export shipments of Florida Valencia oranges from U.S. No. 1 to U.S. No. 1, Golden during the period June 3, 1985 through June 16, 1985, then lowers the minimum grade to U.S. No. 2, Russet, external during the period June 17, 1985 through September 29, 1985. The minimum internal grade for Valencia oranges remains at U.S. No. 1. The change in minimum grade of such fruit recognizes the grade composition of the available fruit supply, and current and prospective demand conditions for these fruits.

Under section 8e of the act (7 U.S.C. 608e–1), whenever specified commodities, including grapefruit, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodity. Thus, the grade requirement for imported seedless grapefruit will also change to conform to the grade requirement for domestic shipments of Florida seedless grapefruit.

It is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this amendment is based and the effective date necessary to effectuate the declared purposes of the act. This amendment relieves restrictions on shipments of white seedless grapefruit, pink seedless grapefruit and Valencia oranges. Handlers have been apprised of such provisions and the effective date and require no additional time to comply herewith.

List of Subjects in 7 CFR Part 905

Marketing agreements and orders, Florida, Grapefruit, Oranges, Tangelos, Tangerines.

PART 905—[AMENDED]

1. The authority citation for 7 CFR Part 905 continues to read as follows:

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

2. The provisions of § 905.306 are amended by revising the following entry in Table I, paragraph (a), applicable to domestic shipments, and Table II, paragraph (b), applicable to export shipments, to read as follows:

§ 905.306 Orange, Grapefruit, Tangerine and Tangelo Regulation 6.

(a) * * *

TABLE I

Variety (1)	Regulation period (2)	Minimum grade (3)	Minimum diameter (in.) (4)
* *	* *	* *	*
White seedless Grapefruit	June 3, 1985 to Aug. 18, 1985	U.S. No. 2, Russet (external) U.S. No. 1 (internal)	3 5/16
	On and after Aug. 19, 1985	Improved No. 2 (external) U.S. No. 1 (internal)	3 5/16
Pink seedless Grapefruit	June 3, 1985 to Aug. 18, 1985	U.S. No. 2, Russet (external) U.S. No. 1 (internal)	3 5/16
	On and after Aug. 19, 1985	Improved No. 2 (external) U.S. No. 1 (internal)	3 5/16
Valencia other late type oranges.	June 3, 1985 to June 16, 1985	U.S. No. 1, Golden	2 4/16
	June 17, 1985 to Sept. 29, 1985	U.S. No. 2, Russet (external) U.S. No. 1 (internal)	2 4/16
	On and after Sept. 30, 1985	U.S. No. 1	2 4/16
* *	* *	* *	

(b) * * *

TABLE II

Variety (1)	Regulation Period (2)	Minimum Grade (3)	Minimum Diameter (in.) (4)
* *	* * *	* *	
White seedless Grapefruit	June 3, 1985 to Aug. 18, 1985	U.S. No. 2, Russet (external) U.S. No. 1 (internal)	3 5/16
	On and after Aug. 19, 1985	Improved No. 2 (external) U.S. No,. 1 (internal)	3 5/16
Pink seedless Grapefruit	June 3, 1985 to Aug. 18, 1985	U.S. No. 2, Russet (external) U.S. No. 1 (internal)	3 5/16
	On and after Aug. 19, 1985	Improved No. 2 (external) U.S. No. 1 (internal)	3 5/16
Valencia and other late type oranges.	June 3, 1985 to June 16, 1985	U.S. No. 1, Golden	2 4/16
	June 17, 1985 to Sept. 29, 1985	U.S. No. 2, Russet (external) U.S. No. 1 (internal)	2 4/16
	On and after Sept. 30, 1985	U.S. No. 1	2 4/16
* *	* * *	* *	

* * * * *

Dated: June 3, 1985.

Thomas R. Clark,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 85-13728 Filed 6-6-85; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 989

Raisins Produced From Grapes Grown in California; Modification of the Procedural and Operational Details of the Raisin Diversion Program

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule invites comments on modifications of the procedural and operational details of the Raisin Diversion Program (RDP). The amendments would (1) add a final date of June 1 for diversion; (2) add a liquidated damages provision; and (3) allow producers 10 days to agree with program changes or withdraw from the RDP. These refinements were recommended by the Raisin Administrative Committee (Committee) which works with the USDA in administering the order. This action is being issued on an interim final basis because of lateness of the season and the need for these refinements for 1985.

DATES:

Effective date: June 3, 1985.

Comments due: July 8, 1985.

ADDRESS: Comments must be sent in duplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, Room 2069, South Building, Washington, D.C. 20250. Comments should reference the date and page number of this issue of the **Federal Register** and will be available for public inspection in the office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Frank M. Grasberger, Acting Chief, Specialty Crops Branch, Fruits and Vegetables Division, Agricultural

Marketing Service USDA, Washington, D.C. 20250, telephone (202) 447–5053.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

It is found that is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and engage in public rulemaking and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** (5 U.S.C. 553). The Raisin Administrative Committee approved a raisin diversion program for the 1985 crop to foster production cut-backs and assist growers with their current financial difficulties. The raisin industry desires to utilize these procedures for the 1985 program as well as future programs to improve efficiency of administration, program flexibility, and program compliance. There are approximately 1000 producers participating in the program representing over 30,000 acres that must be verified by Committee staff members. The Committee has an enormous task to complete with a limited staff and resources. In addition, the verification process must be completed in time to allow the Committee to prepare the diversion certificates which must be issued on or before October 5.

These refinements have been discussed extensively by the industry and no useful purpose would be served by providing a period for public input for the 1985 program, especially in view of the need for prompt implementation. However, the changes are permanent regulations which may be utilized in future crop years. Therefore, it is appropriate to request comments before determining whether to finalize the modifications on a permanent basis for future crop years.

This action would amend Subpart—Administrative Rules and Regulations (7 CFR 989.102–989.176; 50 FR 3879) by revising paragraph (h) of § 989.156 and adding new paragraphs (q) and (r) to that section. This subpart is operative pursuant to the marketing agreement and Order No. 989, both as amended, regulating the handling of raisins produced from grapes grown in California. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

On January 23, 1985, the procedural and operational details of the RDP were established pursuant to § 989.56. The authority for the diversion program was added to the order when it was amended on January 8, 1985. The program gives the industry a means of correcting its serious over-supply situation by decreasing the quantity of raisin grapes grown for drying into raisins. Since implementation of the RDP, the raisin industry has been working to assure the success of this program to cutback production. As a result, several refinements designed to improve efficiency in administration, program flexibility, and program compliance were recommended by the Committee.

One refinement establishes June 1 as the final date that approved applicants can divert their acreage, thus qualifying for a diversion certificate. This refinement is included in § 989.156(h) and is necessary to give the Committee adequate time to verify diverted acreage.

A second refinement is in § 989.156(q) and would allow the Committee to collect liquidated damage from producers who fail to divert and deny them the opportunity to participate in future diversion programs. The intent of this refinement is to encourage successful applicants to take the necessary measures to preclude grapes from being produced and harvested. Failure by large numbers of raisin producers to carry out their commitment to divert would cause serious and substantial damage to the diversion program, and impair the achievement of program goals in 1985 and future years. Hence, measures to foster compliance are necessary and incidental to effectively carry out the diversion program. Moreover, without such measures, producers who intend to participate may be denied the opportunity in years when a lottery is held.

By applying to participate in a raisin diversion program, an applicant would execute an agreement with the Committee acknowledging that the failure of the approved applicant to timely remove the vines or grapes will cause serious and substantial damage to the program and the raisin industry and that, in consideration of the approval of the application, such applicant will agree to pay liquidated damages and interest to the Committee, in the event of such failure to remove vines or grapes. Because it would be difficult, if not impossible, to determine a fair measure of damages not considered a penalty, the amount of such liquidated damages would be computed by multiplying the tonnage on the approved diversion application by a harvest cost determined by the Committee. Interest would be applied to liquidated damages not paid by July 1, and would be equal to the prime rate of the bank where the Committee has its reserve pool funds deposited, plus two percent. The interest charge is warranted because producers' income would be affected by producers failing to comply with the program.

There is ample precedent for a provision specifying liquidated damages in the event producers fail to follow through on their agreements with the Committee. Section 989.159(g)(2) of the administrative rules and regulations provides for liquidated damages in the event of the improper disposition of off-grade raisins, other failing raisins, and raisin residual material. Moreover, liquidated damages are included in other provisions to assure compliance with other programs administered by the Secretary.

A third refinement is in § 989.156(r) and allows applicants 10 days to withdraw from the program if any change is made in the terms and conditions of the program. If the producer fails to take action to withdraw from the program, the producer would automatically agree to the changes under this action.

List of Subjects in 7 CFR Part 989

Marketing agreements and orders, Grapes, Raisins, California.

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

1. The authority citation for 7 CFR Part 989 continues to read as follows:

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

2. Section 989.156(h) is revised and subparagraph (q) and (r) are added to read as follows:

Subpart—Administrative Rules and Regulations

§ 989.156 Raisin diversion program.

* * * * *

(h) *Methods of diversion.* An approved applicant shall be required to take the necessary measures to preclude grapes from being produced and harvested on the production unit involved in the program. These measures may include spur pruning the vines, chemically removing the crop before maturity, hand removing and destroying the bunches of grapes before maturity, removing the vines, or any other method which prevents the grapes from maturing and being harvested. An approved applicant must remove the grapes within the production unit designated in its application not later than June 1 of the crop year when a raisin diversion program is implemented. Grafting vines to another varietal type does not constitute removal of the vines under the program. Any raisin producer who does not take the necessary measures to remove the vines or grapes on an approved production unit by June 1, shall not be issued a diversion certificate, may be subject to liquidated damages and interest charges as provided in paragraph (q) of this section, may be subject to an injunctive action under the act, and may be denied the opportunity to participate in future diversion programs.

* * * * *

(q) *Liquidated damages and interest charges.* By applying to participate in a raisin diversion program, an applicant agrees that the failure of the approved applicant to timely remove the vines or grapes will cause serious and substantial damage to the program and the raisin industry and that, in consideration of the approval of the application, such applicant will pay liquidated damages and interest to the Committee, in the event of such failure to timely remove vines or grapes. Since it would be difficult, if not impossible, to determine the amount of such liquidated damages, the following amount, which is a fair measure of damages and not a penalty, shall apply:

(1) The amount of the liquidated damages shall be computed by multiplying the tonnage on the approved diversion application (Form RAC-1000) by the harvest cost determined and announced by the Committee.

(2) Each approved applicant shall, with the respect to liquidated damages not paid by July 1, pay to the Committee interest on such unpaid liquidated damages at the rate of the prime rate of the bank in which the Committee has its reserve pool funds deposited, on the day the liquidated damages become delinquent, plus 2 percent, and further such rate of interest shall be added to the unpaid amount, monthly, until the liquidated damages plus applicable interest are paid.

(3) Liquidated damages and interest collected by the Committee pursuant to this subparagraph shall be deposited in the reserve pool fund of the reserve pool applicable to the particular diversion program and be distributed to the equity holders in that pool.

(r) *Notification.* If any changes are made in the terms and conditions of the diversion program after a producer's application has been approved, the Committee will notify the producer of such changes and the producer will be given 10 calendar days to agree to the revised terms, or to withdraw from the program. Failure of the producer to notify the Committee in writing of its intention to withdraw from the program within 10 calendar days from the date of the Committee's notice will consitute agreement to the revised terms and conditions.

* * * * *

Dated: June 3, 1985.

Thomas R. Clark,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 85-13729 Filed 6-6-85; 8:45 am]

BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Parts 1872, 1900, 1901, 1944, 1951, 1955, and 1962

Property Management

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) revises its regulations regarding property management. This action is necessary because the existing regulations have been in effect for several years and have been determined to be inconsistent with the present Agency need for effective property management. The intended effect of this action is to eliminate known deficiencies and to update and expand authorities and procedures. Terminology is made uniform and conforms to other published regulations; monetary authority for program decisions and approvals reflect price and mortgage escalations which have occurred since the previous regulations were published; and material in the subparts is organized and clarified to provide concise guidelines to field personnel in handling the acquisition, management and disposal of property.

EFFECTIVE DATE: July 8, 1985.

FOR FURTHER INFORMATION CONTACT: For Part 1955, Subparts A and B, and changes to other parts, Frances B. Calhoun, Chief, Property Management Branch; For Part 1955, Subpart C, Edward W. Nidever, Senior Realty Specialist; Single Family Housing Servicing and Property Management Division, Farmers Home Administration, Room 5309, South Agriculture Building, 14th Street and Independence Avenue, SW., Washington, D.C. 20250, Telephone: (202) 382-1452.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512-1 which implements Executive Order 12291, and has been classified as "nonmajor." It will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This document has been reviewed in accordance with 7 CFR Part 1940, Subpart G, "Environmental Program." It is the determination of FmHA that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Public Law 91-190, an Environmental Impact Statement is not required.

Some of the FmHA programs and projects affected by these regulations are subject to intergovernmental consultation in the manner delineated in FmHA Instruction 1940-J, "Intergovernmental Review of Farmers Home Administration Programs and Activities." These programs include Multiple Family Housing and Community and Business programs.

Subpart A of Part 1955 contains policies and procedures for liquidating loans secured by real estate by voluntary conveyance and foreclosure. It has been reorganized to place the required actions in chronological sequence. The majority of these liquidations result in Government acquisition of the property. Reporting and record keeping procedures have been revised and clarified.

Primary changes made in Subpart A of Part 1955 are:

(a) Sets monetary guidelines for settling junior liens in voluntary conveyance cases.

(b) Sets a monetary limit on a fee to a Trustee in Bankruptcy for a deed to security property.

(c) Provides guidance on acquisition of property by exercise of the Government's redemption rights.

(d) Authorizes the District Director to approve foreclosures and accelerate accounts of Farmer Programs and Single Family Housing borrowers.

(e) Provides that foreclosure proceedings will be held in abeyance until appeals are concluded or the time for appeal or review has elapsed.

(f) Provides guidance on cases where the borrower files a petition in bankruptcy after acceleration of the account.

(g) Clarifies calculation of the Government's bid and bidding procedures.

(h) Provides that inventory accounts will be established at the lesser of the Government's investment or the market value of the property as of the date acquired.

(i) Establishes new policy for satisfying Single-Family Housing accounts after foreclosure unless a judgment will be pursued against the borrower in cases where the property value is less than the indebtedness.

(j) Establishes authority for the Administrator, FmHA, to make exception to any provision of this Subpart which is not inconsistent with the authorizing statute.

Subpart B of Part 1955 prescribes policies and procedures for management of inventory property as well as security property of which FmHA has taken custody after abandonment by the borrower.

Primary changes made in Subpart B of Part 1955 are:

(a) Clarifies responsibilities and actions necessary in taking into custody security real property which is abandoned by the borrower; allows the servicing official to take possession of abandoned real property securing loans to individuals after properly documenting the facts without the State Director's authorization.

(b) Clarifies policy on limitations on repairs to custodial property.

(c) Provides that eviction of persons from inventory property may be accomplished through State courts where State laws permit and authorization is obtained from the Regional Attorney of the Office of the General Counsel, USDA.

(d) Provides guidance and sets forth authority of various employees in determining suitability of property for program purposes.

(e) Establishes program authority for the County Supervisor and District Director in an aggregate amount of $15,000 per property for expenditures necessary to secure, maintain and repair inventory property.

