amended, 75 Stat. 469, as amended, 81 Stat. 120, as amended, 85 Stat. 23, 52 Stat. 57, as amended, 79 Stat. 1197, as amended, 52 Stat. 39, as amended, 52 Stat. 60, as amended, 52 Stat. 61, as amended, 55 Stat. 88, as amended, 81 Stat. 856, as amended, 52 Stat. 66, as amended, 72 Stat. 995, as amended; 7 U.S.C. 1313, 1314b, 1314d, 1314e, 1344, 1344b, 1347, 1352, 1353, 1358, 1358a, 1375, 1378)

Effective date: April 13, 1976.

Signed at Washington, D.C. on April 5, 1976.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.76-10541 Filed 4-12-76;8:45 am]

CHAPTER X—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; MILK), DEPARTMENT OF AGRICULTURE

[Milk Order No. 124]

PART 1124—MILK IN THE OREGON-WASHINGTON MARKETING AREA

Order Suspending Certain Provisions

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the Oregon-Washington marketing area.

It is hereby found and determined that for the months of April through July 1976 the following provisions of the order do not tend to effectuate the declared policy of the Act and are therefore suspended:

1. In § 1124.11(a), "and from whom at least three deliveries are received at a pool plant during the month", and

2. In § 1124.11(b), "an[1] from whom at least three deliveries are received during the month at his pool plant(s)".

STATEMENT OF CONSIDERATION

This action suspends for April through July 1976, the requirement that three deliveries of a producer's milk be received at a pool plant during the month to qualify his milk for diversion to a nonpool plant.

The order now requires that at least three deliveries of milk of a producer must have been received at a pool plant during the month for a producer to qualify his milk for diversion.

The suspension was requested by the Farmers Cooperative Creamery, Portland Independent Milk Producers Association, and Corvallis Milk Producers Association who, collectively, represent a substantial number of producers supplying the market. The basis for their request is that current marketing conditions require the associations to handle an increasing quantity of reserve milk during the coming months of relatively heavy milk production. Without the suspension, the cooperative associations would be forced to make uneconomic shipments of producer milk to qualify it for pooling during the coming period of heavy milk production.

The suspension is based upon a public hearing held for this order on March 10–11, 1976, at Beaverton, Oregon. At the hearing, the principal producer organizations (including the three petitioners for suspension action), representing a majority of the producers on the market, together with a proprietary handler, proposed and supported relaxing the requirement that at least three deliveries of a producer's milk must be received at a pool plant to qualify such milk for diversion to a nonpool plant. Under their proposal, no limit would be placed on the number of days of delivery that a producer's milk may be diverted to nonpool plants during the months of December through August. During the months of September through November a producer would be required to make at least one delivery to a pool plant during each of such months to be qualified for diversion to a nonpool plant. There was no opposition testimony to this proposal.

The record evidence indicates that certain cooperative handlers in the market have found it difficult at times to qualify all their members for producer status under the order because of the three delivery diversion requirement. Witnesses pointed out that unnecessary hauling costs are incurred in connection with meeting the three delivery requirement, particularly during the months of heavy milk production when a greater quantity of market reserves must be moved to nonpool plants for manufacturing.

In view of the considerations set forth herein, it is deemed appropriate to suspend the three deliveries requirement for the months of April through July 1976. These four months generally represent a period in which milk production is seasonally heaviest in relation to demand in the market. The four-months fall within the 9-month period of the year that no qualifying deliveries would be required for milk diversions, under the proposal supported at the hearing.

This interim suspension action will permit greater flexibility in the movement of market reserves direct from farm to manufacturing plants pending any amendatory procedures based upon the March 1976 hearing.

With the flush production period beginning generally in April, any delay in the relaxation of the diversion qualification requirement beyond this time could result in loss of producer status for some producers, long associated with the fluid market. This suspension is the only means available to the Department for reasonably ensuring that the diversion provisions, now under review on the basis of record evidence, may not be a contributing factor to market disorder during the April-July period this year.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) This suspension is necessary to reflect current market conditions and to maintain orderly marketing conditions in the marketing area since, under the circumstances described herein, the most efficient method of handling the market's reserve milk supply is by diversion direct from producer's farms to milk manufacturing plants. This suspension will permit (during the months of April through July, 1976) the milk of a producer to be so diverted without such producer having to make the three qualifying deliveries to a pool plant. The suspension will permit greater flexibility in the movement of market reserves to manufacturing plants pending the outcome of a public hearing held March 10–11, 1976, at which a proposal to reduce the number of pool plant deliveries required to qualify for diversion was reviewed for this order.

(b) The suspension does not require of persons affected substantial or extensive preparation prior to the effective date. Therefore, good cause exists for making this order effective with respect to producer milk deliveries during April, May, June, and July 1976.

It is therefore ordered, That the aforesaid provisions of the order are hereby suspended for the months of April through July 1976.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Effective date: April 13, 1976.

