loans, if available, but the absence of security will not preclude the making of a loan if the proposed use of the funds is sound and the information in the application and supporting papers correctly show that expected income will be adequate to pay all expenses and the loan principal and interest payments, indicating reasonable assurance that the loan will be repaid. The declaration of policy and plan of operation of relending organizations conducting relending programs will include provisions covering the type and amount of security to be taken to secure loans made.

(b) Land purchased by an individual Indian with the proceeds of a loan and land already held in trust or restricted status by the individual Indian may be mortgaged as security for a loan in accordance with 25 CFR 121.34 and the Act of March 29, 1956 (70 Stat. 62; (25 U.S.C. 483a)). Mortgages of individually held trust or restricted land will include only an acreage of the borrower's land which the Commissioner determines is necessary to protect the loan in case of default. On proposed foreclosures which involve the sale of individually held trust or restricted land given as security for a loan, the tribe of the reservation on which the land is located will be notified in writing at least thirty calendar days

in advance of the anticipated date of sale. Land purchased by a tribe with the proceeds of a loan from the revolving loan fund with title taken in a trust or restricted status, and land already held in a trust or restricted status by a tribe may not be mortgaged as security for a loan.

(1) Title to any land purchased by a tribe or by an individual Indian with revolving loan funds may be taken in trust or restricted status unless the land is located outside the boundaries of a reservation or a tribal consolidation area approved by the Secretary. Title to any land purchased by a tribe or an individual Indian which is outside the boundaries of a reservation or approved consolidation area may be taken in trust if the purchaser was the owner of trust or restricted interests in the land before the purchase. Otherwise, title shall be taken in the name of the purchaser without any restrictions on alienation, control, or use.

(c) Mortgages of leasehold interests in land held in trust or restricted status by an individual Indian, may be taken for the purpose of borrowing capital for the development and improvement of the leased premises when permitted in the lease or lease modification agreement. Such mortgages must be approved by the lessor and Commissioner. (70 Stat. 62 (25 U.S.C. 483a)).

(d) Individuals may give assignments of income from trust property as security for loans. Tribes may give assignments of trust income as security for loans provided that the assignment shall be specific as to the source(s) of income being assigned. All assignments of trust income require approval by the Commissioner before becoming effective.

(e) Chattels may be given as security for a loan. A mortgage on chattels, the title to which is known to be in trust, requires Commissioner approval. Non-trust chattels may be mortgaged without approval of any federal official.

(f) Crops grown on lands held in trust or restricted status for the benefit of an individual Indian may be given as security for a loan when approved by the Commissioner. Crops grown on leased, trust or restricted land may be given as security for a loan when permitted by the provisions of a lease or when the owner gives written consent. Approval of the lien document by the Commissioner is required. Crops grown on trust or restricted land held by a tribe which has been assigned to an individual for use may be given as security for a loan, provided the terms of the assignment permit the assignee to give the crops as security for a loan or the tribe's governing body specifically gives consent. The lien document requires Commissioner approval. Crops grown on non-trust or non-restricted land may be mortgaged without the approval of any federal official.

(g) Title to any personal property purchased with a loan shall be taken in the name of the purchaser and mortgaged to secure the loan unless the loan is otherwise adequately secured. Tribes must adhere to the provisions of their

constitutions and bylaws, corporate charters, or other organizational documents when mortgaging tribal property and assigning trust income as security for loans.

(h) Relending organizations receiving a loan from the United States for relending shall be required to assign to the United States as security for the loan all securities acquired in connection with loans made to its members, sub-organizations, or associations from such funds, unless the Commissioner determines that repayment of the loan to the United States is otherwise reasonably assured. Funds advanced to finance a tribal economic enterprise shall be secured by an assignment of net income and net assets of the economic enterprise, unless the Commissioner determines that it is not feasible to require an assignment or that repayment of the loan to the United States is otherwise reasonably assured.

(i) Securing documents or financing statements shall be filed or recorded in accordance with applicable state or federal laws except for those customarily filed in Bureau of Indian Affairs offices. Mortgages on documented vessels will be filed at the customs house designated as the home port of the vessel as shown on the marine document.

**§ 91.14 Maturity.**

The maturity of any United States direct loan shall not exceed thirty years. Loans made will be scheduled for repayment at the earliest possible date consistent with the purpose of the loan and the repayment capacity of the borrower.