(f) Expands on methods of management which may be used in connection with custodial and inventory property and outlines authority of various employees for entering into management contracts.

(g) Provides that inventory property may be leased with the option to purchase given.

(h) Clarifies policy on security deposits and provides guidance on handling and return.

(i) Permits the Administrator, FmHA, to make exception to any provision of this Subpart which is not inconsistent with the authorizing statute.

Subpart C of Part 1955 covers disposal of inventory property. The revisions clarify and reorganize existing procedures as well as provide for increased use of private-sector assistance. The revisions should substantially reduce the time inventory property is held by expanding the disposal authorities.

Primary changes made in Subpart C of Part 1955 are:

(a) Specifically defines responsibilities.

(b) Requires the repair of suitable single family housing property prior to marketing except under special circumstances.

(c) Provides program authority to dispose of all categories of property by sealed bid or auction.

(d) Provides time guidelines for the disposal of both real and chattel inventory property.

(e) Provides a longer retention period for sale of suitable single-family dwellings to purchasers on eligible terms *only*.

(f) Provides authority for use of balloon-type loans to purchasers on ineligible terms if required by economic conditions.

(g) Authorizes payment of discount points to facilitate sale of single-family inventory housing property.

(h) Provides alternate sales methods for chattel property.

(i) Authorizes use of private sector (contractor) specification writers, inspectors, appraisers, business brokers, exclusive real estate brokers, and auctioneers to expedite the sale of all categories of inventory property.

(j) Redefines circumstances requiring use of an Affirmative Fair Housing Marketing Plan.

(k) Addresses use of Environmental Assessments (EA) and Environmental Impact Statements (EIS) when disposing of property having controversial environmental implications or being located in areas having special characteristics.

(l) Requires the Government to provide certain certifications upon sale of inventory real property consistent with private sector practice.

(m) Provides for land acquisition necessary to effect a real property sale.

(n) Emphasizes and provides authority for advertising.

(o) Provides for administrative price reductions for certain real property in order to conform to changing market conditions and to expedite sales.

On June 6, 1984, a proposed rule was published in the **Federal Register** (49 FR 23359) for a 60-day review and comment period. Comments were received from six entities in the private sector, two Government agencies other than FmHA, and numerous employees in FmHA field offices throughout the country and in the National Office. The summary of the comments received from the private sector and other agencies are presented here, with discussion of the action taken or changes made or not made to the regulations in considering the comments.

Comments and suggestions concerning Subpart A of Part 1955 were:

Section 1955.10(d)(2). The requirement that borrowers give a warranty deed when the Government conveys property by quitclaim deed was questioned. The applicable laws prohibit the Government from obligating future appropriations which is what a warranty deed would do. It is customary in the private sector for property to be conveyed by warranty deed. Since to the agency's knowledge this has never presented a problem, either to the Government or to a borrower, we saw no reason to change this provision.

Section 1955.10(e). It was suggested that borrowers be advised of the FmHA appraisal prior to executing a voluntary conveyance offer. FmHA agrees there is a need for the borrower to be advised if there is apparent equity in the property. Knowing there is apparent equity in the property is most valuable to a borrower *before* servicing of the case has come to consideration of conveyance to FmHA. Therefore, we have incorporated into the proposed revision of Subpart G of Part 1951 of 7 CFR (now in clearance for publication as a proposed rule) the requirement for single-family housing borrowers to be advised of the approximate equity, if any, and be encouraged by FmHA to sell the property to realize that equity Section 1955.10 is also slightly reworded to emphasize this point.

Section 1955.10(f) (1) and (2). It was suggested that explicit guidelines are needed for consistent implementation of the "good faith" determination. The wording used is almost verbatim from the Housing Act and the Consolidated Farm and Rural Development Act (CONACT), and the agency believes this is clear enough for application of consistent judgments. Since individual borrower's circumstances are vastly different, the agency sees a need for judgment latitude rather than rigid guidelines which could never cover all borrowers' situations. The language was not changed.

Section 1955.10(f)(3)(i)(A). The requirement for the County Committee recommendation on release of liability for Multiple-Family Housing (MFH) borrowers was questioned. Since the Housing Act does not speak to release of liability for MFH borrowers, the provisions of Section 331(d)(2) of the CONACT apply, which requires a favorable recommendation of the County Committee when the property value is less than the debt, if the borrower is to be released from liability.

Section 1955.10(h)(5) [Also § 1955.10(d)(7).] Two entities suggested that Rental Assistance (RA) be retained during the Government's ownership so that tenants would not be adversely affected. Since RA is paid to the borrower rather than the tenants, it is not appropriate to be paid during this time. The term "cancelled" is changed to "suspended" and a provision is added that tenants will continue to pay in accordance with their leases (basic rent or 25 percent of their income).

Section 1955.12. One commentor pointed out that the Urban Recovery Act of 1983 deleted Sec. 414(a) of the Housing Act. Accordingly, § 1955.12 of the proposed rule was deleted.

Section 1955.15. One commentor urged FmHA forbearance to the greatest extent possible before initiating foreclosure. FmHA believes the lead paragraph of this section sets that policy.

Section 1955.15(a). Another commentor felt that giving the District Director authority to approve foreclosure "streamlines" the foreclosure process. The intent of this change was to have the line of authority proceed *upward* through the authority levels. That is, having the State Director as Hearing Officer at a level above the official who approves foreclosure rather than the opposite as it has previously been. As for "streamlining," this change has no impact on the time required to complete a foreclosure action.

Section 1955.15(d)(2). It was suggested the formats for acceleration notices should be published in the CFR. Since these are merely guides (as opposed to mandatory forms) there is substantial variation in the acceleration notices used throughout the country due to differences in State laws. The agency has adhered to the decision not to publish these Exhibits.

Section 1955.15(d)(3). One commenter believed this section generally prohibits acceptance of offers of less than payment in full after acceleration. This language is substantially similar to that which has been in the regulation for a number of years, and experience has shown it does not prohibit acceptance of offers other than payment in full. The paragraph has been slightly reworded in an effort to make clear that all offers will be fully considered. Another commentor stated that if a borrower makes a "good faith attempt," FmHA is statutorily obligated to reinstate the loan. Historically, reasonable offers for curing the default(s) in a foreclosure case have been favorably considered. Many foreclosures are withdrawn after acceleration based on borrower's offers to cure the default(s) in full at the time or over a reasonable period of time.

Section 1955.21. This was renumbered from § 1955.17 in the proposed rule. One commenter felt the Administrator's authority should be broadened to allow for exceptions where it will assist borrowers in achieving program objectives. We believe the provisions of § 1955.15(d)(3) as now written, as well as the provisions of the various program servicing regulations, provide sufficient flexibility for the agency to assist borrowers to be successful and that it is not necessary for the Administrator to be involved in individual decisions.

Comments and suggestions pertaining to Subpart B are:

Section 1955.52. Two commentors suggested language to expand on the policy statements to make clear that property was to be maintained for the benefit of low- or moderate-income persons. While this was not incorporated into this section § 1955.64 was reworded to speak more specifically to maintaining and repairing suitable property for retention in the Single Family Housing (SFH) program, and in § 1955.114(a) of Subpart C of Part 1955 provisions for a longer retention of suitable property for eligible applicants only indicates agency desire to retain suitable inventory homes for program-eligible people whenever practical.

Section 1955.61. Two commenters wrote concerning this section. One believed evictions should be carried out through Federal courts rather than state courts because state courts are "inadequate forums." In order for FmHA to use state courts, the permission of the U.S. Attorney in the particular jurisdiction must be obtained. FmHA believes state courts do provide due process. The other commentor suggested insertion of an FmHA policy to keep MFH projects in operation. Rather than place that policy in this section, a sentence to that effect was inserted in § 1955.52.

Section 1955.64. One commentor wrote to applaud FmHA's policy statement on repair and maintenance.

Section 1955.65. An objection was raised to the expanded authority to contract with professional farm management companies because of the fear that the goals of selling to farmers who are eligible for FmHA's farmer programs assistance would not be met. The authority in question has been retained due to the lack of sufficient FmHA staff to adequately perform these management functions and protect the Government's interests. However, in § 1955.66 concerning selection of lessees and § 1955.106 of Subpart C of Part 1955 concerning sale of property, FmHA's policy is expressed by giving preference to persons eligible for FmHA farmer programs loans. Another commenter felt that expanded authority to utilize private-sector expertise was good and urged retention of these provisions in the final rule. The authority has been retained.

Section 1955.66. The preference for cash rent was criticized. However, this provision was retained because FmHA field staffs do not have adequate time to supervise nonborrowers on crop-share leases. It is expected a lessee can project returns and obtain assistance from other lenders for cash rent where necessary. As stated in § 1955.66(b), a policy for assisting family farmers is expressed.

Section 1955.66(g)(1). There was a suggestion that when MFH inventory is managed by a contractor there was no need to send tenants' security deposits to the FmHA Finance Office. No change was made at this time, as the new accounting system for MFH will provide for ready return of security deposits.

Section 1955.71. The Office of Inspector General (OIG), USDA, pointed out a Departmental Regulation requiring notification of OIG in cases of vandalism and/or theft of inventory property. Language similar to that in the previous regulation was placed in the final rule.

Section 1955.72. One commentor suggested that a new paragraph be added to this section to authorize State Directors to make inventory property available to house homeless individuals. This concept is being tried at present in several states as a pilot program, and FmHA has decided to defer placing specific language in the regulation until the results of the pilot are known.

Comments and suggestions pertaining to Subpart C are:

Section 1955.103(e). One commentor said the definition of "eligible applicant" should not exclude income. We have changed this terminology altogether (though not due to the comment received) and that of "ineligible applicant" as well, and have instead referred to credit on eligible or ineligible *terms.* The definition now also requires that to get credit on eligible terms one must meet the eligibility requirements set forth in the respective program regulations.

Section 1955.106(b). One commentor was concerned that use of real estate brokers to market farm property would result in abrogation of the responsibility of Agency officials and County Committees to determine eligibility of buyers. Although real estate brokers who are engaged to list farm properties will be given guidelines for eligibility, the determination of eligibility will rest as always with the FmHA County Supervisor and County Committee. Another commentor felt that the expressed preference for sale of suitable farm property by FmHA employees should be liberalized and that real estate brokers should not be utilized as a last resort. After considerable deliberation, it was determined the section allows sufficient flexibility for the State Director to decide when use of brokers is in the best interest of the Government, and no change was made.

Section 1955.107. One commentor believed sale of surplus farm property through real estate brokers should be considered equally with other sales techniques. No change was made to this section because the CONACT specifically requires that surplus property be offered for public sale. Thus, the regulation requires the public sale offering (by auction or sealed bid) first, then permits the State Director to use brokers if no sale has resulted. Another commentor felt more specific guidelines should be given to Agency employees in the determination of whether or not farm property is suitable or surplus. Due to the extreme variations in considerations nationwide, it would be impossible to set forth meaningful and workable guidelines in a regulation. Rather, the local field staffs are knowledgeable of the farms, the farming enterprises in the area, and economic conditions and are thus better able to make the suitability determination. The National Office staff does monitor the sale of inventory property through its program assessments and other program visits and contacts on a continuing basis.

Section 1955.112(b). One commentor suggested that the threshold for mandatory listing of property with brokers was too low, and believed FmHA staffs should make a greater effort to market single-family homes to eligible applicants. Listing with brokers actually provides an expanded exposure of the property to potential buyers, and since the time suitable properties are retained for buyers on eligible terms only was lengthened, eligible buyer opportunity is actually strengthened.

Section 1955.113. It was suggested that this section be amended to include the provision for additional price reductions when made administratively or just prior to consideration of sale by auction or sealed bid. This section was amended to include provision for administrative price reductions, but does not include a reference to sale by auction or sealed bid. Normally, sales by the latter two methods will be limited to unsuitable property which would not be considered for conversion to a rental project.

Section 1955.114. A commentor suggested that § 1955.112 of the regulation should be expanded to allow for sale of single-family dwellings to persons proposing to use it for multiple-family housing. Instead, a paragraph has been added to this section to include this provision.

Section 1955.114(a). One commentor suggested extending the time of retention for eligible sales only to 120 days. Another suggested 45 days. The concept of these suggestions was favorably considered, but the 120 days was considered excessive. As a result, the period of retention for eligible sales was lengthened to 30 days.

Section 1955.116. One commentor pointed out that the restrictions on occupancy of housing which does not meet decent, safe and sanitary standards applies equally to MFH. The language of this section was clarified.

Section 1955.118. One comment was received to the effect that the current Sec. 515 interest rate plus ½ percent appeared too high to be attractive to potential buyers on ineligible terms. Ineligible terms may never be more favorable than eligible terms, and the ½ percent higher rate is felt to be reasonable. The volume of MFH property sold on ineligible terms is expected to be minute.

Section 1955.128. One commentor suggested FmHA should not be so restrictive in allowing for fee appraisals. The authorization to obtain appraisals by contract is retained as in the proposed rule until FmHA has accumulated more experience in this area. We do not believe inclusion of appraisals as a basis for appeals is appropriate. Present regulations provide for review of appraisals by the State Director when questioned, and we believe that is sufficient. Appraisal is not an exact science, but is rather an estimate supported by verifiable data; therefore, there is no real basis for appeal.

Section 1955.133. It was suggested that if a broker is signatory to a HUD/NAR Voluntary Affirmative Marketing Agreement, there would be no need for an Affirmative Fair Housing Marketing Plan. The voluntary agreement simply provides for nondiscrimination in marketing, whereas a marketing plan provides for positive steps to be taken to reach socio-economic groups who might not normally apply for the housing being offered. No change was made in this section.

Section 1955.137(a)(3)(ii). One commentor felt the wording of this paragraph concerning credit sales in coastal barrier areas should be clarified. This has been done.

Several comments were received simply expressing positive reaction to policies proposed, among these: § 1955.114 and § 1955.140. Numerous comments were received from FmHA personnel, some of which resulted in changes and some of which were not adopted because it was deemed they did not fit within the scope of these regulations or were otherwise not appropriate.

Since publication of the proposed rule, FmHA has reconsidered some of the requirements contained in that proposal, specifically: (1) That all purchasers of inventory property (including those obtaining credit on eligible terms under one of FmHA's loan programs) must pay closing costs from their own resources; and (2) that earnest money in the estimated amount of closing costs would be required at the time of execution of a sales contract, whether the contract was originating through a real estate broker or with FmHA personnel. The regulation has now been changed to provide that: (1) Earnest money will be required only in connection with contracts originated with a real estate broker; (2) Earnest money will be $50 for single-family and two- and four-family dwellings and the greater of the estimated closing costs or ½ of 1 percent of the sale price for other types of property; and (3) When necessary, FmHA may make a loan to a qualified purchaser of a single-family dwelling to pay closing costs not to exceed 1 percent of the sale price.

The changes in Subpart A of Part 1955 require conforming changes in other FmHA regulations to reflect the authority being given to District Directors to approve foreclosure and accelerate accounts for Farmer Programs and Single Family Housing loans. The other FmHA regulations requiring conforming changes are: Subpart A of Part 1872, Subparts A and B of Part 1900, Subpart E of Part 1901, Subpart A of Part 1944, Subparts F and G of Part 1951, and Subpart A of Part 1962 of this chapter. Authorities for sale or disposition of government inventory property outlined in Subpart C of Part 1955 also require amendment to Subpart A of Part 1900 of this chapter.