Signed at Washington, D.C., on: April 8, 1976.

RICHARD L. FELTNER,
Assistant Secretary.

[FR Doc.76-10628 Filed 4-12-76;8:45 am]

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

PART 1406—REWARDS

Rescission of Part

The Executive Vice President of the Commodity Credit Corporation has determined that the regulations contained in this part are obsolete. The program on which the regulations are based is no longer in effect. He has also found that notice and public procedure for the rescission of this part are unnecessary and are not in the public interest. Accordingly, 7 CFR, Part 1406 is hereby rescinded.

Effective date: April 13, 1976.

Signed at Washington, D.C., on April 5, 1976.

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

[FR Doc.76-10545 Filed 4-12-76;8:45 am]

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

PART 1434—HONEY

Subpart—Standards for Approval of Warehouses for Extracted Honey

The only substantive change under this revision is the elimination of the restrictive requirement for performance bonds or other security covering the obligations of warehousemen storing and

handling extracted honey under Commodity Credit Corporation programs. Accordingly, it is determined that compliance with the notice of proposed rulemaking procedures is unnecessary and contrary to the public interest.

The regulations appearing in this subpart which were published on July 22, 1970 (35 FR 11691), and amended on March 13, 1974 (39 FR 9656), are revised to read as follows:

Sec.
1434.50 General statement and administration.
1434.51 Basic standards.
1434.52 Bonding requirements for net worth.
1434.53 Examination of warehouses.
1434.54 Exceptions.
1434.55 Approval of warehouse; requests for reconsideration.
1434.56 Exemption from requirements.

AUTHORITY: Sec. 4, 62 Stat. 1070, as amended (15 U.S.C. 714b).

§ 1434.50 General statement and administration.

(a) This subpart prescribes the requirements which must be met by a warehouseman in the United States or Puerto Rico who desires the initial or continuing approval by Commodity Credit Corporation (hereinafter referred to as the "CCC") of his warehouse(s) for the storage and handling, under CCC contracts, of extracted honey (hereinafter referred to as "honey"), either in bulk or in containers meeting specifications contained in the applicable honey price support regulations, which is owned by CCC or held by CCC as security for price support loans. This subpart also prescribes the procedures to be followed by a warehouseman in obtaining such approval.

(b) Copies of the storage contract and other forms required to obtain approval under this subpart may be obtained from the Prairie Village Agricultural Stabilization and Conservation Service Commodity Office, U.S. Department of Agriculture, Post Office Box 8377, Shawnee Mission, Kansas 66208 (hereinafter referred to as "the Prairie Village Office").

(c) A warehouse must be approved by the Prairie Village Office and a storage contract must be entered into by CCC and the warehouseman before such warehouse will be used by CCC. The approval of a warehouse or the entering into of a storage contract does not constitute a commitment that the warehouse will be used by CCC, and no official or employee of the U.S. Department of Agriculture is authorized to make any such commitment.

(d) A warehouseman, in aplying for aproval under this subpart, shall submit to CCC at the Prairie Village Office:

(1) A completed Form CCC–55, "Application for Approval of Warehouse for Honey Storage Contract".

(2) A current financial statement on Form TW–51, "Financial Statement", supported by such supplemental schedules as may be requested. Such statement shall show the financial condition of the warehouseman as of a date not earlier than ninety (90) days prior to the date of the warehouseman's application or such other date as may be established by CCC. Subsequent financial statements shall be furnished annually and at such other times as may be required by CCC. If the warehouseman employs the services of a public accountant, the financial statement must be certified or otherwise authenticated by the public accountant to the extent consistent with the accountant's verification of facts contained in the statement. Such certification or authentication may be separate from the financial statement. Only one financial statement is required for a chain of warehouses owned or operated by a single business entity.

(3) Evidence that he is licensed by the appropriate licensing authority as required under § 1434.51(b)(2) and such other documents or information as CCC may require.

§ 1434.51 Basic standards.

Unless otherwise provided in this subpart, each warehouseman and each of the warehouses owned or operated by him which is to be approved, or has been approved, under this subpart for the storage and handling of honey under CCC programs shall meet the following standards:

(a) Neither the warehouseman nor any of his officials or supervisory employees is suspended or debarred under CCC's regulations governing suspension and debarment, Part 1407 of this chapter, for any of the causes set forth in § 1407.5 thereof.

(b) The warehouseman shall:

(1) Be an individual, partnership, corporation, association, or other legal entity engaged in the business of storing or handling honey for hire. The warehouseman, if a corporation, shall be authorized by its charter to engage in such business.

(2) Have a current and valid license for the kind of storage operation for which he seeks approval if such a license is required by State or local laws or regulations.

(3) (i) Have a net worth, if the honey is to be stored in drums or containers, equal at least to $10,000.