**§ 91.15 Penalties on default.**

Unless otherwise provided in the loan agreement between the United States and a borrower, failure on the part of a borrower to conform to the terms of the loan agreement will be deemed grounds for the taking of any one or all of the following steps by the Commissioner:

(a) Discontinue any further advance of funds contemplated by the loan agreement.

(b) Take possession of any or all collateral given as security and in the case of individuals, corporations, partnerships or cooperative associations, the property purchased with the borrowed funds.

(c) Prosecute legal action against the borrower or against officers of corporations, tribes, bands, credit associations, cooperative associations, and other organizations.

(d) Declare the entire amount advanced immediately due and payable.

(e) Prevent further disbursement of credit funds under the control of the borrower.

(f) Withdraw any unobligated funds from the borrower.

(g) Require relending organizations conducting a relending program to apply all collections on loans to liquidate the debt to the United States.

(h) Take possession of the assets of a relending organization conducting a relending program and exercise or arrange to exercise its powers until the Commissioner has received acceptable assurance

of its repayment of the revolving loan and compliance with the provisions of the terms of the loan agreement.

(i) Liquidate, operate or arrange for the operation of economic enterprises financed with revolving loans made to individuals, tribes, corporations, partnerships and cooperative associations until the indebtedness is paid or until the Commissioner has received acceptable assurance of its repayment and compliance with the terms of the loan agreement.

**§ 91.16 Default on loans made by relending organizations.**

Relending organizations conducting relending programs using revolving loan funds will follow prudent lending practices in making and servicing loans and take appropriate actions to protect their interests in the security given to secure repayment of loans. Declarations of policy and plans of operation shall include procedures which will be followed in acting to correct a default, such as modification of loan agreement or foreclosure and liquidation of security. Relending organizations employing a general counsel will refer legal questions on foreclosure procedures and sale of security to their counsel.

**§ 91.17 Uncollectible loans made by the United States.**

If the Secretary determines that a United States direct loan is uncollectible in whole or in part or is collectible only at an unreasonable cost or when such actions would in his judgment be in the best interest of the United States, he may cancel, adjust, compromise, or reduce the amount of any loan or any portion of any loan made from the revolving loan fund. The Commissioner may adjust, comprise, subordinate or modify the terms of any mortgage, lease, assignment, contract, agreement or other document taken as security for loans. The cancellation of all or part of a loan shall be effective only after the following steps have been taken:

(a) The Secretary submits to the Congress a report on adjustments made during the preceding fiscal year with recommendations for cancellations for the current fiscal year.

(b) Congress by concurrent resolution approves the cancellation within sixty legislative days after receipt of the report and recommendations or,

(c) Congress does not take action approving or disapproving the cancellation within sixty legislative days after receipt of the report.

(47 Stat. 564 (25 U.S.C. 386a))

**§ 91.18 Uncollectible loans made by relending organizations.**

(a) Relending organizations conducting relending programs using revolving loan funds may, when approved by the Commissioner, charge off as uncollectible all or part of the balance of principal and interest owing on loans which are considered to be uncollectible. Usually a charge off includes both principal and interest and provides for cessation of in-

terest accruals on the principal balance owing as of the date of the charge off.

(b) Action to charge off a loan will be in the form of a resolution enacted by the committee or body authorized and responsible for actions on loan matters for the relending organization. Before action is taken to charge off a loan as uncollectible, the lender will make an effort, to the extent feasible, to liquidate the security given for a loan and apply the net proceeds as a repayment on the balance of principal and interest owed. The charge off of a loan by a relending organization as uncollectible will not reduce the principal balance owed to the United States. A charge off will not release the borrower of the obligation or the responsibility to make payments when his or her financial situation will permit. Charge off action will not release the lender of responsibility to continue its efforts to collect the loan.

#### § 91.19 Assignment of loans.

A borrower of a direct loan from the United States may not assign the loan agreement or any interest in it to a third party without the consent of the Commissioner. Relending organizations which are conducting relending programs may not assign the loan agreements of borrowers, or any interest therein, to third parties without the approval of the Commissioner and the borrower.

#### § 91.20 Tribal funds.

(a) Tribal trust funds may be advanced to tribes when authorized by Congress, requested by the governing body, and approved by the Commissioner for the establishment, operation or expansion of economic enterprises and for relending in accordance with paragraphs (b) and (c) of this section and § 91.21 herein. No interest shall be paid to the United States on such funds. The Commissioner may require the tribe to prepare a plan of operation for the enterprise and a plan establishing the policies and procedures for making loans to members from tribal funds.