Catalog of Federal Domestic Assistance Titles and Numbers

10.404 Emergency Loans
10.405 Farm Labor Housing Loans and Grants
10.406 Farm Operating Loans
10.407 Farm Ownership Loans
10.410 Low Income Housing Loans
10.411 Rural Housing Site Loans
10.414 Resource Conservation and Development Loans
10.415 Rural Rental Housing Loans
10.416 Soil and Water Loans
10.417 Very Low-income Housing Repair Loans and Grants
10.418 Water and Waste Disposal Systems for Rural Communities
10.419 Watershed Protection and Flood Prevention Loans
10.421 Indian Tribes and Tribal Corporation Loans
10.422 Business and Industrial Loans
10.423 Community Facilities Loans
10.427 Rural Rental Assistance Payments

List of Subjects

7 CFR Part 1872

Foreclosure, Loan programs—agriculture, Rural areas.

7 CFR Part 1900

Appeals, Credit, Loan programs—agriculture, Loan programs—housing and community development.

7 CFR Part 1901

Civil Rights, Compliance reviews, Fair housing, Minority groups.

7 CFR Part 1944

Loan programs—housing and community development, Low and moderate income housing—mortgages, Rural housing, Subsidies.

7 CFR Part 1951

Account servicing, Loan programs—agriculture, Low and moderate income housing loans—servicing, Rural areas.

7 CFR Part 1955

Foreclosure, Government acquired property, Government property management, Sale of government acquired property, Surplus government property.

7 CFR Part 1962

Crops, Government property, Livestock, Loan programs—Agriculture, Rural Areas.

Therefore, Chapter XVIII, Title 7, Code of Federal Regulations, is amended as follows:

PART 1872—REAL ESTATE SECURITY

Subpart A—Servicing and Liquidation of Real Estate Security for Loans to Individuals and Certain Note-Only Cases

§ 1872.1 [Amended]

1. Section 1872.1 (e)(1) is amended in the first sentence by changing "§ 1955.6" to "§ 1955.5 (a) of Subpart A of Part 1955 of this chapter."

§ 1872.2 [Amended]

2. Section 1872.2 (c)(1) is amended in the first sentence by inserting "the applicable portions of" before "§ 1955.15" and by changing "(d) (8) and (9)" after "§ 1955.15" to read "of Subpart A of Part 1955 of this chapter."

3. Section 1872.2 (c)(1)(iv)(A) is amended by inserting "the applicable portion of" before "§ 1955.15" and by changing "(d)(1)" after "§ 1955.15" to read "of Subpart A of Part 1955 of this chapter."

4. Section 1872.2 (e) is amended in the last sentence by changing "465-7" to read "1955-2" and by changing the last phrase "submitted through the District Director to the State Director for his consideration" to read "distributed according to the FMI."

§ 1872.15 [Amended]

5. Section 1872.15 (a) is amended in the last sentence by changing "§ 1955.15 (d)(8) and (9)" to "§ 1955.15 (f)(5) and (6) of Subpart A of Part 1955 of this chapter."

6. Section 1872.17 is amended by revising paragraphs (b), (c) and (d) to read as follows:

§ 1872.17 Liquidation action.

* * * * *

(b) *Problem case report.* If the borrower is unwilling to take any of the actions specified in § 1872.17(a) or fails to carry out any such actions within 60 days, the County Supervisor will complete Form FmHA 1955-2 and submit it according to § 1955.15 of Subpart A of Part 1955 of this chapter.

(c) *Acceleration of account.* When foreclosure is approved, acceleration of the account and demand for payment will be accomplished according to the applicable portion of § 1955.15 of Subpart A of Part 1955 of this chapter.

(d) *Voluntary liquidation after acceleration.* If after the notice of acceleration has been sent to the borrower as outlined in § 1955.15 of Subpart A of Part 1955 of this chapter, arrangements are made to have the account voluntarily liquidated, the official who approved the foreclosure may give the borrower time beyond the date listed in the notice of acceleration to accomplish voluntary liquidation. The official who approved the foreclosure will inform the borrower of this decision in a separate letter, which will also place a time limit on the borrower which should not exceed 3 months from the date of the letter agreeing to allow the borrower to voluntarily liquidate. The original period established plus any extensions determined necessary by the approval official should in no case exceed 1 year. Prior to granting any extension after the original period established, the approval official will request a report from the servicing official concerning the actions taken by the borrower to liquidate. If a sale is involved, the servicing official's report should indicate whether the borrower's asking price is reasonable and whether the asking price is delaying the sale unreasonably. Acceleration or granting time for voluntary liquidation as provided for in this paragraph will not preclude exercise of the authority in paragraph (g) of this section. However, the authority outlined herein should not be used for the purpose of extending the correction period under paragraph (f) of this section. If the borrower has not voluntarily liquidated within the time period (including any extensions) granted, foreclosure should proceed according to § 1955.15 of Subpart A of Part 1955 of this chapter.

* * * * *

PART 1900—GENERAL

Subpart A—Delegations of Authority

8. Section 1900.2 is amended by revising paragraphs (e)-(k) to read as follows:

§ 1900.2 National office staff and State Directors.

* * * * *

(e) Consent to sale or assignment of, or sell or assign, direct or insured loans and security instruments, endorsements, reinsurance agreements, or other instruments in connection therewith; and execute agreements to insure and reinsure, and to purchase and repurchase insured loans and security instruments.

(f) Compromise, adjust, cancel or charge off indebtedness.

(g) Modify contracts and other instruments and compromise claims owed to the Farmers Home Administration and covered by the Federal Claims Collection Act of 1966 and the joint regulations issued under it by the Attorney General and the Comptroller General as provided for in applicable program regulations.

(h) Perform all actions pertaining to the sale (or other disposal) of real or chattel property or interests therein and to execute and deliver bills of sale or other insturments to effect such sale (or disposition), which includes but is not limited to offering property for sale; advertising; receiving and accepting offers or bids; and closing sale transactions, including the collection of sale proceeds, and delivery of quitclaim deeds, easements, and right-of-way conveyances after those documents have been executed. The authority to execute any deeds of conveyance of inventory real property, including quitclaim deeds, easements, rights-of-way, or sale of any use rights is reserved to the State Director, and this authority may not be redelegated.

(i) Approve and consent to transfers of security property to other parties with or without assumption of debts; and approve and accept transfers of security property or interests therein to the United States of America, and execute release from liability after determination is made in accordance with applicable program regulations.

(j) Execute and deliver, or approve in writing, suspensions, releases or terminations of assignments, of income, renewals, extensions, partial and full releases and satisfactions of security, and personal or indemnity liability for indebtedness, waivers, subordination agreements, severance agreements, affidavits, acknowlegements, certificates of residence, evidence of consent, and other instruments or documents.

(k) Accelerate and declare entire real estate or chattel indebtedness due and payable, foreclose or request foreclosure of real estate security instruments by exercise of power of sale or otherwise, and bid for and purchase at any foreclosure or other sale or otherwise acquire real property pledged, mortgaged, conveyed, attached, or levied upon to collect indetedness, and accept title to any property so purchased or acquired.

* * * * *

9. Section 1900.3 is revised to read as follows:

§ 1900.3 State, District, and County Office employees.

The following officials and employees of the Farmers Home Administration, in accordance with applicable laws, and the regulations implementing these laws, for and on behalf of, and in the name of the United States of America or the Farmers Home Administration, are also severally authorized within the area of their respective jurisdictions to perform the acts specified in paragraphs (g) through (r) of § 1900.2; and within their loan approval authority to sell or otherwise dispose of real or chattel property or interests therein and to execute and deliver bills of sale or other instruments to effect such sale or disposition: Chief, Farmer Programs/Specialist; Chief, Rural Housing/Specialist; Chief, Community Programs/Specialist; Chief, Business and Industry/Specialist; Chief, Community and Business Programs/Specialist; each District Director, Assistant District Director, Loan Specialist General, County (including Parish) Supervisor, Emergency Loan Supervisor, Assistant Emergency Loan Supervisor, or other supervisor or assistant supervisor; and in the absence or disability of any such official or employee, the person acting in the position.

Subpart B—Farmers Home Administration Appeal Procedure

10 Section 1900.56 is amended by revising paragraphs (a)((3) and (a)(4) to read as follows:

§ 1900.56 Appeal from an initial FmHA decision.

(a) * * *

(3) In acceleration notices, the letter will read substantially as found in Exhibit B or C, "Notice of Acceleration . . .," Subpart A, Part 1955 of this Chapter or Form FmHA 455–21, "Notice of Acceleration and Demand for Payment," with attachment Exhibit B-4 or B-5 as appropriate. The following language or other similar language mandated by FmHA instructions, must be included in the acceleration notice: "The request for this hearing must be made within 30 calendar days from the date of this notice."

(4) Any offer by the borrower for partial payment of (or curing) the default after acceleration of a loan secured by real estate will be referred to the official who approved foreclosure in accordance with § 1955.15 of Subpart A of Part 1955 of this chapter.

* * * * *

11. The table in Exhibit D is revised to read as follows:

EXHIBIT D TO SUBPART B—HEARING/REVIEW OFFICER DESIGNATIONS

Decision maker or decision	Hearing officer	Review officer
County Supervisor	District Director or person designated by State Director.	State Director or designee (who has not been significantly involved with the case).
County Commitiee	State Director or designee	Deputy Administrator, Program Operations or designee.
District Director	State Director or designee	Deputy Administrator, Program Operations or designee.
State Director	Deputy Administrator, Program Operations or designee.	(No review.)
Division Director or Assistant Administrator.	Deputy Administrator, Program Operations or designee.	(No review.)
Deputy or Associate Administrator	Administrator or designee	(No review.)
Decision to foreclose chattels	District Director	State Director or designee.
Decision to foreclose real estate (for accounts other than single-family housing serviced in the county office.	District Director from another district or other person not involved in the initial decision-designated by the State Director.	Deputy Administrator, Program Operations or designee.
Decision to foreclose real estate:		
For single-family housing accounts	State Director or designee [1]	Deputy Administrator, Operations or designee.
For accounts serviced in the district office.	Deputy Administrator, Program Operations or designee.	(No review.)

[1] The individual designated as Hearing Officer may not be an employee who is supervised by the person who approved the foreclosure and accelerated the account, nor can the designee have been involved in the decision to foreclose.

Notes.—1. District Director also means Assistant District Director or District Loan Specialist.

2. County Supervisor also means Assistant County Supervisor with loan approval authority.

3. Designee is the person designated by the Hearing/Review Officer to conduct a hearing or review. The designee signs the decision letter to the appellant without the concurrence of the original Hearing/Review Officer except:

a. For hearings on County Committee decisions. For these hearings the State Director or Acting State Director may designate other persons to act on his or her behalf in conducting the hearing; however, the State director or Acting State Director must sign the hearing decision letter.

b. When the Hearing/Review Officer, designated by the Deputy Administrator, Program Operations, is not a member of the National Office staff, the complete case file, hearing notes, tape recordings, and a recommended decision will be sent to the Deputy Administrator, for review and a final decision.

c. When the Hearing/Review Officer is a member of the National Office Staff, after the decision is written, but prior to notification of the applicant, in all cases requiring corrective actions or training (e.g., reversals or other problems which may become evident) the Hearing/Review Officer will brief the Deputy Administrator, Program Operations, concerning the decision and will notify the State Director involved that the decision will be reversed or modified, and will advise the State Director of what corrective action will have to be taken.

4. For decisions not directly covered above, the Hearing/Review Officer is the person in the next higher level of FmHA authority.

PART 1901—PROGRAM RELATED INSTRUCTIONS

Subpart A—Loan and Grant Approval Authorities

§ 1901.2 [Amended]

12. Section 1901.2 is amended by changing the reference in the last sentence from "Exhibits A, B, C, and D" to "Exhibits A, B, C, D, and E."

§ 1901.5 [Amended]

13. Section 1901.5 is amended by changing the reference from "Exhibits A, B, C, and D" to "Exhibits A, B, C, D, and E."

Subpart E—Civil Rights Compliance Requirements

14. Section 1901.203 is amended by revising paragraphs (c)(2)(ii), (c)(4)(iv), (c)(5)(iv), and by removing paragraph (c)(4)(v) to read as follows:

§ 1901.203 Title VIII of the Civil Rights Act of 1968.

* * * * *

(c) * * *

(2) * * *

(ii) An Affirmative Fair Housing Marketing Plan is required to be prepared and submitted to FmHA by the contractor when:

(A) A real estate broker is offering five or more single-family dwellings located in the same subdivision for sale under an exclusive listing contract with FmHA.

(B) An auctioneer under contract with FmHA is offering five or more single-family dwellings located in the same subdivision for sale by public auction.

(C) A contractor under a contract with FmHA is managing a multiple-family housing project of five or more units or five or more single-family dwellings located in the same subdivision.

(3) * * *

(4) * * *

(iv) For real estate brokers listing housing properties on an exclusive basis, at the time of execution of Form FmHA 1955–43, "Exclusive Real Property Master Listing Agreement."

(5) * * *

(iv) For real estate brokers who list acquired rural housing properties under an exclusive listing agreement on Form FmHA 1955–43, one year.

* * * * *

PART 1944—HOUSING

Subpart A—Section 502 Rural Housing Loan Policies, Procedures, and Authorizations

§ 1944.10 [Amended]

15. Section 1944.10 (g)(3) is amended by changing the reference from "§ 1955.103 (e)" to "§ 1955.103 (q)."

16. Section 1944.17 is amended by adding paragraph (d) to read as follows:

§ 1944.17 Maximum loan amounts.

* * * * *

(d) When a subsequent loan is made simultaneously with a credit sale of a single-family dwelling from FmHA inventory for loan closing costs only as provided in § 1955.117(f) of Subpart C of Part 1955 of this chapter, the total indebtedness may exceed the market value of the security property by no more than 1 percent of the sale price of the property.

PART 1951—SERVICING AND COLLECTIONS

Subpart F—Analyzing Credit Needs and Graduation of Borrowers

17. Section 1951.262 is amended by revising paragraphs (a)(1), (a)(2), and (b) to read as follows:

§ 1951.262 Action when borrower fails to cooperate, respond and/or graduate.

(a) * * *

(1) Provide information following receipt of both FmHA Guide Letters No. 1951–1 and 1951–2, or letters of similar format, such borrowers will not be asked to graduate. They are, at that point, in default of their security instruments, which require the borrower to comply with all future FmHA regulations not inconsistent with the security instruments. The servicing official will, based on the borrower's failure to supply information in accordance with § 1951.261(e) of this subpart, prepare the required documents recommending legal action and submit them together with the borrower's case file to the official authorized in § 1955.15 of Subpart A of Part 1955 of this chapter to approve foreclosure of the loan type involved (approval official) with a written report outlining credit sources contacted by FmHA and the borrower, the reasons given by the borrower for failure to graduate, action taken by FmHA to verify the availability of credit, and the borrower's available financial resources along with any data pertinent to the case. The approval official may, with the concurrence of Regional Attorney, accelerate the account based on the borrower's failure to perform as required by this subpart and the loan and security instruments.

(2) Apply for or accept other credit following receipt of both FmHA Guide Letters No. 1951–5 and 1951–6, or letters of similar format, such borrowers will not be given further notice to graduate but at that point are in default under the graduation requirement of their security instruments. The servicing official will prepare the required documents to recommend legal action and submit them to the approval official as outlined in paragraph (a)(1) of this section.