(ii) Have a net worth, if the honey is to be stored in bulk, equal at least to the product obtained by multiplying the maximum storage capacity of the warehouse (the total quantity of honey which the warehouse can accommodate when stored in the customary manner) times ten (10) cents per gallon, but in no case shall the net worth be less than $10,000 nor need it exceed $100,000. If the required minimum net worth exceeds $10,000, the warehouseman may satisfy any deficiency in net worth between the $10,000 and such required minimum net worth by furnishing such bonds (or acceptable substitute security) meeting the requirements of § 1434.52.

(4) Have available sufficient funds to meet ordinary operating expenses.

(5) Have satisfactorily corrected, upon request by CCC, any deficiencies in the performance of any storage contract with CCC.

(6) Maintain complete inventory and operating records.

(c) (1) The warehouseman, his officials, or his supervisory employees in charge of the warehouse operation shall have the necessary experience, organization, technical qualifications, and skills in the warehousing business as related to honey to enable them to provide proper storage and handling services, and

(2) The warehouseman, his officials, and each of his supervisory employees in charge of the warehouse operations shall have a satisfactory record of integrity, judgment, and performance.

(d) The warehouse shall:

(1) Be of sound construction, in good state of repair, and adequately equipped to handle, store, and preserve the honey.

(2) Be under the control at all times of the contracting warehouseman.

(3) Not be subject to greater than normal risk of fire, flood, or other hazards.

(4) Have available at the warehouse adequate and operable firefighting equipment for the type of warehouse and commodity involved.

(5) Have a work force and equipment available to complete the loadout within forty-five (45) working days of the total quantity of honey stored for CCC.

(6) Be located on a railroad or waterway or have a suitable method of delivering the honey into railroad cars at a rail delivery point.

§ 1434.52 Bonding requirements for net worth.

A bond furnished by a warehouseman under this subpart must meet the following requirements:

(a) Such bond shall be executed by a surety company which: (1) Has been approved by the U.S. Treasury Department, and (2) maintains an officer or representative authorized to accept service of legal process in the State where the warehouse is located.

(b) A bond furnished by a warehouseman shall be on Form CCC–33, "Warehouseman's Bond—Storage Agreement", except that a bond furnished under State law (statutory bond) or under operational rules of nongovernmental supervisory agencies may be accepted in an equivalent amount as a substitute for a bond running directly to CCC if: (1) CCC determines that it provides adequate protection to CCC, (2) it has been executed by a surety specified in paragraph (a) of this section or has a blanket rider and endorsement executed by such a surety with the liability of the surety under such rider or endorsement being the same as that of the surety under the original bond, and (3) is noncancellable for not less than ninety (90) days or includes a rider providing for not less than ninety (90) days' notice to CCC before cancellation. Excess coverage on a substitute bond for one warehouse will not be accepted or applied by CCC against insufficient bond coverage on other warehouses operated by a warehouseman.

(c) Cash and negotiable securities offered by a warehouseman may be accepted by CCC in lieu of the equivalent amount of required bond coverage. Any

such cash or negotiable securities accepted by CCC will be returned to the warehouseman when the period for which coverage was required has ended and there appears to CCC to be no liability under the storage agreement.

(d) A legal liability insurance policy may be accepted by CCC in lieu of the required amount of bond coverage provided such policy contains a clause or rider making the policy payable to CCC, CCC determines that it affords protection equivalent to a bond, and the Office of the General Counsel, U.S. Department of Agriculture, approves it for legal sufficiency.

§ 1434.53 Examination of warehouses.

Except as otherwise provided in this subpart, a warehouse will be examined by a person designated by CCC before it is approved by CCC for the storage or handling of honey and periodically thereafter to determine its compliance with CCC's standards and requirements.

§ 1434.54 Exceptions.

Notwithstanding any other provision of this subpart:

(a) The financial, bond, and original and periodic warehouse examination provisions of this subpart are not applicable to any warehouseman approved or applying for approval for the storage and handling of honey in containers if his warehouse is licensed under the U.S. Warehouse Act for such storage and handling of honey, but a special examination shall be made of such warehouse whenever such action is determined necessary.

(b) A Certificate of Competency issued by the Small Business Administration with respect to a warehouseman will be accepted by CCC as establishing conformance by the warehouseman with the standards prescribed in § 1434.51(b) (1), (3), and (4), (c)(1) and (d), and the warehouseman will not be required to furnish bond coverage for a deficiency in net worth.

(c) A warehouseman who has a net worth of at least $10,000 but who fails, or whose warehouse fails, to meet one or more of the other standards of this subpart may be approved if:

(1) CCC determines that the warehouse services are needed and the warehouse storage and handling conditions provide satisfactory protection for the honey, and

(2) The warehouseman furnishes such additional bond coverage (or cash or acceptable negotiable securities or legal liability insurance policy) as CCC determines necessary to protect adequately its interests.

§ 1434.55 Approval of warehouses; requests for reconsideration.