(b) Support loans may be made to old, indigent or disabled members and loans may be made to cover burial expenses of members when there is reasonable assurance that the loans will be repaid. Interest may be waived on such loans. These loans, unless otherwise authorized by the Commissioner, shall be accounted for separately by the tribe and administered under a separate plan of operation from the plans governing housing, business, education and agricultural loans.

(c) In order for individuals to be eligible for loans from tribal funds, they must be members of the tribe to which the funds belong.

(d) Failure of a tribe to use tribal funds advanced under paragraph (a) of this section in accordance with the regulations and purposes for which requested shall be grounds for any or all of the following steps to be taken by the Commissioner:

(1) Discontinue further advance of funds requested.

(2) Require that the entire amount advanced be returned to the Treasury.

(3) Prevent further disbursement of tribal funds in the account of an economic enterprise or tribal relending program under the control of the tribe.

(4) Withdraw any unobligated funds from the tribe and deposit the same in the Treasury.

(5) Require that all repayments on loans made by the tribe be used to replace funds advanced to the tribe from the Treasury.

(6) In the case of tribal economic enterprises operated with tribal funds, liquidate, operate or arrange for the operation of the enterprise until all tribal trust funds advanced to the tribe have been replaced in the tribe's United States Treasury account, or until the Commissioner has received acceptable assurance that the funds will be replaced or that the enterprise will be operated in a manner satisfactory to him.

#### § 91.21 Relending by borrower.

(a) A relending organization may reloan funds loaned to it by the United States with the approval of the Commissioner. The Commissioner may authorize such lenders to approve applications for particular types of loans up to a specified amount.

(b) Loans shall be secured by such securities as the lender and the Commissioner may require. With the Commissioner's approval, mortgages of individually held trust or restricted land, leasehold interests, chattels, crops grown on trust or restricted land, and assignments of trust income may all be taken as security for loans.

(c) Title to personal property purchased with loans received from relending organizations using revolving loan funds in its relending program shall be taken in the name of the borrower.

(d) The term of a loan made by a relending organization conducting a relending program shall not extend beyond the maturity date of its loan from the United States, unless an exception is approved by the Commissioner and the organization has funds available from which to make scheduled repayment on its loan from the United States. Loans made will be scheduled for repayment at the earliest possible date consistent with the purpose for which a loan is made and the indicated repayment capacity of the borrower.

(e) When a relending organization making loans to its members from moneys borrowed from the United States rejects a loan application from an eligible member, the Commissioner may, in his discretion, make a direct loan from the revolving fund to the applicant if he determines the rejection is unwarranted. In making this determination, the Commissioner will review in detail the reasons why the organization rejected the application; the soundness and feasibility of the applicant's proposal; the applicant's repayment ability, industry and work habits; whether the applicant can obtain licenses or permits required by the tribe;

and assurance that the applicant has or can obtain the use of land required, if a loan is approved.

(f) Securing documents or financing statements shall be filed or recorded in accordance with federal or state law except those customarily filed in Bureau of Indian Affairs offices. Mortgages on documented vessels will be filed at the custom house designated as the home port of the vessel as shown on the marine document.

#### § 91.22 Repayments on United States direct loans.

Repayments on United States direct loans shall be made to the authorized collection officer of the Bureau of Indian Affairs who shall issue an official receipt for the repayment and deposit the collection into the revolving loan fund. Collections will first be applied to pay interest to date of payment and the balance applied on the principal installment due. Collections on loans made by relending organizations which have been declared in default in which the Commissioner has taken control of the assets of the program (including loans made with balances owing) will be made to an authorized collection officer of the Bureau of Indian Affairs who shall issue a receipt to the payor and deposit the collection in the United States revolving loan fund. The relending organization's loan from the United States will be credited with the amounts collected from its borrowers, with the collections applied first on interest accrued and the balance applied to the principal. Payments on United States direct loans may be made in advance of due dates without penalty.

#### § 91.23 Repayments on loans made by relending organizations.

Repayments on loans made by a relending organization conducting a relending program will be made to the officers of the lending organization or individuals designated and authorized in a declaration of policy and plan of operation. Collections on loans and other income to a relending program will be deposited in the lender's revolving loan account as designated in a declaration of policy and plan of operation. Collections on loans will be first applied to pay interest to date of payment with the balance applied to the principal.