(b) The official authorized to approve foreclosure will review those cases submitted to his/her office and determine what action must be taken on the basis of the FmHA notes, security instruments, and/or loan agreements signed by the borrower and the facts and recommendations provided by the servicing official.

(1) If the approval official determines the borrower is unable to graduate, the graduation request may be withdrawn. The approval official will request the servicing official to notify the borrower and withdraw the graduation request in accordance with § 1955.261(g)(5)(i) of this Subpart.

(2) If the approval official determines the borrower is able to graduate, foreclosure action will be initiated in accordance with § 1955.15 of Subpart A of Part 1955 of this chapter. If the borrower's account(s) are accelerated, the borrower will be given the right to appeal the decision in accordance with Subpart B of Part 1900 of this Chapter. The advice of the Regional Attorney is required before accelerating the account.

Subpart G—Borrower Supervision, Servicing and Collection of Single Family Housing Loan Accounts

18. Section 1951.312 is amended by revising paragraph (e)(4) to read as follows:

§ 1951.312 Servicing.

* * * * *

(e) * * *

(4) *Borrower fails to keep appointments or defaults on payment agreements.* If the borrower has failed to

keep appointments or make payments according to previous agreements (including the promissory note), the County Supervisor will prepare and send a completed Form FmHA 1955-2, "Report on Real Estate Problem Case," to the District Director with a recommendation for foreclosure of the loan. The District Director will review the file and decide if appropriate action has been taken by the County Supervisor to adequately service the account in an effort to give the borrower an opportunity to become a successful homeowner. If the District Director determines that appropriate action has been taken in servicing the account and that further servicing efforts will not result in the borrower meeting loan obligations, foreclosure action will be initiated. If the District Director determines that additional servicing efforts are appropriate, the County Supervisor will be instructed regarding actions to be taken. (Guide Letter 1951-G-5 may be used if the District Director chooses to write the borrower prior to acceleration.) If the County Supervisor cannot work out an agreement with the borrower, the file will be returned to the District Director for initiation of foreclosure action.

* * * * *

19. Part 1955 is revised to read as follows:

PART 1955—PROPERTY MANAGEMENT

Subpart A—Liquidation of Loans Secured by Real Estate and Acquisition of Real and Chattel Property

Sec.
1955.1 Purpose.
1955.2 Policy.
1955.3 Definitions.
1955.4 Redelegation of authority.
1955.5 General actions.
1955.6–1955.9 [Reserved]
1955.10 Voluntary conveyance of real property by the borrower to the Government.
1955.11 Conveyance of property to FmHA by trustee in bankruptcy.
1955.12 Acquisition of property which served as security for a loan guaranteed by FmHA or at sale by another lienholder, bankruptcy trustee, or taxing authority.
1955.13 Acquisition of property by exercise of Government redemption rights.
1955.14 [Reserved]
1955.15 Foreclosure by the Government of loans secured by real estate.
1955.16–1955.17 [Reserved]
1955.18 Actions required after acquisition of property.
1955.19 [Reserved]
1955.20 Acquisition of chattel property.
1955.21 Exception authority.
1955.22 State Supplements.
1955.23–1955.49 [Reserved]
1955.50 OMB control number.

Subpart B—Management of Property

1955.51 Purpose.
1955.52 Policy.
1955.53 Definitions.
1955.54 Redelegation of authority.
1955.55 Taking abandoned real or chattel property into custody and related actions.
1955.56 Real property located in Coastal Barrier Resources System (CBRS).
1955.57–1955.59 [Reserved]
1955.60 Inventory real property subject to redemption by the borrower.
1955.61 Eviction of persons occupying inventory real property or dispossession of persons in possession of chattel property.
1955.62 Removal and disposition of nonsecurity personal property from inventory real property.
1955.63 Suitability determination.
1955.64 Securing, maintaining, and repairing inventory property.
1955.65 Management of inventory and/or custodial real property.
1955.66 Lease of real property.
1955.67 Payment of liens.
1955.68 Payment of taxes.
1955.69 Insurance.
1955.70 Inspection of property.
1955.71 Vandalism or theft.
1955.72 Utilization of inventory housing property by Federal Emergency Management Agency (FEMA).
1955.73–1955.79 [Reserved]
1955.80 Management of inventory chattel property.
1955.81 Exception authority.
1955.82 State Supplements.
1955.83–1955.99 [Reserved]
1955.100 OMB control number.

Subpart C—Disposal of Inventory Property

1955.101 Purpose.
1955.102 Policy.
1955.103 Definitions.
1955.104 Authorities and responsibilities.

Consolidated Farm and Rural Development Act (CONACT) Real Property

1955.105 Real property affected (CONACT).
1955.106 Sale of suitable property (CONACT).
1955.107 Sale of surplus property (CONACT).
1955.108 Processing and closing (CONACT).
1955.109 [Reserved]

Rural Housing (RH) Real Property

1955.110 Sale of real estate that secured RH loans (housing).
1955.111 Property repair (housing).
1955.112 Method of sale (housing).
1955.113 Price (housing).
1955.114 Sales steps for suitable property (housing).
1955.115 Sales steps for unsuitable property (housing).
1955.116 Requirements for sale of property not meeting decent, safe and sanitary (DSS) standards (housing).
1955.117 Processing credit sales on eligible terms (housing).
1955.118 Processing cash sales or credit sales on ineligible terms (housing).
1955.119 Payment of discount points (housing).
1955.120 [Reserved]

Chattel Property

1955.121 Sale of acquired chattels (chattel).
1955.122 Method of sale (chattel).
1955.123 Sale procedures (chattel).
1955.124 Sale with inventory real estate (chattel).
1955.125–1955.26 [Reserved]

Use of Contractors To Dispose of Inventory Property

1955.127 Selection and use of contractors to dispose of inventory property.
1955.128 Appraisers.
1955.129 Business brokers.
1955.130 Real estate brokers.
1955.131 Auctioneers.
1955.132 [Reserved]

General

1955.133 Nondiscrimination.
1955.134 Loss, damage, or existing defects in inventory real property.
1955.135 Taxes on inventory real property.
1955.136 Environmental Assessment (EA) and Environmental Impact Statement (EIS).
1955.137 Real property located in special areas or having special characteristics.
1955.138 Property subject to redemption rights.
1955.139 Disposition of real property rights.
1955.140 Sale in parcels.
1955.141 Transferring title.
1955.142 Reporting sale.
1955.143 Report on inventory property not sold.
1955.144 Disposal of surplus property to, through, or acquired from other agencies.
1955.145 Land acquisition to effect sale.
1955.146 Advertising.
1955.147 Sealed bid sales.
1955.148 Auction sales.
1955.149 Exception authority.
1955.150 State Supplements.

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 42 U.S.C. 2942; 5 U.S.C. 301, sec. 10; Pub. L. 93-357, 88 Stat. 392, 7 CFR 2.23; 7 CFR 2.70, 29 FR 14764, 33 FR 9850.

Subpart A—Liquidation of Loans Secured by Real Estate and Acquisition of Real and Chattel Property

§ 1955.1 Purpose.

This subpart delegates authority and prescribes procedures for the liquidation of Farmers Home Administration (FmHA) loans identified in § 1955.3 (d) and (e) of this subpart and acquisition of property by voluntary conveyance to the Government, by foreclosure of security instruments, by exercise of the

Government's redemption rights, and certain other actions which result in acquisition of property by the Government. When FmHA elects to liquidate a guaranteed loan *other than Business and Industrial (B&I)* under the contract of guarantee, the liquidation will be completed according to this subpart. Liquidation of guaranteed B&I loans will be effected upon direction from the Assistant Administrator, Community and Business Programs. For Community Programs and insured B&I actions involving loans secured by other than real or chattel property, the case will be forwarded to the National Office for prior review and guidance.

§ 1955.2 Policy.

When it has been determined in accordance with applicable loan servicing regulations that further servicing will not achieve loan objectives and that voluntary sale of the property by the borrower (except for Multiple Family Housing (MFH) loans subject to prepayment restrictions) cannot be accomplished, the loan(s) will be liquidated through voluntary conveyance of the property to FmHA or by foreclosure as outlined in this Subpart. For MFH loans subject to the prepayment restrictions, voluntary liquidation may be accomplished only through voluntary conveyance to FmHA in accordance with applicable portions of § 1955.10 of this subpart.

§ 1955.3 Definitions.

As used in this subpart, the following definitions apply:

(a) *Closing agent.* A designated attorney or title insurance company which is approved as a loan closing agent in accordance with Part 1807 of this Chapter (FmHA Instruction 427.1).

(b) *CONACT or CONACT property.* Property acquired or sold pursuant to the Consolidated Farm and Rural Development Act. Within this subpart, it shall also be construed to cover property which secured loans made pursuant to the Agriculture Credit Act of 1978; the Emergency Agricultural Credit Adjustment Act of 1978; the Emergency Agricultural Credit Act of 1984; and other statutes giving agricultural lending authority to FmHA.

(c) *Government.* The United States of America acting through the Farmers Home Administration (FmHA), U.S. Department of Agriculture; used interchangeably herein with "FmHA."

(d) *Loans to individuals.* Farm Ownership (FO), Soil and Water (SW), Recreation (RL), Land Conservation and Development (LCD), Economic Opportunity (EO), Operating (OL), Emergency (EM), and Economic Emergency (EE), whether to individuals or entities, herein referred to as Farmer Programs (FP) loans; and Single-family Housing (SFH), including both Section 502 and 504 loans.

(e) *Loans to organizations.* Community Facility (CF); Water and Waste Disposal (WWD); Association Recreation; Watershed (WS); Resource Conservation and Development (RC&D); insured Business and Industrial (B&I) both to individuals and groups; loans to associations for Irrigation and Drainage (I&D) and other Soil and Water conservation measures; loans to Indian Tribes and Tribal Corporations; Shift-In-Land-Use (Grazing Association); Economic Opportunity Cooperative (EOC); Rural Housing Site (RHS); Rural Cooperative Housing (RCH); Rural Rental Housing (RRH) and Labor Housing (LH) to both individuals and groups. The housing-type organization loans identified here are referred to in this subpart collectively as Multiple-family Housing (MFH) loans.

(f) *Market value.* The most probable price which property should bring, as of a specific date, in a competitive and open market, assuming the buyer and seller are prudent and knowledgeable, and the price is not affected by undue stimulus such as forced sale or loan interest subsidy.

(g) *Nonrecoverable costs.* Costs incurred after Government acquisition of title to the property and charged to an inventory account.

(h) *OGC.* The Office of the General Counsel, U.S. Department of Agriculture; refers to the Regional Attorney or Attorney-in-Charge in an OGC field office unless otherwise indicated.

(i) *Prior lien.* A security instrument (such as a mortgage or deed of trust) or a judgment which was of public record before the FmHA security instrument(s) as well as real estate taxes or assessments which are or will become a lien against the property which is superior to FmHA's security instrument(s).

(j) *Recoverable costs.* Costs charged to a borrower's account paid or incurred prior to Government acquisition of title to the property.

(k) *Servicing official.* For loans to individuals as defined in paragraph (d) of this section, the servicing official is the County Supervisor for all other types of loans except insured B&I, the servicing official is the District Director. For insured B&I Loans, the servicing official is the State Director.

§ 1955.4 Redelegation of authority.

Authorities will be redelegated to the extent possible, consistent with program requirements and available resources.

(a) The State Director is authorized to redelegate, in writing, any authority in this subpart to a Program Chief or Program Specialist on the State Office staff; except the authority to approve or disapprove foreclosure as outlined in § 1955.15(a)(2) of this subpart may not be redelegated. However, a duly-designated Acting State Director may approve or disapprove foreclosure.

(b) The District Director is authorized to redelegate, in writing, any authority delegated to the District Director in this subpart to an Assistant District Director or District Loan Specialist determined by the District Director to be qualified; except the authority to approve or disapprove foreclosure as outlined in § 1955.15(a)(1) of this subpart may not be redelegated. Authority of District Directors in this subpart applies to Area Loan Specialists in Alaska and the Director for the Western Pacific Territories.

(c) The County Supervisor is authorized to redelegate in writing any authority delegated to the County Supervisor in this subpart to an Assistant County Supervisor, GS-7 or above, determined by the County Supervisor to be qualified. Authority of County Supervisors in this subpart applies to Area Loan Specialists in Alaska, Island Directors in Hawaii, and the Director for the Western Pacific Territories.

(d) The monetary limitations on acceptance of voluntary conveyance as provided for in § 1955.10(a) of this subpart may *not* be redelegated from a higher-level official to a lower-level official.

§ 1955.5 General actions.

(a) *Assignment of notes to FmHA.* When liquidation action is approved and the insured note is not held in the County or District Office, the approval official will request the Finance Office to purchase the note and forward it to the appropriate office. Voluntary conveyance may be closed pending receipt of the note(s), and foreclosure may also be processed pending receipt of the note(s), unless the original note is required in connection with the foreclosure action.

(b) *Execution of documents.* (1) After liquidation of loans to individuals has been approved by the appropriate official, the County Supervisor is authorized to execute all necessary forms and documents except notices of acceleration required to complete transactions covered by this subpart.

(2) After liquidation of loans to organizations has been approved by the appropriate official, the District Director

is authorized to execute all forms and documents for completion of the liquidation except:

(i) Notice of acceleration; or

(ii) Other form or document which specifically required State or National Office approval because of monetary limits or policy statement established elsewhere in this subpart.

(c) *Unused loan funds.* (1) Funds remaining in a supervised bank account will be handed in accordance with § 1902.15 of Subpart A of Part 1902 of this chapter before a voluntary conveyance or foreclosure is processed.

(2) Funds remaining in a construction or other account will be applied to the borrower's FmHA accounts.

(d) *Payment of costs.* Costs related to liquidations of a loan or acquisition of property will be paid by preparation of Standard Form 1034, "Public Voucher for Purchases and Services Other Than Personal," Standard Form 1143, "Advertising Order," or Form FmHA 120-10, "Solicitation, Quotation, Purchase Order, Inspection and Invoice," and submission of Form FmHA 2024-1, "Miscellaneous Payment System," according to FmHA Instruction 2024-P (available in any FmHA office) and the respective Forms Manual Insert (FMI) as either a recoverable or nonrecoverable cost as defined in § 1955.3 (g) and (j) of this subpart.

§ 1955.6-1955.9 [Reserved]

§ 1955.10 Voluntary conveyance of real property by the borrower to the Government.

The servicing official will not attempt to have the borrower voluntarily convey the security property to FmHA until all available servicing actions outlined in the respective program servicing regulations have been used or considered and it is determined the borrower will not be successful. The borrower should also have been encouraged to transfer or sell the property (subject to any prepayment restrictions of the respective loan program). The borrower will be informed by the servicing official of apparent equity in the property, if any.

(a) *Authority.*—(1) *Loans to individuals.* The County Supervisor and District Director are authorized to accept voluntary conveyance if the total indebtedness against the property (including prior and junior liens) does not exceed the respective loan approval authority for the type of loan (or combination of types) involved as outlined in Exhibits A through E of FmHA Instruction 1901-A (available in any FmHA office). The State Director is authorized to approve voluntary conveyance regardless of amount of indebtedness.

(2) *Loans to organizations.* (i) The State Director is authorized to approve voluntary conveyance of property securing Farmer Programs and EOC loans regardless of amount of indebtedness.