(a) CCC will approve a warehouse if it determines that warehouse meets the standards set out in this subpart. CCC will forward a notice of approval to the warehouseman. Approval under this subpart does not relieve the warehouseman of responsibility of performing his obligations under any contract with CCC or any other agency of the United States. An approval will remain in effect until the storage contract expires or is otherwise terminated unless CCC sooner withdraws its approval.

(b) Except as otherwise provided in this subpart:

(1) CCC will not approve the warehouse if CCC determines that it does not meet the standards set out in this subpart.

(2) CCC may withdraw its approval of a warehouse if CCC determines that such warehouse ceases to meet such standards or if the warehouseman fails to perform his obligations under the storage contract.

(3) CCC will forward a notice of disapproval or withdrawal of approval to the warehouseman. The notice will state the cause(s) for such action. Unless the warehouseman or any of his officials or supervisory employees is suspended or debarred as provided in § 1434.51(a), CCC will approve, or reinstate the approval of, the warehouse upon the warehouseman establishing that he has remedied the cause(s) for CCC's action. If there appears to be a justifiable basis for suspension or debarment of the warehouseman or any of his officials or supervisory employees, CCC may defer action on an application for approval or reinstatement of approval or may withdraw approval pending a decision with respect to suspension or debarment proceedings.

(c) (1) If disapproval or withdrawal of approval by CCC is due to failure to meet the standards set forth in § 1434.51, other than the standard in paragraph (a) thereof, the warehouseman may, at any time after receiving notice of such action, request reconsideration of the action and present to the Director of the Prairie Village Office, orally or in writing, information in support of his request. The Director, upon consideration of such information, shall notify the warehouseman in writing of his determination. The warehouseman may, if the Director's determination is adverse to the warehouseman, obtain a review of the determination and an informal hearing in connection therewith by filing an appeal with the Deputy Administrator, Commodity Operations, ASCS. The time for filing appeals, form of request for appeal, nature of the informal hearing, determination, and reopening of the hearing shall be as prescribed by §§ 780.6, 780.7, 780.8, 780.9 and 780.10, respectively, of the ASCS regulations governing appeals, Part 780 of this title. In connection with such regulations, the warehouseman shall be considered to be a "participant".

(2) If disapproval or withdrawal of approval by CCC is due to failure to meet the standard set forth in § 1434.51(a), the warehouseman's rights of appeal and hearing shall be as provided in regulations governing suspension and debarment by CCC, Part 1407 of this chapter. After expiration of his suspension or debarment, a warehouseman may, at any time, apply for approval under this subpart.

§ 1434.56 Exemption from requirements.

If warehousing services in any area cannot be secured under the provisions of this subpart, no reasonable and economical alternative is available for securing such services for honey under CCC programs, the President or Executive Vice President, CCC, may exempt, in writing, applicants in such area from one or more of the standards of this subpart and may establish such other requirements as are considered necessary to satisfactorily safeguard the interests of CCC.

Effective Date: This revision shall be effective on April 13, 1976.

Warehousemen approved under prior regulations are not required to submit new applications for approval under this revision but are subject to the provisions of this subpart for continued approval to handle and store the commodities involved.

Signed at Washington, D.C., on April 5, 1976.

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

[FR Doc.76-10546 Filed 4-12-76;8:45 am]

Title 9—Animals and Animal Products

CHAPTER III—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, (MEAT AND POULTRY PRODUCTS INSPECTION), DEPARTMENT OF AGRICULTURE

FACILITIES FOR INSPECTION AND POULTRY PRODUCTS INSPECTION REGULATIONS

Overtime or Holiday Inspection Service, Schedule of Operations, and Billing

• *Purpose:* The purpose of this document is to delete the sections of the meat and poultry inspection regulations dealing with schedules of operations and to amend the sections relating to overtime. •

Statement of Considerations: On October 3, 1975, there was published in the FEDERAL REGISTER (40 FR 45798–45801) amendments to Part 307 of the Federal meat inspection regulation (9 CFR 307), and Part 381 of the poultry products inspection regulation (9 CFR 381), concerning overtime or holiday inspection service, schedules of operation and billings. These regulations were later modified by a publication in the FEDERAL REGISTER on October 31, 1975 (40 FR 50719).

The purpose of the October 3 document was to provide uniform requirements and procedures in establishments operating under Federal inspection relative to schedules of operation, overtime and holiday inspection services, and uniform billing procedures. Schedules of operation and some aspects of overtime and holiday inspection service had been negotiated between the National Joint Council of Food Inspection Locals, American Federation of Government Employees, and the Animal and Plant Health Inspection Service (APHIS).

Subsequent to negotiation, the agreement was referred to the Director of Personnel, United States Department of Agriculture, for approval pursuant to Section 15, Executive Order 11491. The Director of Personnel on January 12, 1976, disapproved Article XXIV, Section B, entitled "Standard Tours of Duty" on the ground that the provision, as it was intended to be implemented by the parties, violated 5 U.S.C. 5542(a).