#### § 91.24 Approval of articles of association and bylaws.

Articles of association and bylaws of relending organizations and cooperative associations require approval of the Commissioner if they make application for a revolving credit loan.

#### § 91.25 Loans for expert assistance for preparation and trial of Indian claims.

(a) Loans may be made to Indian tribes, bands and other identifiable groups of Indians from funds authorized and appropriated under the provisions of section 1 of the Act of November 4, 1963 (Pub. L. 88-168, 77 Stat. 301; 25 U.S.C. 70n-1), as amended by the Act of September 19, 1966 (Pub. L. 89-592, 80

Stat. 814) and section 2 of the Act of May 24, 1973 (Pub. L. 93-37, 87 Stat. 73). Loan proceeds may only be used for the employment of expert assistance, other than the assistance of counsel, for the preparation and trial of claims pending before the Indian Claims Commission. Applications for loans will be submitted on forms approved by the Commissioner and shall include a justification of the need for a loan. The justification shall include a statement from the applicant's claims attorney regarding the need for a loan. The application will be accompanied by a statement signed by an authorized officer of the applicant certifying that the applicant does not have adequate funds available to obtain and pay for the expert assistance needed. The Superintendent and the Area Director will attest to the accuracy of the statement or point out any inaccuracies. Loans will be approved by issuance of a commitment order by the Commissioner.

(b) No loan shall be approved if the applicant has funds available on deposit in the United States Treasury or elsewhere in an amount adequate to obtain the expert assistance needed or if, in the opinion of the Commissioner, the fees to be paid the experts are unreasonable on the basis of the services to be performed by them.

(c) Contracts for the employment of experts are subject to the provisions of 25 U.S.C. 81 and require approval by the Commissioner.

(d) Vouchers or claims submitted by experts for payment for services rendered and reimbursement for expenses will be in accordance with the provisions of the expert assistance contract and shall be sufficiently detailed and itemized to permit an audit to determine that the amounts are in accordance with the contract. Vouchers or claims shall be reviewed by the borrower's claims attorney who will certify on the last page of the voucher or by attachment thereto, that the services have been rendered and payment is due the expert and that expenses and charges for work performed are in accordance with the provisions of the contract.

(e) Requests for advances under the loan agreement shall be accompanied by a certificate signed by an authorized officer of the borrower certifying that the borrower does not have adequate funds available from its own financial resources with which to pay the expert. The Superintendent and Area Director will attest to the accuracy of the statement or point out inaccuracies. A copy of the voucher or claim from the expert will accompany the request for advance.

(f) Loan funds will be advanced only as needed to pay obligations incurred under approved contracts for expert assistance. The funds will be deposited in a separate account, shall not be commingled with other funds of the borrower, and shall not be disbursed for any other purpose.

(g) Loans shall bear interest at the rate of 5½ percent per annum from the date funds are advanced until the loan is repaid.

(h) The principal amount of the loan advanced plus interest shall be repayable from the proceeds of any judgment received by the borrower at the time funds from the award become available to make the payment.

(77 Stat. 301 (25 U.S.C. 70n-1 to 70n-7))

MORRIS THOMPSON,  
Commissioner of Indian Affairs.

[FR Doc.75-2106 Filed 1-22-75;8:45 am]

Title 29—Labor

CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

PART 1925—SAFETY AND HEALTH STANDARDS FOR FEDERAL SERVICE CONTRACTS

Recordkeeping Requirements

Pursuant to authority in the Service Contract Act of 1965 (41 U.S.C. 351 et seq.) and in Secretary of Labor's Order No. 12-71 (36 FR 8754), § 1925.3 of Title 29, Code of Federal Regulations, is revised in order to provide uniformity in the recordkeeping requirements of both the McNamara-O'Hara Service Contract Act (41 U.S.C. 351 et seq.) and the Williams-Steiger Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

Good cause is found for not providing notice and public procedure concerning this amendment. Notice and public procedure are found unnecessary because Federal Service contractors who were already required to comply with the recordkeeping requirements of the Occupational Safety and Health Act, are by this amendment relieved of maintaining duplicative records. For the above reason also, this amendment does not increase the obligation of persons affected thereby and accordingly shall become effective January 23, 1975.

Section 1925.3 of Title 29, Code of Federal Regulations, is revised to read as follows:

§ 1925.3 Records.

Every contractor or subcontractor shall comply with the recordkeeping requirements of 29 CFR Part 1904.

(Sec. 4, 79 Stat. 1034, 86 Stat. 789 (41 U.S.C. 351 et seq.))