(ii) The State Director is authorized to approve voluntary conveyance of property securing MFH loans if the total indebtedness against the property, including prior and junior liens, does not exceed his/her approval authority for the type loan involved. Loan approval authorities are outlined in Exhibits A through E of FmHA Instruction 1901-A (available in any FmHA office).

(iii) Offers to convey property securing loans other than those outlined in paragraphs (a)(2) (i) and (ii) of this section will be submitted to the Administrator for approval prior to acceptance of the conveyance. In these cases the State Director will forward the voluntary conveyance offer, a statement of essential facts and his/her recommendations to the National Office, Attn: appropriate program division, along with the borrower's case file. An OGC opinion on settling any prior and/or junior liens will be included.

(b) *forms and documents.* All forms and documents in connection with voluntary conveyance will be prepared and distributed in accordance with the respective FMI or applicable OGC instructions. For loans to individuals when the County Supervisor has approval authority, the facts will be documented in the running record of the borrower's case file. For all other loans, the servicing official will submit the voluntary conveyance offer, the case file and a narrative report to the appropriate approval official.

(c) *Liens against the property other than FmHA liens.*—(1) *Prior liens.* (i) The approval official will determine whether or not prior liens will be paid. Normally, the Government will pay prior liens in full prior to acquisition if:

(A) A substantial recovery on the Government's investment plus the amount of the prior lien(s) can be obtained; and

(B) The holder of the prior lien(s) objects to the Government accepting voluntary conveyance subject to the prior lien(s), if consent of the prior lienholder(s) is required.

(ii) If property is acquired subject to prior lien(s), payment of installments on the lien(s) will be made while title to the property is held by the Government in accordance with § 1955.67(a) of Subpart B of Part 1955 of this chapter.

(2) *Junior liens.* The borrower must satisfy junior liens on the property (except FmHA liens) and pay real estate taxes or assessments which are or will become a lien on the property. However, if the borrower is unable or unwilling to do so, settlement of the liens may be made by FmHA if settlement would be in the best interest of the Government, considering all factors such as length of time required to foreclose, vandalism or other deterioration of the property which might occur, and effect on management of a MFH project and its tenants. An FmHA official will contact junior lienholders, negotiate the most favorable settlement possible, and determine whether it is in the Government's best interest to settle the junior liens and accept the voluntary coveyance.

(i) For loans to individuals, the approval official is authorized to settle junior liens in the smallest amount possible, but not to exceed an aggregate amount of $1,000 in each SFH case or $5,000 for other type loans. For junior liens in greater amounts when the approval official is the County Supervisor or District Director, prior authorization must be obtained from the State Director.

(ii) For loans to organizations, the State Director will determine whether or not junior liens will be settled and voluntary conveyance accepted.

(3) *Payment of liens.* A lien to be settled in accordance with paragraphs (c)(1)(i) or (c)(2) of this section will be paid as outlined in § 1955.5(d) of this subpart and charged to the borrower's account as a recoverable cost.

(d) *Offer of voluntary conveyance.* An offer of voluntary conveyance will consist of the following:

(1) Form FmHA 1955-1, "Offer to Convey Security."

(2) Warranty deed, or other deed approved by OGC to comply with State Laws. The deed will not be recorded until it is determined the voluntary conveyance will be accepted. At the time of the offer, the borrowers will be informed that the conveyance will not be accepted until the property has been appraised and a lien search has been obtained. If the voluntary conveyance is not accepted, the deed and Form FmHA 1955-1, properly executed, will be returned to the borrower along with a memorandum stating the reason(s) for nonacceptance.

(3) A current financial statement containing information similar to that required to complete Form FmHA 410-1, "Application for FmHA Services"; 410-4, "Application for Rural Housing Assistance (Nonfarm Tract); or 1930-1, "Balance Sheet;" and information on

present income and potential earning ability.

(4) For organization borrowers, a duly-adopted Resolution by the governing body authorizing the conveyance and certified by the attesting official with the corporate seal affixed. The Resolution will indicate which officials are authorized to execute the offer to convey and the deed on behalf of the borrower. If shareholder approval is necessary, the Resolution will specifically recite that shareholder approval has been obtained.

(5) If water rights, mineral rights, development rights, or other use rights are not fully covered in the deed, the advice of OGC will be obtained and appropriate documents to transfer rights to the Government will be obtained before the voluntary conveyance is accepted. The documents will be recorded, if necessary, in connection with closing the conveyance.

(6) If property is under lease, an assignment of the lease to the Government will be obtained with the effective date being the date the voluntary conveyance is closed. If an oral lease is in force, it will be reduced to writing and assigned to the Government.

(7) The borrower may be required to provide title insurance when the State Director determines it is necessary to protect the Government's interest.

(8) For MFH loans, assignment of Housing Assistance Payment (HAP) Contracts will be obtained. Rental Assistance will be retained until the State Director is advised by OGC that FmHA has title to the property, but may be suspended while the conveyance is pending according to Exhibit E of Subpart C of Part 1930 of this chapter.

(e) *Appraisal of property.* As soon as practicable after an offer of voluntary conveyance, but before acceptance by FmHA, an appraisal of the property will be made to establish the market value of the property in its existing condition if an appraisal reflecting current value is not part of the file. If a qualified FmHA appraiser is not available to appraise property securing a loan other than SFH or MFH, the State Director may obtain an appraisal from a qualified appraiser outside FmHA in accordance with Subpart D of Part 1955 of this chapter. For property securing SFH or MFH, prior authorization must be obtained from the Assistance Administrator, Housing, to secure an appraisal from a source outside FmHA.

(f) *Processing offer to convey security and acceptance by FmHA.* If a borrower has both SFH and other type loans, the portion of this paragraph dealing with the loan(s) other than SFH will be followed.

(1) *SFH loans.* The policy is to accept an offer of voluntary conveyance of property securing SFH loans in full satisfaction of the debt regardless of market value of the property if the County Supervisor determines the borrower has cooperated in good faith, satisfactorily maintained the property and otherwise fulfilled the covenants of the loan to the best of the borrower's ability. If the County Supervisor cannot make these determinations affirmatively, the offer for full satisfaction of the debt will not be accepted unless the value of the property is at least equal to the debt. However, the borrower may make a new offer for a credit equal to the value of the property as determined by FmHA. The conveyance will be processed as follows:

(i) Before accepting the offer, the County Supervisor will transmit the deed to a closing agent requesting a title search covering the period of time since the latest title opinion in the case file. The same agent who closed the loan should be used, if possible; otherwise one will be selected from the approved list of closing agents, taking care that cases are distributed fairly among approved agents. The closing agent may be instructed that the County Supervisor considers the voluntary conveyance offer conditionally approved, and the closing agent may record the deed after the title search if there are no liens against the property other than:

(A) The FmHA lien(s);

(B) Prior liens when FmHA has advised the closing agent that title will be taken subject to the prior lien(s) or has told the closing agent that the prior lien(s) will be handled in accordance with § 1955.10(c)(1) of this subpart; and/or

(C) Real estate taxes and/or assessments which must be paid when title to the property is transferred.

(ii) If junior liens are discovered, the closing agent will be requested to provide FmHA with the lienholder's name, amount of lien, date recorded, and the recording information (recording office, book and page), return the unrecorded deed to FmHA, and await further instructions from FmHA. In such cases, the County Supervisor will proceed in accordance with § 1955.10(c)(2) of this subpart. If agreement has been reached with the lienholder(s) for settling the junior lien(s) in order to accept the conveyance, the deed will be returned to the closing agent for a title update and recording.

(iii) The closing agent will be requested to provide a certification of title to FmHA after recordation of the deed. A certification of title in a statement that fee title is vested in the Government subject only to the FmHA lien(s) and prior liens previously approved by FmHA. After receipt of the certification of title, the County Supervisor will notify the borrower that the conveyance has been accepted in accordance with § 1955.10(h) of this subpart.

(2) *Consolidated Farm and Rural Development Act (CONACT) loans to individuals.* For CONACT loans to individuals as defined in § 1955.3 of this subpart where the FmHA indebtedness plus any prior liens exceeds the market value of the property, the County Committee must make the following certification if it is to recommend that the borrower and any cosigner be released from liability. The certification will be made on Form FmHA 440-2, "County Committee Certification or Recommendation", in the blank space following Item No. 10:

> In our opinion *(Name of Borrower(s) and any cosigner)* does not have reasonable ability to pay all or a substantial part of the balance of the debt owed after the voluntary conveyance, taking into consideration his or her assets and income at the time of the conveyance. The borrower has cooperated in good faith, used due diligence to maintain property against loss, and has otherwise fulfilled the covenants incident to the loan to the best of his or her ability. Therefore, we recommend that the borrower and any cosigner be released from personal liability for any balance due on the secured indebtedness upon conveyance of the property to the Government.

If the County Committee does not recommend release from liability, the borrower must be informed that the indebtedness cannot be satisfied but a credit can be given equal to the market value, and the borrower will determine if he/she wishes to make a new offer on that basis. If a new offer is made and accepted, the account will be handled as an unsatisfied account as outlined in § 1955.18(f) of this subpart. When the FmHA debt less the market value and prior liens exceeds $25,000, release of liability must be approved by the Administrator; otherwise the official who accepts the voluntary conveyance may approve the release of liability.

(i) *Loans which are within the County Supervisor's approval authority.* The same procedure outlined in paragraph (f)(1)(i) through (f)(1)(iii) of this section will be followed. The conveyance will be accepted in full satisfaction of the indebtedness unless:

(A) The market value of the property to be conveyed is less than the total of FmHA indebtedness and prior lien(s), if any, and the County Committee has *not* recommended the borrower be released from liability; or

(B) The borrower has made a new offer agreeing to accept a credit in the amount of the market value of the security property less prior lien(s), if any, in which case the conveyance will be accepted for the market value of the property conveyed to FmHA less prior lien(s), if any.

(ii) *Loans which are NOT within the County Supervisor's approval authority* (A) When an offer to convey is received from the borrower, the County Supervisor will request a closing agent, selected in accordance with paragraph (f)(1)(i) of this section, to make a title search covering the period of time since the latest title opinion in the case file. The case file containing the following will be forwarded to the appropriate approval official:

(*1*) Form FmHA 1955-2, "Report on Real Estate Problem Case;"

(*2*) Report of title search;

(*3*) Borrower's offer of voluntary conveyance consisting of applicable items outlined in paragraphs (d)(1) through (d)(7) of this section;

(*4*) Current appraisal of property;

(*5*) Unpaid balance on FmHA indebtedness and other liens, both prior and junior, if any;

(*6*) Form FmHA 440-2 executed in accordance with the FMI concerning release from liability if property value is less than the debt plus prior liens, if any;

(B) If the approval official determines the conveyance should be accepted, the file will be returned to the County Supervisor with a memorandum of conditional approval. The same conditions for release of liability apply an in Paragraph (f)(2)(i) of this section. If the approval official does not concur in acceptance of the conveyance, the file will be returned with a memorandum stating the reasons for rejecting the offer and giving instructions to the County Supervisor for further servicing of the account.

(C) After the approval official has conditionally approved the conveyance, the County Supervisor will forward the deed to a closing agent with instructions to record it provided no liens have been recorded since the recent title search. The closing agent will be requested to provide a certification of title to FmHA after recordation of the deed. After receipt of the certification of title, the County Supervisor will notify the borrower that the conveyance has been accepted in accordance with paragraph (h) of this section.

(3) *Loans to organizations.* When an offer of voluntary conveyance is received from an organization borrower, the servicing official will submit the offer and the case file containing the items outlined in paragraphs (f)(3)(ii) or (f)(3)(iii) of this section, as applicable, to the State Director. The State Director will obtain the advice of OGC on all offers of voluntary conveyance from organization borrowers. OGC will be requested to issue instructions for processing and closing the conveyance. When the market value of the property being conveyed (less prior liens, if any) is less than the FmHA debt, full consideration must be given to the borrower's present situation and future prospects for paying all or a part of the FmHA debt. In such a case, the County Committee must make a favorable recommendation if the borrower is to be released from liability; and if the FmHA debt less the market value and prior liens exceeds $25,000, release of liability must be approved by the Administrator.

(i) *Items to be included in the borrower's case file for MFH loans:*

(A) Report on Multiple-Family Housing Problem Case, (Exhibit A to this subpart available in any FmHA office);

(B) Liquidation and management plan with specific recommendations of the District Director;

(C) Form FmHA 1955-1;

(D) Resolution authorizing the conveyance, if applicable;

(E) Report of title search from an approved closing agent covering the period of time since the latest title opinion is the case file;

(F) Form FmHA 1930-7, "Statement of Budget and Cash Flow," (operating budget for first year and typical year);

(G) Form FmHA 1930-8, "Year End Report and Analysis for Fiscal Year Ending ———," (Balance Sheet Portion);

(H) Current appraisal prepared by a MFH designated appraiser;

(I) Balance on FmHA account(s) and other liens, if any;

(J) Assignment of Housing Assistance Payment (HAP) contracts, if applicable, along with evidence of contract with HUD;

(K) Current statement of account from the Finance Office;

(L) Development plan with breakdown of costs, if applicable; and

(M) Form FmHA 440-2, executed in accordance with paragraph (f)(3) of this section and the FMI, when applicable.

(ii) Items to be included in the borrower's case file for loans other than MFH:

(A) Report on Servicing Action (Exhibit A to Subpart E of Part 1951 of this Chapter, available in any FmHA office);

(B) Liquidation and management plan;

(C) Form FmHA 1955-1;

(D) Organization's Resolution authorizing the conveyance;

(E) Report of title search from an approved closing agent covering the period of time since the latest title opinion in the case file;

(F) Form FmHA 442-3, "Balance Sheet";

(G) Current appraisal;

(H) Statement showing income and expenses due but unpaid;

(I) Balance on FmHA account(s) and other liens, if any; and

(J) Form FmHA 440-2, executed in accordance with the FMI concerning release from liability if property value is less than the FmHA indebtedness plus prior liens, if any.

(g) *Closing of conveyance.* (1) The conveyance to the Government will be considered closed when the recorded deed has been returned to FmHA, a certification of title is received from the closing agent that title is vested in the Government with no outstanding encumbrances other than the FmHA lien(s) or previously approved prior liens, and the borrower is notified of the acceptance of the conveyance. For loans to organizations, OGC will be requested to review the case to verify that it was closed properly.

(2) When costs incident to the completion of the transaction are to be paid by the Government, the servicing official will prepare and process the necessary documents as outlined in § 1955.5(d) of this subpart and the costs will be charged to the borrower's account as recoverable costs. This includes taxes and assessments, water charges which protect the right to receive water, other liens, closing agent's fee, and any other costs related to the conveyance.

(h) *Actions to be taken after closing conveyance.* (1) When the FmHA account is satisfied, the note(s) will be stamped "Satisfied by Surrender of Security and Borrower Released From Liability," and the statement must be signed by the FmHA official authorized to approve release of liability in accordance with § 1955.10(f)(1), (2), or (3) of this subpart.

(2) When the FmHA account is not satisfied and the borrower is not released from liability, the note(s) will be retained by FmHA.

(3) The servicing official will release the lien(s) of record, indicating that the debt was satisfied by surrender of security or that the lien is released but the debt not satisfied, whichever is

applicable. If the lien is to be released but the debt not satisfied, OGC will provide the type of instrument required to comply with applicable State laws.