Therefore, the portions of Parts 307 and 381 which were promulgated to implement Article XXIV, Section B, are amended as follows:

§ 307.4 [Amended]

1. Paragraph (d) of § 307.4 is amended by deleting subparagraphs (2) and (3) and by renumbering subparagraphs (4) and (5) as (2) and (3) respectively.

2. Section 307.5 is amended to read as follows:

§ 307.5 Overtime and holiday inspection service.

(a) The management of an official establishment, an importer, or an exporter shall pay the Animal and Plant Health Inspection Service $12.40 per hour per Program employee to reimburse the Program for the cost of the inspection service furnished on any holiday as specified in paragraph (b) of this section, or for more than 8 hours on any day, or more than 40 hours in any Administrative workweek Sunday through Saturday.

* * * * *

§ 381.37 [Amended]

3. Paragraph (d) of section 381.37 is amended by deleting subparagraphs (2) and (3) and by renumbering subparagraphs (4) and (5) as (2) and (3) respectively.

4. Section 381.38 is amended to read as follows:

§ 381.38 Overtime and holiday inspection service.

(a) The management of an official establishment, an importer, or an exporter shall pay the Animal and Plant Health Inspection Service $12.40 per hour per Program employee to reimburse the Program for the cost of the inspection service furnished on any holiday specified in paragraph (b) of this section; or for more than 8 hours on any day, or more than 40 hours in any administrative workweek Sunday through Saturday.

* * * * *

Since a situation exists that requires an immediate adoption of these amendments, it does not appear that further public participation in this proceeding would make additional information available to the Department which would warrant alteration of these amendments. Therefore, 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 amendments are impracticable and unnecessary.

The foregoing amendments shall become effective April 13, 1976.

Done at Washington, D.C., on: April 8, 1976.

F. J. MULHERN,
Administrator, Animal and Plant Health Inspection Service.

[FR Doc.76-10729 Filed 4-12-76;8:45 am]

Title 12—Banks and Banking

CHAPTER I—COMPTROLLER OF THE CURRENCY, DEPARTMENT OF THE TREASURY

PART 7—INTERPRETIVE RULINGS

Other Real Estate Owned

On February 27, 1976, the Comptroller of the Currency published in the FEDERAL REGISTER, 41 FR 8490 (1976), a proposed revision of 12 CFR 7.3025.

The revision would have required that "other real estate owned" be recorded at the lower of (a) cost, or (b) fair market value as substantiated by an independent appraisal obtained at the time of acquisition; (2) that the appraisal be reviewed annually and the book value be reduced to appraisal values; (3) that the book value of the assets should not be written up beyond cost as a result of an increase in the fair market value in subsequent years.

All comments received in response to the proposed revision have been carefully considered.

A. As a result of a complete review of the proposed revision and of comments received, errors have been corrected, some langauge has been clarified, and the following changes have been made to the proposed revision.

1. Paragraph (b) was added to indicate when former bank premises and real estate acquired for future expansion may become "other real estate owned."

2. Clarification was requested of the terms "as soon as" and "investment" in connection with the duty of the bank to dispose of other real estate as soon as a price sufficient to reimburse the bank for its investment and costs of acquisition can be arranged. It was also suggested that the five year period for disposition was not long enough. The term "as soon as" has now been eliminated from what is now paragraph (c) so that the only time requirement is that of the law which provides that no bank shall hold such real estate for a longer period than five years. This provision of the law cannot be changed by an interpretive ruling. It is the Comptroller's opinion that the law contemplates that real property acquired by a bank in the course of the business of banking but no longer needed for that purpose should not be retained for speculative purposes but should be disposed of, not necessarily in a depressed market but promptly in accordance with prudent banking judgment. This judgment may include the desirability of recovering accrued interest and other charges not included in book value.

3. A sentence was added to paragraph (c) to indicate the beginning of the five year period within which a bank must dispose of other real estate owned.

B. Certain other recommendations have been carefully considered but have not been accepted. The following suggestions were not accepted for the reasons assigned.

Some comments inquired whether the revised section superseded methods of disposition of "other real estate owned" authorized by § 7.3020 of this part. Section 7.3020 remains in effect.

2. It was suggested that paragraph (f) require a qualified rather than an independent appraiser. Although the Comptroller recognizes that some banks have fully qualified appraisers on their staff, it is his opinion that the independence of a bank employee could be difficult to determine. Therefore, the requirement for an independent appraiser is retained.

The revised ruling 12 CFR 7.3025 becomes effective as of January 1, 1976 as was stated in the proposed revision (41 FR 8490 (1976)). Amortization of other real estate is not required after that date. Amounts charged off after that date may be reinstated. Amounts charged off before that date may not be reinstated.

Part 7 of 12 CFR is amended by revising § 7.3025 to read as follows:

§ 3025 Other real estate owned.

(a) "Other real estate owned" is real estate acquired by a national bank:

(1) through purchases at sales under judgments, decrees or mortgages where the property was security for debts previously contracted.