Signed at Washington, D.C. this 16th day of January, 1975.

JOHN STENDER,  
Assistant Secretary of Labor.

[FR Doc.75-2126 Filed 1-22-75;8:45 am]

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

Colorado Plan—Approval of Revised Developmental Schedule

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations, provides procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter referred to as the Act) for review of changes and progress in the development and implementation of State plans which have

been approved in accordance with section 18(c) of the Act and Part 1902 of this chapter. On September 12, 1973, a notice was published in the FEDERAL REGISTER (38 FR 25172) of the approval of the Colorado plan and of the adoption of Subpart M of Part 1952 containing the decision. On April 10, 1974, the State of Colorado submitted a supplement to its plan which contained a revised developmental schedule. On July 2, 1974, a notice was published in the FEDERAL REGISTER (39 FR 24376) concerning the submission of the supplement to the Assistant Secretary for Occupational Safety and Health and the fact that the question of approval was in issue before him. On December 11, 1974, the State submitted a further revision and clarification of the developmental schedule which differed in some respects from the one submitted on April 10, 1974, and published in the FEDERAL REGISTER in July.

2. *Issues.* Section 1952.193 of Subpart M sets forth the developmental schedule under which the plan will meet the criteria of section 18(c) of the Act and Part 1902 within three years following commencement of the plan's operations. The supplement to the plan concerns a developmental schedule which has been revised because standards and regulations were not promulgated by the State as soon as anticipated. The Colorado Occupational Safety and Health Standards Board which is responsible for the development of standards, regulations concerning variances and rules of procedure for review of appeals and citations was not appointed by the Governor until December 1973.

In addition the proposed Colorado standards had not received approval by the Assistant Secretary. Fifty days after its first meeting, the Board temporarily adopted all Federal standards in effect as of March 1, 1974. Accordingly, enforcement operations under the Colorado plan did not commence until that date.

As approved, the Colorado plan contained a clarification dated February 16, 1973, that a decision concerning a Management Information System would be made by June 30, 1974. The State had advised that the delay in the commencement of enforcement operations has shortened the reporting experience upon which to develop the Management Information System and requested an extension of the time for implementation of the system to December 31, 1974. The State also advised this Department that it would submit a public employee plan by June 1, 1974, and begin implementation of the plan within 45 days after approval. The State further requested a revision of its developmental schedule to delay assuming jurisdiction over agriculture until after extensive State-wide hearings on a complete set of standards for agriculture and ranching operations.

No public comments were submitted concerning the plan change. The December revision of the developmental schedule eliminates the contingent date for the implementation of the public em-

ployee program and the promulgation and implementation of agricultural standards. It also provides for adoption of all Federal standards contained in 29 CFR Part 1910 (except for the maritime standards in §§ 1910.13 through 1910.16) and 29 CFR Part 1926, instead of the promulgation of permanent State standards, and extends the date to June 30, 1975, for development and implementation of a Management Information System. These revisions and clarifications do not substantively affect the State's commitments as proposed in the notice of July 2, 1974. (39 FR 24376).

3. *Location of the plan and its supplement for inspection and copying.* A copy of the supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Associate Assistant Secretary for Regional Programs, Room 850, 1726 M Street, N.W., Washington, D.C. 20210; Office of the Assistant Regional Director, Occupational Safety and Health Administration, Room 15010, Post Office Box 3588, 1961 Stout Street, Denver, Colorado 80202; and the Office of the Director of Labor, Department of Labor and Employment, 200 East Ninth Avenue, Denver, Colorado 80203.

4. *Decision.* After careful consideration, the revised developmental schedule for Colorado is approved under Part 1952.193. It has been determined that there are reasonable assurances that the State will complete the steps contained in the schedule within the three year development period. This decision incorporates the requirements of the Act and implementing regulations applicable to State plans generally. Accordingly, § 1952.193 in Subpart M of Part 1952 is amended as follows:

§ 1952.193 Developmental schedule.

The Colorado State plan is developmental. The following is the developmental schedule as amended and provided by the plan:

(a) Adoption of all Federal standards contained in 29 CFR Part 1910 (except for the maritime standards in §§ 1910.13 through 1910.16) and 29 CFR Part 1926 by August 1974.

(c) A public employee occupational safety and health program will be implemented in two stages: (1) Education and Technical Assistance Activities by January 1, 1975; and (2) Enforcement and Inspection Activities by February 1, 1975.