(4) After release of the lien(s), the servicing official will return the following to the borrower:

(i) If borrower is released from liability, the satisfied note(s) and a copy of Form FmHA 1955–1 showing acceptance by the Government; or

(ii) If borrower is not released from liability, a copy of Form FmHA 1955–1 showing acceptance by the Government.

(5) For MFH loans, the State Director will cancel any interest credit and suspend any rental assistance. These actions will be accomplished by notifying the Finance Office unit which handles MFH accounts. In the interm the tenants will continue rental payments in accordance with their lease.

(6) Actions outlined in § 1955.18 of this subpart will be taken, as applicable.

§ 1955.11 Conveyance of property to FmHA by trustee in bankruptcy.

(a) *Authority.* With the advice of OGC (and prior approval of the National Office for MFH, Community Programs, and insured B&I loans), the State Director within his/her authority is authorized to accept a conveyance of property to the Government by the Trustee in Bankruptcy, provided:

(1) The Bankruptcy Court has approved the conveyance;

(2) The conveyance will permit a substantial recovery on the FmHA debt; and

(3) FmHA will acquire title free of all liens and encumbrances except FmHA liens.

(b) *Fees and deed.* (1) FmHA may pay any necessary and proper fees in connection with the conveyance. Before paying a fee to a trustee for a Trustee's Deed in excess of $300 for any loan type(s) other than Farmer Programs or $1,000 for Farmer Program loans, prior approval of the Administrator must be obtained. The State Director will process the necessary documents as outlined in § 1955.5(d) of this subpart for payment of fees as recoverable costs.

(2) Conveyance may be by Trustee's Deed instead of a warranty deed. If upon advice of OGC it is determined a deed from any other person or entity (including the borrower) is necessary to obtain clear title, a deed from such person or entity will be obtained.

(c) *Acceptance.* The conveyance will be accepted for an amount of credit to the borrower's FmHA account(s) as set forth in § 1955.18(e)(4) of this subpart.

(d) *Reporting.* Acquisition of property under this section will be reported in accordance with § 1955.18(a) of this subpart.

§ 1955.12 Acquisition of property which served as security for a loan guarantee by FmHA or at sale by another lienholder, bankruptcy trustee, or taxing authority.

When the servicing regulations for the type of loan(s) involved permit FmHA to acquire property by one of these methods, the acquisition will be reported in accordance with § 1955.18(a) of this subpart.

§ 1955.13 Acquisition of property by exercise of Government redemption rights.

When the Government did not protect its interest in security property in a foreclosure by another lienholder, and if the Government has redemption rights, the State Director will determine whether to redeem the property. This determination will be based on all pertinent factors including the value of the property after the sale, and costs which may be incurred in acquiring and reselling the property. The decision must be made far enough in advance of expiration of the redemption period to permit exercise of the Government's rights. If the property is to be redeemed, complete information documenting the basis for not acquiring the property at the sale and factors which justify redemption of the property will be included in the case file. The assistance of OGC will be obtained in effecting the redemption. If the State Director decides not to redeem the property, the Government's right of redemption under Federal law (28 USC § 2410) may be waived without consideration. If a State law right of redemption exists and may be sold, it will not be disposed of for less than its value.

§ 1955.14 [Reserved]

§ 1955.15 Foreclosure by the Government of loans secured by real estate.

Foreclosure will be initiated when all reasonable efforts have failed to have the borrower voluntarily liquidate the loan through sale of the property, voluntary conveyance, or by entering into an accelerated repayment agreement when applicable servicing regulations permit; and when either a net recovery can be made or when failure to foreclose would adversely affect FmHA programs in the area:

(a) *Authority.*—(1) *Loans to individuals.* The District Director is authorized to approve or disapprove foreclosure and accelerate the account.

(2) *Loans to organizations.* (i) The State Director is authorized to approve or disapprove foreclosure of MFH loans when the amount of the FmHA secured debt does not exceed the loan approval authority of the State Director; and I&D, Shift-in-Land-Use (Grazing Association), loans to Indian Tribes and Tribal Corporations, and EOC loans, regardless of the amount of debt.

(ii) For all other organization loans, foreclosure will not be initiated without prior approval of the Administrator. The State Director will obtain OGC's opinion on the steps necessary to foreclose the loan, and forward the appropriate problem case report, a statement of essential facts, his/her recommendation, a copy of the OGC opinion, and the borrower's case file to the Administrator, Attn: Assistant Administrator (appropriate loan division) with a request for authorization to initiate foreclosure.

(b) *Problem case report.* When foreclosure is recommended, the servicing official will prepare Form FmHA 1955–2 for Farmer Programs or SFH loans, Exhibit A of this subpart for MFH loans, or Exhibit A of FmHA Instruction 1951–E (available in any FmHA office) for other organization loans. For loans other than housing, Community Programs, and insured B&I, the recommendation of the County Committee must be included. If chattel security is also involved, Forms FmHA 455–1, "Request for Legal Action"; 455–2, "Evidence of Conversion"; and 455–22, "Information for Litigation"; as applicable to the case, will be prepared in accordance with the respective FMIs and made a part of the problem case submission. A statement must be included by the servicing official in the narrative that all servicing actions required by FmHA loan servicing regulations have been taken and all required notices given to the borrower.

(1) *Appraisal.* The market value of the property may be estimated in completing the problem case report unless there are one or more prior liens other than current-year real estate taxes. Where such prior liens are involved, an appraisal report reflecting market value in existing condition will be included in the case file as a basis for determining the Government's prospects for financial recovery through foreclosure.

(2) *Recommendation for deficiency judgment.* If the debt will not be satisfied by the foreclosure, the borrower's financial situation will be assessed to determine if there is a possibility of further recovery on the account through a deficiency judgment. A summary of these determinations will be fully documented and appropriate recommendations made concerning deficiency judgment in the applicable problem case report. For SFH loans

subject to recapture of subsidy, the debt includes total interest credit granted and principal reduction attributed to subsidy in addition to unpaid principal and interest. However, a deficiency judgment will not be recommended in a SFH case to recapture subsidy or where the borrower was granted a moratorium provided the borrower faithfully tried to meet loan obligations. In crediting security value against indebtedness, credit will be given first to interest, principal and recoverable costs and then to recapture of subsidy.

(c) *Submission of problem case.* The servicing official will submit the completed problem case docket to the official authorized to approve the foreclosure (approval official). Before approval of foreclosure and acceleration of the account, the approval official is responsible for review of the problem case report to see that all items are complete and that all required servicing actions have been taken and all required notices given the borrower. The narrative portion of the report should provide complete information on the borrower's financial condition, deficiency judgment in case the debt is not satisfied by the foreclosure, and other pertinent background items. The approval official will approve or disapprove the foreclosure, or make a recommendation and refer the case to the National Office, if not within his/her approval authority. If foreclosure is not approved, the case will be returned to the originating office with instructions for further servicing. Problem case submission is as follows:

(1) *For loans to individuals.* The County Supervisors will submit the case to the District Director.

(2) *For loans to organizations.* The District Director will submit the case to the State Director along with a proposed liquidation and management plan covering the time the foreclosure is in process. The State Director will obtain the advice of OGC if required in connection with the type of loan being liquidated.

(d) *Approval of foreclosure.* When foreclosure is approved, it will be handled as follows:

(1) *Prior lien (s).* If there is a prior lien, all foreclosure alternatives should be explored including whether FmHA will give the prior lienholder the opportunity to foreclose; join in the action if the prior lienholder wishes to foreclose; or foreclose the FmHA loan(s), either settling the prior lien or foreclosing subject to it. The assistance of OGC should be obtained in weighing the alternatives, with the objective being to pursue the course which will result in the greatest net recovery by the Government. After it is decided which option will be most advantageous to the Government, the approval official, either directly or through a designee, will contact the prior lienholder to outline FmHA's position. If State laws affect this action, a State Supplement will be issued with the advice of OGC to establish the procedure to be followed.

(2) *Acceleration of account.* Subject to paragraphs (d)(2)(i), (d)(2)(ii), and (d)(2)(iii) of this section, the account will be accelerated using a notice substantially similar to Exhibit B or Exhibit C of this subpart (available in any FmHA office) to be signed by the official who approved the foreclosure. The notice will be sent by certified mail, return receipt requested, to each obligor individually, addressed to the last known address. If different from the property address and/or the address the Finance Office uses, a copy of the notice will also be mailed to the property address and the address currently used by the Finance Office. If a signed receipt for at least one of these acceleration notices sent by certified mail is received, no further notice is required. If no receipt is received, a copy of the acceleration notice will be sent by regular mail to each address to which the certified notices were sent. This type mailing will be documented in the file. A State supplement may be issued if OGC advises different or additional language or format is required to comply with State laws or if notice and mailing instructions are different from that outlined in this paragraph. A conformed copy of the acceleration notice will be forwarded to the servicing official, and the hearing officer identified in the notice according to Subpart B of Part 1900 of this chapter. For MFH loans, a copy of the acceleration letter will also be forwarded to the National Office, ATTN: MFH Servicing and Property Management Division, for monitoring purposes. Accounts may be accelerated as follows:

(i) Where monetary default is involved, the account may be accelerated immediately after approval of foreclosure.

(ii) Where monetary default is *not* involved, the account will not be accelerated until the concurrence of OGC is obtained.

(iii) If borrower obtained the loan while a civilian, entered military service after the loan was closed, the FmHA has not obtained a waiver of rights under the Soldiers and Sailors Relief Act, the account will not be accelerated until OGC has reviewed the case and given instructions.

(3) *Offers by borrower after acceleration of account.* After the account is accelerated, the servicing official will accept no payment for less than the upaid loan balance, unless State law requires that foreclosure be withdrawn if the account is brought current and a State Supplement is issued to specify this requirement. If payments are *mistakenly* accepted and credited to the borrower's account, no waiver or prejudice to any rights which the United States may have for breach of any promissory note or convenant in the real estate instruments will result and FmHA may proceed as though no such payment had been made. The servicing official will notify the approval official of any other offer. This includes a request by the borrower for an extension of time to accomplish voluntary liquidation or a proposal to cure the default(s). The approval official will decide whether or not the borrower's offer will be accepted and servicing of the loan reinstated or whether foreclosure will be delayed to give the borrower additional time to voluntarily liquidate as authorized in servicing regulations for the type loan(s) involved. If an offer from the borrower is received after the case has been referred to OGC, the approval official will consult OGC before accepting or rejecting the offer. In all cases the approval official will notify the servicing official of the decision made. For MFH loans, the National Office will be advised when foreclosure is withdrawn. When an account is reinstated under this section, the servicing official will grant or reinstate assistance for which the borrower qualifies, such as interest credit on a SFH loan. When granting interest credit in such a case:

(i) If an interest credit agreement expired after the account was accelerated, the effective date will be the date the previous agreement expired.

(ii) If an interest credit agreement was not in effect when the account was accelerated, the effective date will be the date foreclosure action was withdrawn.

(iii) For MFH loans with rental assistance, after acceleration and any appeal or review has been concluded, rental assistance will be suspended if foreclosure is to continue. If the account is reinstated, the rental assistance will be reinstated retroactively to the date of suspension. In the interim the tenants will continue rental payments in accordance with their lease.

(4) *Statement of account.* If a statement of account is required for foreclosure proceedings, Form FmHA 451-10, "Request for Statement of Account," will be forwarded to the Finance Office by the approval official requesting a statement of account

including all loans being foreclosed. For SFH loans subject to recapture of subsidy, a request should be placed in the "Remarks" section of Form 450-10 that the total interest credit granted and principal reduction attributed to subsidy be shown. When an official statement of account is not required for foreclosure proceedings, account balances and subsidy information may be obtained through the Inquiry Station of the Finance Office.

(5) *Appeals of foreclosure actions.* All appeals will be handled pursuant to Subpart B of Part 1900 of this chapter. Foreclosure actions will be held in abeyance while an appeal is pending. No case will be referred to OGC for processing of foreclosure until a borrower's appeal and appeal review have been concluded, or the time during which appeal or request for review may be made has elapsed.

(6) *Petition in bankruptcy filed by borrower after acceleration of account.*

(i) When bankruptcy is filed after an account has been accelerated, the foreclosure action must be suspended until:

(A) The bankruptcy case is *dismissed* or *closed* (a discharge of debtor does not close the case);

(B) An Order lifting the automatic stay is obtained from the Bankruptcy Court; or

(C) The property is no longer property of the bankruptcy estate *and* the borrower has received a discharge.

(ii) The State Director will request the assistance of OGC in obtaining the Order(s) described in paragraph (c)(6)(i)(B) of this section.

(e) *Referral of case.* If the borrower fails to satisfy the account during the period of time specified in the acceleration notice, and no appeal is pending, the foreclosure process will continue:

(1) If the District Director is the approval official, he/she will forward the case file with all pertinent documents and information concerning the foreclosure action and appeal, if any, to the State Director for completion of the foreclosure.

(2) If the State Director is the approval official, or in cases referred by the District Director under paragraph (e)(1) of this section, the State Director will forward to OGC the case file and all documents needed by OGC to process the foreclosure. A State Supplement will be issued, with the advice and assistance of OGC, to reflect the make-up of the foreclosure docket. Since foreclosure processing varies widely from State to State, each State Supplement will be explicit in outlining step-by-step procedures. At the time indicated by OGC in the foreclosure instructions, Form FmHA 1951-6, "Borrower Account Description Flag," will be prepared and distributed according to the FMI advising the Finance Office to flag the borrower's account indicating foreclosure action is pending (FAP). After referral to OGC, further actions will be in accordance with OGC's instructions for completion of the foreclosure. If prior approval of the Administrator is obtained, nonjudicial foreclosure for monetary default may be handled as outlined in a State Supplement approved by OGC without referral to OGC before foreclosure.

(f) *Completion of foreclosure.*—(1) *Foreclosure advertisement for organization loans subject to Title VI of the Civil Rights Act of 1964.* The advertisement for foreclosure sale of property subject to Title VI of the Civil Rights Act of 1964 will contain a statement substantially similar to the following: "The property described herein was purchased or improved with Federal financial assistance and is subject to the nondiscrimination provisions of Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973 and other similary that prohibit discrimination on the basis of race, color, national origin, handicap, religion, age or sex in programs or activities receiving Federal financial assistance, for as long as the property continues to be used for the same or similar purposes for which the Federal assistance was extended or for so long as the purchaser owns it, whichever is later. The purchaser will be required to sign Form FmHA 400-4, "Assurance Agreement," if the property will be used for its original or similar purposes.

(2) *Expenses.* Expenses which are incurred in connection with foreclosure, including legal fees, will be paid at the time recommended by OGC by processing the necessary documents as outlined in § 1955.5(d) of this Subpart. Costs will be charged to the borrower's account as recoverable costs unless otherwise directed by OCG.

(3) *Notice of judgment.* In states with judicial foreclosure, as soon as the foreclosure judgment is obtained, Form FmHA 1962-20, "Notice of Judgment," will be completed and distributed according to the FMI. This will enable the Finance Office to establish the judgment account to accrue interest at the rate stated in the judgment order so that an accurate account balance can be obtained for calculating the Government's foreclosure bid.

(4) *Gross investment.* The gross investment is the sum of the following:

(i) The unpaid balance of one of the following, as applicable:

(A) In States with nonjudicial foreclosure, the borrower's FmHA account balance reflecting secured loan(s) and advances; and where State law permits, unsecured debts; or

(B) In States with judicial foreclosure, the judgment account established as a result of the foreclosure judgment in favor of FmHA.