(2) Through conveyance in satisfaction of debts previously contracted; or

(3) Through purchase to secure debts previously contracted.

(b) Former banking premises and property originally acquired for future expansion, for which banking use is no longer contemplated, will be considered "other real estate owned." A former banking house will be considered "other real estate owned" from the date of relocation to new banking quarters. When real estate is acquired for future expansion, utilization should be accomplished within a reasonable period, which normally will be considered not to exceed three years. After real estate acquired for future expansion has been held for one year, a board resolution with definitive plans for utilization must be available for inspection.

(c) The bank is under an affirmative duty to dispose of "other real estate owned" at a price sufficient to reimburse the bank for its investment and costs of acquisition. However, no national banking association shall hold "other real estate owned" for a longer period than five years. This five year period begins on the date legal title to the property is transferred to the bank except in instances described in paragraph (b) of this section. Supervisory remedies, including 12 U.S.C. 1818(b), will be utilized to ensure compliance.

(d) "Other real estate owned" should be initially recorded at the lower of cost or fair market value.

(1) Cost includes: The unpaid loan balance (excluding accrued and uncollected interest); major replacements or

renovations required to make the property salable; assessments; taxes accrued up to the time of acquisition; court costs, legal fees, title and recording fees due in connection with the acquisition; and similar costs incurred in acquiring the property.

(2) Fair market value must be substantiated by a current appraisal prepared by an independent qualified appraiser at the time of acquisition.

(e) The bank must obtain annually a new appraisal or a certification in letter form from an independent appraiser substantiating that the property has not declined in value. In the event that book value exceeds the fair market value, the difference must be charged off; however if a subsequent increase in fair market value occurs the book value shall not be written up beyond the original cost as described in (d)(1) of this section nor beyond the book value on December 31, 1975, whichever is less.

(f) Current documentation must be maintained reflecting the bank's continuing and diligent efforts to dispose of each parcel of "other real estate owned."

(g) If "other real estate owned" is an unfinished construction or development project, further prudent advances to complete the project may be included in investment cost. However, such additional advances will not be permissible unless the bank maintains on file evidence that the advances will result in a more salable property.

(h) After "other real estate owned" has been on the bank's books for four years and six months, the property must be publicly advertised for sale. Disposition of the property must occur through public or private sale within five years from the date of acquisition.

JAMES E. SMITH,
Comptroller of the Currency.

APRIL 8, 1976.

[FR Doc.76-10587 Filed 4-12-76;8:45 am]

CHAPTER IV—EXPORT-IMPORT BANK

PART 406—BOOK-ENTRY PROCEDURES

Book-Entry Eximbank Securities

On January 6, 1976, there was published in the FEDERAL REGISTER (41 FR 1086) a notice of proposed rulemaking to amend 12 CFR by establishing a new part 406 providing for proposed book-entry procedures applicable to securities heretofore and hereafter issued by or on behalf of the Export-Import Bank of the United States ("Eximbank"). The proposed addition authorizes Federal Reserve Banks to issue book-entry Eximbank securities by means of entries on their records, to effect conversions between book-entry Eximbank securities and definitive Eximbank securities and to otherwise service and maintain book-entry Eximbank securities. The proposed addition also provides rules for the transfer or pledge of book-entry Eximbank securities. Interested persons were given until February 15, 1976 to submit comments on the proposed rules.

No written comments have been received. In order to correct typographical or clerical errors, the following changes are made:

1. The reference in § 406.1(h) is changed from "the" to "a".

2. The first sentence of § 406.4(b) is changed to read as follows: "A transfer or pledge of transferable Eximbank securities, or any interest therein, which is maintained by a Reserve Bank (in its individual capacity or as a fiscal agent of the United States) in a book-entry account under this part, including securities in book-entry form under § 406.3(a)(3), is effected, and a pledge is perfected, by any means that would be effective under applicable law to effect a transfer or to effect and perfect a pledge of the Eximbank securities, or any interest therein, if the securities were maintained by the Reserve Bank in bearer definitive form."

3. § 406.8 is corrected by changing "in the Eximbank's symbol account with the Treasurer of the United States" to read "to the account of the United States Treasury under Eximbank's account symbol number".

Accordingly, with these changes, the proposed addition is hereby adopted as set forth below.

Effective Date. This part becomes effective on April 15, 1976.

WALTER C. SAUER,
First Vice President and Vice Chairman.

PART 406—BOOK-ENTRY PROCEDURES

Sec.
406.1 Definition of terms.
406.2 Authority of Reserve Banks.
406.3 Scope and effect of book-entry procedure.
406.4 Transfer or pledge.
406.5 Withdrawal of Eximbank Securities.
406.6 Delivery of Eximbank Securities.
406.7 Registered Debentures and Participation Certificates.
406.8 Servicing book-entry Eximbank securities; payment of interest, payment at maturity or upon call.

AUTHORITY: Sec. 2(a)(1), Pub. L. 79-173, 59 Stat. 526, as amended, (12 U.S.C. 635(a)(1)).