(f) Development and implementation of a Management Information System by June 30, 1975.

(g) Promulgation and enforcement of agricultural standards by July 1, 1975.

(h) Submission of amendments to the Colorado enabling legislation to the 1975 Session of the Colorado General Assembly.

(Secs. 8(g)(2), 18, Pub. L. 91-596, 84 Stat. 1600, 1608 (29 U.S.C. 657(g)(2), 667))

Signed at Washington, D.C. this 16th day of January 1975.

JOHN STENDER,  
Assistant Secretary of Labor.

[FR Doc. 75-2127 Filed 1-22-75; 8:45 am]

CHAPTER XX—OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION  
PART 2200—RULES OF PROCEDURE

Deletion of Existing § 2200.34 and Substitution of a New § 2200.34

The Occupational Safety and Health Review Commission has determined that it is appropriate to delete the existing § 2200.34 dealing with petitions for modification of abatement period and to substitute therefor a new section with the same number dealing with the same topic. Since notice and public procedure are not required under 5 U.S.C. 553 with respect to the amendment or change of procedural rules of the Occupational Safety and Health Review Commission, public comments are not being solicited on this change.

The practical effect of the change is to shift the responsibility of processing uncontested petitions for modification of the abatement requirements of a citation (29 U.S.C. § 659(c)) from this Commission to the Secretary of Labor. Contested cases will continue to be filed, docketed and processed by the Commission.

The hereinafter described changes to the Rules of Procedure shall become effective on February 18, 1975, and shall apply to all P.M.A.'s filed thereafter.

The action of the Commission is as follows: (1) Section 2200.34 as previously adopted on September 28, 1972, and published in the FEDERAL REGISTER of that date at 37 FR 20240, is hereby deleted in its entirety and the following is substituted in place thereof.

§ 2200.34 Petitions for modification of abatement period.

(a) An employer may file a petition for modification of abatement date when such employer has made a good faith effort to comply with the abatement requirements of a citation, but such abatement has not been completed because of factors beyond the employer's reasonable control.

(b) A petition for modification of abatement date shall be in writing and shall include the following information:

(1) All steps taken by the employer, and the dates of such action, in an effort to achieve compliance during the prescribed abatement period.

(2) The specific additional abatement time necessary in order to achieve compliance.

(3) The reasons such additional time is necessary including the unavailability of professional or technical personnel or of materials and equipment, or because necessary construction or alteration of

facilities cannot be completed by the original abatement date.

(4) All available interim steps being taken to safeguard the employees against the cited hazard during the abatement period.

(c) A petition for modification of abatement date shall be filed with the Area Director of the United States Department of Labor who issued the citation no later than the close of the next working day following the date on which abatement was originally required. A later-filed petition shall be accompanied by the employer's statement of exceptional circumstances explaining the delay.

(1) A copy of such petition shall be posted in a conspicuous place where all affected employees will have notice thereof or near each location where the violation occurred. The petition shall remain posted for a period of ten (10) days.

(2) Affected employees or their representatives may file an objection in writing to such petition with the aforesaid Area Director. Failure to file such objection within ten (10) working days of the date of posting of such petition shall constitute a waiver of any further right to object to said petition.

(3) The Secretary or his duly authorized agent shall have the authority to approve any petition for modification of abatement date filed pursuant to subparagraphs (b) and (c). Such uncontested petitions shall become final orders pursuant to sections 10 (a) and (c) of the Act.

(4) The Secretary or his authorized representative shall not exercise his approval power until the expiration of fifteen (15) working days from the date the petition was posted pursuant to paragraphs (c) (1) and (2) by the employer.

(d) Where any petition is objected to by the Secretary or affected employees, such petition shall be processed as follows:

(1) The petition, citation and any objections shall be forwarded to the Commission within three (3) working days after the expiration of the fifteen (15) day period set out in paragraph (c) (4).

(2) The Commission shall docket and process such petition in the same manner as any other contested case, except that all hearings on such petitions shall be handled in an expeditious fashion.

(3) An employer petitioning for a modification of abatement period shall have the burden of proving in accordance with the requirements of 29 U.S.C. § 659 (c), that such employer has made a good faith effort to comply with the abatement requirements of the citation and that abatement has not been completed because of factors beyond the employer's control.

(4) Within ten (10) working days after the receipt of notice of the docketing by the Commission of any petition for modification of abatement date, each objecting party shall file a response setting