(ii) All recoverable costs charged (or to be charged) to the borrower's account in connection with the foreclosure action and other costs which OGC advises must be paid from proceeds of the sale before paying the FmHA secured debt, including but not limited to payment of real estate taxes and assessments, prior liens, legal fees including U.S. Attorney's and U.S. Marshal's, and management fees; and

(iii) If a SFH loan subject to recapture of interest credit is involved, the total amount of subsidy granted and principal reduction attributed to subsidy.

(5) *Amount of Government's bid.* Except as modified by paragraph (f)(6)(ii) of this section, the Government's bid will be the amount of FmHA's gross investment or the market value of the security, whichever is less. When the foreclosure sale is imminent, the State Director must request the servicing official to submit a current appraisal (in existing condition) as a basis for determining the Government's bid.

(6) *Bidding.* The State Director will designate an individual to bid on behalf of the Government unless judicial proceedings provide for someone other than an FmHA employee to enter the Government's bid. When the State Director determines attendance of an FmHA employee at the sale might pose physical danger, a written bid may be submitted to the Marshal, Sheriff, or other party in charge of holding the sale. The Government's bid will be entered when no other party makes a bid or when the last bid made will result in the property being sold for less than the bid authorized in paragraph (f)(5) of this section.

(i) When FmHA is the senior lienholder, only one bid will be entered, and that will be for the amount authorized by the State Director.

(ii) When FmHA is not the senior lienholder *and* OGC advises that the borrower has no redemption rights or if a deficiency judgment will be obtained, the State Director may authorize the person who will bid for the Government to make incremental bids in competition with other bidders. If incremental bidding is desired, the State Director's instructions to the bidder will state the initial bid, bidding increments, and the maximum bid.

(g) *Reports on sale and finalizing foreclosure.* Immediately after a foreclosure sale at which the State Director has designated a person to bid on behalf of the Government, the servicing official will furnish the State Director a report on the sale. The State Director will forward a copy of this report to OGC and, for MFH loans, to the National Office. Based on OGC's instructions, a State supplement will provide a detailed outline of actions necessary to complete the foreclosure.

§§ 1955.16–1955.17 [Reserved]

§ 1955.18 Actions required after acquisition of property.

(a) *Reporting acquisition.* When real or chattel property is acquired by the Government, the servicing official will prepare and distribute Form FmHA 1955–3, "Advice of Property Acquired," or Form FmHA 1965–19, "Multiple Family Housing Advice of Mortgaged Real Estate Acquired," according to the FMI immediately after a voluntary conveyance is closed, a foreclosure sale is completed, or property is acquired by any other means. The date of acquisition will be the date the deed to the Government is recorded for a voluntary conveyance; the date of the foreclosure sale; or for chattels, the date the bill of sale (and title, if applicable) is executed transferring ownership to FmHA. Form FmHA 1955–3 or Form FmHA 1965–19 will be submitted promptly without waiting for the final report on sale from OGC where required. The State Director will assign an advice number to the property and complete distribution according to the FMI. For MFH loans, the State Director will forward a copy of Form FmHA 1965–19 to the National Office for monitoring purposes. For MFH projects with rental assistance, Form FmHA 1944–55, "Multiple Family Housing Transfer of Rental Assistance," must be attached to Form 1965–19 indicating the status of the rental assistance while the property is in inventory.

(b) *Existing lease.* If property acquired by FmHA is under an existing written lease, a copy of the lease will be attached to Form FmHA 1955–3 or Form FmHA 1965–19. Any oral lease in effect will be reduced to writing on Form FmHA 1955–20, "Lease of Real Property." The Finance Office will establish a lease account in the lessee's name. If an existing lease if terminated by foreclosure, a new lease may be considered pursuant to § 1955.66 of Subpart B of Part 1955 of this chapter, except for MFH property for which leasing as a project is generally not authorized.

(1) The servicing official will notify the lessee in writing that the Government has acquired the former lessor's rights under the lease and direct the lessee to remit all payments to FmHA. Receipts for collections will read: "Lease proceeds from property formerly owned by (borrower's name and case number) and leased to (lessee's name)." All lease proceeds collected will be remitted according to FmHA Instruction 1951–B (available in any FmHA office).

(2) Payments under an existing lease which were due and payable *before* the date the property is acquired will be applied to any unsatisfied balance on the FmHA account. If there is a surplus, the Finance Office will forward a refund check payable to the former borrower to the County or District Office for delivery to the former borrower.

(3) Payments under an existing lease which are due and payable *after* the date the property is acquired will be applied to the lease account.

(c) *Existing management agreement.* For MFH, if a property is being managed prior to acquisition on behalf of the borrower, the State Director will request the assistance of the National Office in determining if the agreement should be cancelled or extended. In any event, management services should be obtained as soon as possible in accordance with § 1955.65 of Subpart B of Part 1955 of this chapter.

(d) *Inventory account.* The Finance Office will establish an inventory account under the Advice Number assigned by the State Director. The value of the property entered into the inventory account will be the lesser of market value as of the date acquired (less outstanding liens if the property was acquired subject to any liens) or the gross investment as defined in § 1955.15(f)(4) of this subpart, excluding SFH subsidy granted and principal reduction attributed to subsidy.

(e) *Credit to the borrower's account or foreclosure judgment account.*

(1) *For SFH accounts.* When FmHA acquired the property, the account will be satisfied unless:

(i) In a voluntary conveyance case where the debt exceeds the market value of the property and the borrower is *not* released from liability, in which case the account credit will be the market value (less outstanding liens if any); or

(ii) In a foreclosure where the bid is less than the account balance and a deficiency judgment will be sought for the difference, in which case the account credit will be the amount of FmHA's bid.

(2) *For all types of accounts other than SFH.* When FmHA acquired the property, the account credit will be as follows:

(i) In a voluntary conveyance case:

(A) Where the market value of the property equals or exceeds the debt or where the borrower is released from liability for any difference, the account will be satisfied.

(B) Where the debt exceeds the market value of the property and the borrower is *not* released from liability, the account credit will be the market value (less outstanding liens, if any).

(ii) In a foreclosure, the account credit will be the amount of FmHA's bid *except* when incremental bidding as provided for in § 1955.15(f)(6)(ii) of this subpart was used, in which case the account credit will be the maximum bid that was authorized by the State Director.

(3) *For all types of accounts when FmHA did not acquire the property.* The sale proceeds will be handled in accordance with applicable State laws with the advice and assistance of OGC, including remittance of funds, application of the borrower's account credit, and disbursement of any funds in excess of the amount due FmHA.

(4) *In cases where FmHA acquired security property by means other than voluntary conveyance or foreclosure.* In these cases, such as conveyance by a bankruptcy trustee or by Court Order, the account credit will be as follows:

(i) If the market value of the acquired property equals or exceeds the debt, the account will be satisfied.

(ii) If the debt exceeds the market value of the acquired property, the account credit will be the market value.

(f) *Unsatisfied account.* Unsatisfied account balances will be settled in accordance with Part 1864 of this chapter (FmHA Instruction 456.1) or the account will be reclassified to collection-only by submitting Form FmHA 404–1, "Case Reclassification," to the Finance Office. After reclassification to collection-only, Form FmHA 450–10, "Advice of Borrower's Change of Address or Name," or for MFH, Form FmHA 1944–54, "Multiple Family Housing Change of Borrower Name/Case Number/Project Number/Loan Number," will be submitted to the Finance Office to furnish the borrower's new address, if known. Collection-only accounts will be serviced in accordance with § 1951.7 of Subpart A of Part 1951 of this chapter.

(g) *Deficiency judgment.* When a deficiency judgment is to be sought, the

State Director will initiate action pursuant to § 1962.49 of Subpart A of Part 1962 of this chapter. When a judgment is obtained, the State Director will prepare and distribute Form FmHA 1962-20 which will establish a judgment account to be serviced pursuant to § 1962.49(e) of Subpart A of Part 1962 of this chapter. For MFH cases, the State Director should contact the MFH Unit in the Finance Office for instructions on altering Form 1962-20 to the requirements of the Automated Multiple Family Housing Account System (AMAS). If attempts to obtain a judgment are not successful, the remaining debt will be settled or serviced pursuant to § 1951.7 of Subpart A of Part 1951 of this chapter.

§ 1955.19 [Reserved]

§ 1955.20 Acquisition of chattel property.

Every effort will be made to avoid acquiring chattel property by having the borrower or FmHA liquidate the property according to Subpart A of Part 1962 of this chapter and apply the proceeds to the borrower's account(s). Methods of acquisition authorized are:

(a) *Purchase at the following types of sale:*

(1) Execution sale conducted by the U.S. Marshal, sheriff or other party acting under Court order to satisfy judgment liens.

(2) FmHA foreclosure sale conducted by the U.S. Marshal or sheriff in States where a State Supplement provides for sales to be conducted by them.

(3) Sale by trustee in bankruptcy.

(4) Public sale by prior lienholder.

(5) Public sale conducted under the terms of Form FmHA 455-4, "Agreement for Voluntary Liquidation of Chattel Security," the power of sale in security agreements or crop and chattel mortgage, or similar instrument, if authorized by State Supplement.

(b) *Voluntary conveyance.* Voluntary conveyance of chattels will be accepted only when the borrower can convey ownership free of other liens *and* the borrower can be released from liability under the conditions set forth in § 1955.10(f)(2) of this subpart. Payment of other lienholders' debts by FmHA in order to accept voluntary conveyance of chattels is not authorized.

(1) *Offer.* The borrower's offer of voluntary conveyance will be made on Form FmHA 1955-1. If it is determined the conveyance offer can be accepted, the borrower will execute a bill of sale itemizing each item of chattel property being conveyed and will provide titles to vehicles or other equipment, where applicable.

(2) *Acceptance of offer and release from liability.* Before accepting an offer to convey chattels to FmHA, the concurrence of the State Director must be obtained. When chattel security is voluntarily conveyed to the Government and the borrower and cosigner(s), if any, are to be released from liability, the servicing official will stamp the note(s) will be stamped "Satisfied by Surrender of Security and Borrower Released from Liability". The servicing official is authorized to sign the release of liability statement except when the FmHA debt secured by the chattels less their market value exceeds $25,000, the release of liability statement must be signed by the Administrator. Form FmHA 1955-1 will be executed by the servicing official showing acceptance by the Government, and the satisfied note(s) and a copy of Form FmHA 1955-1 will be furnished to the borrower.

(3) *Release of lien(s).* When an offer has been accepted as outlined in paragraph (b)(2) of this section, the servicing official will release any liens of record which secured the satisfied indebtedness.

(4) *Rejection of offer.* If it is determined an offer of voluntary conveyance will not be accepted, the servicing official will indicate on Form FmHA 1955-1 that the offer is rejected, execute the form, and furnish a copy to the borrower.

(c) *Attending sales.* The servicing official will:

(1) Attend all sales described in paragraph (a)(5) of this section unless an exception is authorized by the State Director because of physical danger to the FmHA employee or adverse publicity would be likely.

(2) Attend public sales by prior lienholders when the market value of the chattel property is significantly more than the amount of the prior lien(s).

(3) Obtain the advice of the State Director on attending sales described in paragraphs (a) (1), (2), and (3) of this section.

(d) *Appraising chattel property.* Prior to the sale, the servicing official will appraise chattel property using Form FmHA 440-21, "Appraisal of Chattel Property."

(e) *Abandonment of security interest.* The State Director may authorize abandonment of the Government's security interest when chattel property, considering costs of moving or rehabilitation, has no market value and obtaining title would not be in the best interest of the Government.

(f) *Bidding at sale.*

(1) The servicing official is authorized to bid at sales described in paragraph (a) of this section. Ordinarily, only one bid will be made on items of chattel security unless the State Director authorizes incremental bidding. Bids will be made only when no other party bids or when it appears bidding will stop and the property will be sold for less than the amount of the Government's authorized bid. When the State Director determines attendance of an FmHA employee might pose physical danger, a written bid may be submitted to the party holding the sale. The bid(s) will be the lesser of:

(i) The market value of the item(s) less the estimated costs involved in the acquisition, care, and sale of the item(s) of security; or

(ii) The unpaid balance of the borrower's secured FmHA debt plus prior liens, if any.

(2) Bids will not be made in the following situations unless authorized by the State Director:

(i) When chattel property under prior lien has a market value which is not significantly more than the amount owed the prior lienholder. If FmHA holds a junior lien on several items of chattel property, advice should be obtained from the State Director on bidding.

(ii) After sufficient chattel property has been bid in by FmHA to satisfy the FmHA debt; prior liens, and cost of the sale.

(iii) When the sale is being conducted by a lienholder junior to FmHA.

(iv) At a private sale.

(v) When the sale is being conducted under the terms of Form FmHA 455-3, "Agreement for Public Sale by Borrower."

(g) *Payment of costs.* Costs to be paid by FmHA in connection with acquisition of chattel property will be paid as outlined in § 1955.5(d) of this subpart as recoverable costs.

Note.—Payment of other lienholders' debts in connection with voluntary conveyance of chattels is not authorized.

(h) *Reporting acquisition of chattel property.* Acquisition of chattel property will be reported by use of Form FmHA 1955-3 prepared and distributed in accordance with the FMI.

§ 1955.21 Exception authority.

The Administrator may, in individual cases, make an exception to any requirement or provision of this subpart or address any omission of this subpart which is not inconsistent with the authorizing statute or other applicable law if the Administrator determines that the Government's interest would be adversely affected or the immediate health and/or safety of tenants or the community are endangered if there is no adverse effect on the Government's interest. The Administrator will exercise this authority upon the request of the State Director with recommendation of the appropriate program Assistant Administrator; or upon request initiated by the appropriate program Assistant Administrator. Requests for exceptions must be made in writing and supported with documentation to explain the adverse effect, propose alternative courses of action, and show how the adverse effect will be eliminated or minimized if the exception is granted.

§ 1955.22 State supplements.

State Supplements will be prepared with the assistance of OGC as necessary to comply with State laws or only as specifically authorized in this regulation to provide guidance to FmHA officials. State supplements will be submitted to the National Office for post approval in accordance with FmHA Instruction 2006–B (available in any FmHA office).

§§ 1955.23–1955.49 [Reserved]

§ 1955.50 OMB control number.

The collection of information requirements in this regulation have been approved by the Office of Management and Budget and assigned OMB control number 0575–0109.

Subpart B—Management of Property

§ 1955.51 Purpose.

This subpart delegates authority and prescribes policies and procedures for:

(a) Management of real property which has been taken into custody by the Farmers Home Administration (FmHA) after abandonment by the borrower;

(b) Management of real and chattel property which is in FmHA's inventory.

(c) Management of real and chattel property which was security for a guaranteed loan liquidated by FmHA (or which FmHA is in the process of liquidating).

§ 1955.52 Policy.

Inventory and custodial real property will be effectively managed to preserve its value and protect the Government's financial interests. Properties owned or controlled by FmHA will be maintained so that they are not a detriment to the surrounding area and they comply with State and local codes. Generally, FmHA will continue operation of Multiple Family Housing (MFH) projects which are acquired or taken into custody. Servicing of repossessed or abandoned chattel property is covered in Subpart A of Part 1962 of this chapter, and management of inventory chattel property is covered in § 1955.80 of this subpart.

§ 1955.53 Definitions.