§ 406.1 Definition of terms.

In this part, unless the context otherwise requires or indicates:

(a) "Eximbank" means the Export-Import Bank of the United States.

(b) "Reserve Bank" means the Federal Reserve Bank of New York (and any other Federal Reserve Bank which agrees to issue Eximbank securities in book-entry form) as fiscal agent of the United States acting on behalf of Eximbank and when indicated acting in its individual capacity.

(c) "Eximbank security" means any obligation of Eximbank issued by Eximbank under the Export-Import Bank Act of 1945, as amended (12 U.S.C. 635 et seq.) in the form of a definitive Eximbank security or a book-entry Eximbank security.

(d) "Definitive Eximbank Security" means an Eximbank security in engraved or printed form.

(e) "Book-entry Eximbank Security" means an Eximbank security in the form of an entry made as prescribed in these regulations on the records of a Reserve Bank.

(f) "Pledge" includes a pledge of, or any other security interest in, Eximbank securities as collateral for loans or advances or to secure deposits of public monies or the performance of an obligation.

(g) "Date of call" is the date fixed in the authorizing resolution of the Board of Directors of Eximbank on which the obligor will make payment of the security before maturity in accordance with its terms.

(h) "Member bank" means any national bank, State bank, or bank or trust company which is a member of a Reserve Bank.

§ 406.2 Authority of Reserve Banks.

Each Reserve Bank is hereby authorized, in accordance with the provisions of this part, to (a) issue book-entry eximbank securities by means of entries on its records which shall include the name of the depositor, the amount, the loan title (or series) and maturity date; (b) effect conversions between book-entry eximbank securities and definitive eximbank securities; (c) otherwise service and maintain book-entry Eximbank securities; and (d) issue a confirmation of transaction in the form of written advice (serially numbered or otherwise) which specifies the amount and description of any securities, that is, loan title (or series) and maturity dates, sold or transferred, and the date of the transaction.

§ 406.3 Scope and effect of book-entry procedure.

(a) A Reserve Bank as fiscal agent of the United States acting on behalf of Eximbank may apply the book-entry procedure provided for in this part to any Eximbank securities which have been or are hereafter deposited for any purpose in accounts with it in its individual capacity under terms and conditions which indicate that the Reserve Bank will continue to maintain such deposit accounts in its individual capacity, notwithstanding application of the book-entry procedure to such securities. This paragraph is applicable, but not limited, to securities deposited:

(1) As collateral pledged to a Reserve Bank (in its individual capacity) for advances by it;

(2) By a member bank for its sole account;

(3) By a member bank held for the account of its customers;

(4) In connection with deposits in a member bank of funds of States, municipalities, or other political subdivisions; or

(5) In connection with the performance of an obligation or duty under Federal, State, municipal, or local law, or judgments or decrees of courts.

The application of the book-entry procedure under this paragraph shall not derogate from or adversely affect the relationships that would otherwise exist between a Reserve Bank in its individual capacity and its depositors concerning any deposits under this paragraph. Whenever the book-entry procedure is applied to such Eximbank securities, the Reserve Bank is authorized to take all action necessary in respect of the book-entry procedure to enable such Reserve Bank in its individual capacity to perform its obligations as depositary with respect to such Eximbank securities.

(b) A Reserve Bank as fiscal agent of the United States acting on behalf of Eximbank shall apply the book-entry procedure to Eximbank securities deposited as collateral pledged to the United States under Treasury Department Circulars Nos. 92 and 176, both as revised and amended, and may apply the book-entry procedure, with the approval of the Secretary of the Treasury, to any other Eximbank securities deposited with a Reserve Bank as fiscal agent of the United States.

(c) Any person having an interest in Eximbank securities which are deposited with a Reserve Bank (in either its individual capacity or as fiscal agent of the United States) for any purpose shall be deemed to have consented to their conversion to book-entry Eximbank securities pursuant to the provisions of this part, and in the manner and under the procedures prescribed by the Reserve Bank.

(d) No deposits shall be accepted under this section on or after the date of maturity or call of the securities.

§ 406.4 Transfer or pledge.

(a) A transfer or pledge of book-entry Eximbank securities to a Reserve Bank (in its individual capacity or as fiscal agent of the United States), or to the United States, or to any transferee or pledgee eligible to maintain an appropriate book-entry account in its name with a Reserve Bank under this part, is effected and perfected, notwithstanding any provisions of law to the contrary, by a Reserve Bank making an appropriate entry in its records of the securities transferred or pledged. The making of such an entry in the records of a Reserve Bank shall (1) have the effect of a delivery in bearer form of definitive Eximbank securities; (2) have the effect of a taking of delivery by the transferee or pledgee; (3) constitute the transferee or pledgee a holder; and (4) if a pledge, effect a perfected security interest therein in favor of the pledgee. A transfer or pledge of book-entry Eximbank securities effected under this paragraph shall have priority over any transfer, pledge, or other interest, theretofore or thereafter effected or perfected under paragraph (b) of this section or in any other manner.

(b) A transfer or pledge of transferable Eximbank securities, or any interest therein, which is maintained by a Reserve Bank (in its individual capacity or as a fiscal agent of the United States) in a book-entry account under this part, including securities in book-entry form under § 406.3(a)(3), is effected, and a pledge is perfected, by means that would be effective under applicable law to effect a transfer or to effect and perfect a pledge of the Eximbank securities, or any interest therein, if the securities were maintained by the Reserve Bank in bearer definitive form. For purposes of transfer or pledge hereunder, book-entry Eximbank securities maintained by a Reserve Bank shall, notwithstanding any provision of law to the contrary, be deemed to be maintained in bearer definitive form. A Reserve Bank maintaining book-entry Eximbank securities either in its individual capacity or as fiscal agent of the United States is not a bailee for purposes of notification of pledges of those securities under this paragraph, or a third person in possession for purposes of acknowledgment of transfers thereof under this paragraph. Where transferable Eximbank securities are recorded on the books of a depositary (a bank, banking institution, financial firm, or similar party, which regularly accepts in the course of its business Eximbank securities as a custodial service for customers, and maintains accounts in the names of such customers reflecting ownership of or interest in such securities) for account of the pledgor or transferor thereof and such securities are on deposit with a Reserve Bank in a book-entry account hereunder, such depositary shall, for purposes of perfecting a pledge of such securities or effecting delivery of such securities to a purchaser under applicable provisions of law, be the bailee to which notification of the pledge of the securities may be given or the third person in possession from which acknowledgment of the holding of the securities for the purchaser may be obtained. A Reserve Bank will not accept notice or advice of a transfer or pledge effected or perfected under this paragraph, and any such notice or advice shall have no effect. A Reserve Bank may continue to deal with its depositor in accordance with the provisions of this part, notwithstanding any transfer or pledge effected or perfected under this paragraph.

(c) No filing or recording with a public recording office or officer shall be necessary or effective with respect to any transfer or pledge of book-entry Eximbank securities or any interest therein.

(d) A reserve Bank shall, upon receipt of appropriate instructions, convert book-entry Eximbank securities into definitive Eximbank securities and deliver them in accordance with such instructions; no such conversion shall affect existing interests in such Eximbank securities.

(e) A transfer of book-entry Eximbank securities within a Reserve Bank shall be made in accordance with procedures established by the Bank not inconsistent with this part. The transfer of book-entry Eximbank securities by a Reserve Bank may be made through a telegraphic transfer procedure.

(f) All requests for transfer or withdrawal must be made prior to the maturity or date of call of the securities.

§ 406.5 Withdrawal of Eximbank securities.

(a) A depositor of book-entry Eximbank securities may withdraw them from a Reserve Bank by requesting delivery of like definitive Eximbank securities to itself or on its order to a transferee.

(b) Eximbank securities which are actually to be delivered upon withdrawal may be issued either in registered or in bearer form unless otherwise specified in the authorizing resolution of the Board of Directors of Eximbank.

§ 406.6 Delivery of Eximbank securities.

A Reserve Bank which has received Eximbank securities and effected pledges, made entries regarding them, or transferred or delivered them according to the instructions of its depositor is not liable for conversion or for participation in breach of fiduciary duty even though the depositor had no right to dispose of or take other action in respect of the securities. A Reserve Bank shall be fully discharged of its obligations under this part by the delivery of Eximbank securities in definitive form to its depositor or upon the order of such depositor. Customers of a member bank or other depository (other a Reserve Bank) may obtain Eximbank securities in definitive form only by causing the depositor of the Reserve. Bank to order the withdrawal thereof from the Reserve Bank.

§ 406.7 Registered bonds and notes.

No formal assignment shall be required for the conversion to book-entry Eximbank securities of registered Eximbank securities held by a Reserve Bank (in either its individual capacity or as fiscal agent of the United States) on the effective date of this part for any purpose specified in § 406.3(a). Registered Eximbank securities deposited thereafter with a Reserve Bank for any purpose specified in § 406.3 shall be assigned for conversion to book-entry Eximbank securities. The assignment, which shall be executed in accordance with the provisions of Subpart F of 31 CFR Part 306, so far as applicable, shall be to "Federal Reserve bank of _____ as fiscal agent of the United States acting on behalf of the Export-Import Bank of the United States for conversion to book-entry Eximbank securities."

§ 406.8 Servicing book-entry Eximbank securities; payment of interest, payment at maturity or upon call.

Interest becoming due on book-entry Eximbank securities shall be charged to the account of the United States Treasury under Eximbank's account symbol number on the interest due date and remitted or credited in accordance with the depositor's instructions. Such securities shall be redeemed and charged to the same account on the date of maturity, call or advance refunding, and the redemption proceeds, principal, and interest, shall be disposed of in accordance with the depositor's instructions.

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