As used in this subpart, the following definitions apply:

(a) *CONACT or CONACT property.* Property acquired or sold pursuant to the Consolidated Farm and Rural Development Act (CONACT). Within this subpart, it shall also be construed to cover property which secured loans made pursuant to the Agriculture Credit Act of 1978; the Emergency Agricultural Credit Adjustment Act of 1978; the Emergency Agricultural Credit Act of 1984; and other statutes giving agricultural lending authority to FmHA.

(b) *Contracting officer (CO).* CO means an FmHA employee designated to enter into or administer contracts and make related determinations and findings. Only the CO and his/her designated representative are authorized to conduct official business with the contractor in administration of a contract.

(c) *Custodial property.* Borrower-owned real property and improvements which serve as security for an FmHA loan, having been abandoned by the borrowers, and of which FmHA has taken possession.

(d) *Government.* The United States of America, acting through the FmHA, U.S. Department of Agriculture.

(e) *Inventory property.* Real and chattel property and related rights to which the Government has acquired title.

(f) *Loans to Individuals.* Farm Ownership (FO), Soil and Water (SW), Recreation (RL), Land Conversation and Development (LCD), Economic Opportunity (EO), Operation (OL), Emergency (EM), and Economic Emergency (EE) whether to individuals or entities, herein referred to as Farmer Programs (FP) loans and Single-Family Housing (SFH), including both Sections 502 and 504 loans.

(g) *Loans to organizations.* Community Facility (CF), Water and Waste Disposal (WWD), Association Recreation, Watershed (WS), Resource Conservation and Development (RC&D), loans to associations for Irrigation and Drainage and other Soil and Water Conservation measures, loans to Indian Tribes and Tribal Corporations, Shift-in-Land-Use) Grazing Associations); Business and Industrial (B&I) to both individuals and groups, Economic Opportunity Cooperative (EOC), Rural Housing Site (RHS), Rural Cooperative Housing (RCH), and Rural Rental Housing (RRH) and Labor Housing (LH) to both individual and groups. The housing-type loans identified here are referred to in this subpart collectively as MFH loans.

(h) *Nonrecoverable costs.* Costs incurred after Government acquisition of title to the property and charged to an inventory account.

(i) *Office of the General Counsel (OGC).* The OGC, U.S. Department of Agriculture, refers to the Regional Attorney or Attorney-in-Charge in an OGC field office unless otherwise indicated.

(j) *Recoverable costs.* Costs charged to a borrower's account paid or incurred prior to Government acquisition of the property.

(k) *Servicing official.* For loans to individuals as defined in paragraph (f) of this section, the servicing official is the County Supervisor; for all other types of loans except insured B&I, the servicing official is the District Director. For insured B&I loans, the servicing official is the State Director.

(l) *Suitable property.* Property that can be used to carry out the objectives of an FmHA loan programs with financing provided through that program. Inventory housing property located in an area whose designation has been changed from rural to nonrural and which is otherwise suitable property will be considered as if it were still in a rural area.

(m) *Surplus property.* Real or chattel property acquired pursuant to the CONACT and other Acts authorizing agricultural lending as defined in paragraph (a) of this section that is not suitable for sale to eligible applicants. It also includes suitable CONACT property which is not sold within 3 years after acquisition.

(n) *Unsuitable property.* Property acquired pursuant to the Housing Act of 1949 that is unfit for a borrower to carry out the objectives of an FmHA loan program; for example, a dwelling that cannot be feasibly repaired to meet FmHA property standards for existing construction as adopted by FmHA in Subpart A of Part 1924 of this chapter. It may be an otherwise-suitable SFH property which is so poorly located it will not serve as an adequate residential unit or an older home which is excessively expensive to heat and maintain.

§ 1955.54 Redelegation of authority.

Authorities will be redelegated to the extent possible, consistent with program objectives and available resources.

(a) The State Director may redelegate, in writing, any authority delegated to the State Director in this subpart, unless specifically excluded, to a Program

Chief, Program Specialist, or Property Management Specialist on the State Office staff.

(b) The District Director may redelegate, in writing, any authority delegated to the District Director in this subpart to an Assistant District Director or District Loan Specialist. Authority of District Directors in this subpart applies to Area Loan Specialists in Alaska, Island Directors in Hawaii, and the Director for the Western Pacific Territories.

(c) The County Supervisor may redelegate, in writing, any authority delegated to the County Supervisor in this subpart to an Assistant County Supervisor, GS-7 or above, who is determined by the County Supervisor to be qualified. Authority of County Supervisors in this subpart applies to Area Loan Specialists in Alaska, Island Directors in Hawaii, and the Director for the Western Pacific Territories.

§ 1955.55. Taking abandoned real or chattel property into custody and related actions.

(a) *Determination of abandonment.* When it appears a borrower has abandoned security property, the servicing official shall make a diligent attempt to locate the borrower to determine what the borrower's intentions are concerning the property. This includes making inquiries of neighbors, checking with the Postal Service, utility companies, employer(s) if known, and schools, if the borrower has children, to see if the borrower's whereabouts can be determined and an address obtained. A State Supplement may be issued if necessary to further define "abandonment" based on State law. If the borrower is not occupying or is not in possession of the property but has it listed for sale with a real estate broker or has made other arrangements for it care or sale, it will not be considered abandoned so long as it is adequately secured and maintained, and the case will be handled in accordance with § 1872.17 of Subpart A of Part 1872 of this chapter (FmHA Instruction 465.1, paragraph XVII), or § 1965.75 of Subpart B of Part 1965 of this chapter. If the borrower has made no effort to sell the property and can be located, an opportunity to voluntarily convey the property to the Government will be offered the borrower in accordance with § 1995.10 of Subpart A of Part 1955 of this chapter.

(b) *Taking security property into FmHA custody.* When security property is determined to be abandoned, the running record in the borrower's file will be fully documented with the facts substantiating the determination of abandonment, and the servicing official shall proceed as follows without delay:

(1) For loans to individuals, if there are no prior liens, or if a prior lienholder will not take the measures necessary to protect the property, the County Supervisor shall take custody of the property, and a problem case report will be prepared recommending foreclosure in accordance with § 1995.15 of Subpart A of Part 1955 of this chapter, unless the borrower can be located and voluntary liquidation accomplished.

(2) For MFH loans, if there are no prior liens, the District Director will immediately notify the State Director, who will request guidance from OGC and may also request advice from the National Office. The State Director, with the advice of OGC, will advise the borrower by writing a letter, certified mail, return receipt requested, at the address currently used by Finance Office, outlining proposed actions by FmHA to secure, maintain, and operate the project.

(i) If the unpaid loan balance plus recoverable costs do not exceed the State Director's loan approval authority, the State Director will authorize the District Director to take custody of the property, make emergency repairs if necessary to protect the Government's interest, and will advise how the property is to be managed in accordance with Subpart C of Part 1930 of this Chapter.

(ii) If the unpaid loan balance plus recoverable costs exceed the State Director's loan approval authority, the State Director will refer the case to the National Office for advice on emergency actions to be taken. The docket will be forwarded to the National Office with detailed recommendations for immediate review and authorization for further action, if requested by the MFH staff.

(iii) Costs incurred in connection with procurement of such things as management services and obtaining audits of the borrower's accounts will be handled in accordance with FmHA Instruction 1955-D (available in any FmHA office).

(iv) The District Director will prepare a problem case report to initiate foreclosure in accordance with § 1955.15 of Subpart A of Part 1955 of this Chapter and submit the report to the State Director along with a proposed plan for managing the project while liquidation is pending.

(3) For organization loans other than MFH, if there are no prior liens, the District Director will immediately notify the State Director that the property has been abandoned and recommend action which should be taken to protect the Government's interest. After obtaining the advice of OGC and the appropriate staff in the National Office, the State Director may authorize the District Director to take custody of the property and give instructions for immediate actions to be taken as necessary. The District Director will prepare a Report on Servicing Action (Exhibit A of Subpart E of Part 1951 of this chapter) recommending that that foreclosure be initiated in accordance with § 1955.15 of Subpart A of Part 1955 of this chapter and submit the report to the State Director, along with a proposed plan for management and/or operation of the project while liquidation is pending.

(c) *Protecting custodial property.* The FmHA official who takes custody of abandoned property shall take the actions necessary to secure, maintain, preserve, lease, manage, or operate the property.

(1) *Nonsecurity personal property on premises.* If a property has been abandoned by a borrower who left nonsecurity personal property on the premises, the personal property will not be removed and disposed of *before* the real property is acquired by the Government. If the premises are in a condition which presents a fire, health or safety hazard, but also contains items of value, only the trash and debris presenting the hazard will be removed. The servicing official may request advice from the State Director as necessary. The servicing official shall check for liens on nonsecurity personal property left on abandoned premises. If there is a known lienholder(s), the lienholder(s) will be notified by certified mail, return receipt requested, that the borrower has abandoned the property and that FmHA has taken the real property into custody. Actions by FmHA must not damage or jeopardize livestock, growing crops, stored agricultural products, or any other personal property which is not FmHA security.

(2) *Repairs to custodial property.* Repairs to custodial property will be limited to those which are essential to prevent further deterioration of the property. Expenditures in excess of an aggregate of $1,000 per property must have prior approval of the State Director.

(d) *Costs and income.* Expenditures will be charged to the borrower's account as recoverable costs. Income from the property will be remitted according to FmHA Instructions 1951-B (available in any FmHA office) and applied to the borrower's account as an extra payment. Payment for advances made by FmHA while the property is owned by the borrower will be made by preparation of SF-1034, "Public Voucher for Purchases and Services Other than Personal," for taxes, assessments, utilities, other similar costs, or Form FmHA 120-10, "Solicitation, Quotation, Purchase Order, Inspection, and Invoice," for securing the property, maintenance, essential repairs, and management services obtained pursuant to FmHA Instruction 1955-D (available in any FmHA office). In either case, Form FmHA 2024-1, "Miscellaneous Payment System," will be prepared and distributed according to the Forms Manual Insert (FMI) for payment according to FmHA Instruction 2024-P (available in any FmHA office).

§ 1955.56 Real property located in Coastal Barrier Resources System (CBRS).

(a) *Approval official's scope of authority.* Any action that is not in conflict with the limitations set forth in paragraphs (a)(1), (a)(2), or (a)(3) of this section shall not be undertaken until the approval official has consulted with the appropriate Regional Director of the U.S. Fish and Wildlife Service and the Regional Director concurs that the proposed action does not violate the provisions of the Coastal Barrier Resources Act (CBRA). Pursuant to the requirements of the CBRA, and except as specified in paragraphs (b) and (c) of this section, no maintenance or repair action may be taken for property located within a CBRS where:

(1) The action goes beyond maintenance, replacement-in-kind, reconstruction, or repair and would result in the expansion of any roads, structures or facilities. Water and waste disposal facilities as well as community facilities may be improved to the extent required to meet health and safety requirements but may not be improved or expanded to serve additional users, patients, or residents;

(2) The action is inconsistent with the purposes of the CBRA; or

(3) The property to be repaired or maintained was initially the subject of a financial transaction that violated the CBRA.

(b) *Administrator's review.* Any proposed maintenance or repair action that does not conform to the requirements of paragraph (a) of this section must be forwarded to the Administrator for review and approval. Approval will not be granted unless the Administrator determines, through consultation with the Department of the Interior, that the proposed action does not violate the provisions of the CBRA.

(c) *Emergency provisions.* In emergency situations to prevent imminent loss of life, imminent substantial damage to the inventory property or the disruption of utility service, the approval official may take whatever minimum steps are necessary to prevent such loss or damage without first consulting with the appropriate Regional Director of the U.S. Fish and Wildlife Service. However, the Regional Director must be immediately notified of any such emergency action.

§§ 1955.57-1955.59 [Reserved]

§ 1955.60 Inventory real property subject to redemption by the borrower.

If inventory property is subject to redemption rights, the State Director, with prior approval of OGC, will issue a State Supplement giving guidance concerning the former borrower's rights, whether or not the property may be leased or sold by the Government, payment of taxes, maintenance, and any other items OGC deems necessary to comply with State laws. If the former borrower with redemption rights has possession of the property or has a right to lease proceeds, FmHA will not lease the property until the redemption period has expired unless the State Director obtains prior authorization from OGC. Further guidance on sale subject to redemption rights is set forth in § 1955.138 of Subpart C of Part 1955 of this chapter.

§ 1955.61 Eviction of persons occupying inventory real property or dispossession of persons in possession of chattel property.

Advice and assistance will be obtained from OGC when eviction from realty or dispossession of chattel property action is necessary. Where State laws permit and *OGC has given authorization,* eviction may be effected through State courts rather than Federal courts. In those cases, a State Supplement will be issued to provide explicit instructions. For MFH, eviction applies to tenants and will be handled in accordance with Subpart L of Part 1944 of this Chapter and with the terms of the tenant's lease. If no written lease exists, the State Director will obtain advice from OGC.

§ 1955.62 Removal and disposition of nonsecurity personal property from inventory real property.

If the former borrower has vacated the inventory property but left items of value which do not customarily pass with title to the real estate, such as furniture, personal effects, and chattels not covered by an FmHA lien, the personal property will be handled as outlined below unless otherwise directed by a State Supplement approved by OGC which is necessary to comply with State law. For MFH, the removal and disposition of nonsecurity personal property will be handled in accordance with the tenant's lease or advice from OGC. When property is deemed to have no value, it is recommended that it be photographed for documentation before it is disposed of. The FmHA official having custody of the property may request advice from the State Office staff as necessary. Actions to effect removal of items of value from inventory property shall be as follows:

(a) *Notification to owner or lienholder.* The servicing official will check the public records to see if there is a lien on any of the personal property.

(1) If there is a lien(s) of record, the servicing official will notify the lienholder(s) by certified mail, return receipt requested, that the personal property will be disposed of by FmHA unless it is removed from the premises within 7 days from the date of the letter.

(2) If there are no liens of record, or if a lienholder notified in accordance with paragraph (a)(1) of this section fails to remove the property within the time specified, the servicing official will notify the former borrower at the last known address by certified mail, return receipt requested, that the personal property remaining on the premises will be disposed of by FmHA unless it is removed within 7 days from the date of the letter. If no address can be determined, a copy of the letter should be posted on the front door of the property and documentation entered in the running record of the FmHA file.

(b) *Disposal of unclaimed personal property.* If the property is not removed by the former borrower or a lienholder after notification as outlined in paragraphs (a)(1) and (a)(2) of this section, the servicing official shall list the items with clear description, estimated value, and indication of which are covered by a lien, if any, and submit the list of the State Director with a request for authorization to have the items removed and disposed of. Based on advice from OGC, the State Director will give authorization and provide instructions for removal and disposal of the personal property. If approved by OGC, the property may be disposed of as follows:

(1) If a reasonable amount can likely be realized by FmHA from sale of the personal property, it may be sold at public sale. Items under lien will be sold first and the proceeds up to the amount of the lien paid to the lienholder(s) less a pro rata share of the sale expenses. Proceeds from sale of items not under lien and proceeds in excess of the amount due a lienholder will be remitted

according to FmHA Instruction 1951–B (available in any FmHA office) and applied in the following order:

(i) To the inventory account up to the amount of expenses incurred by the Government in connection with sale of the personal property (such as advertising and auctioneer, if used).

(ii) To an unsatisfied balance on the FmHA loan account, if any.

(iii) To the borrower, if whereabouts is known.

(2) If personal property is not sold, a mover or hauler may be authorized to take the items for moving costs; or, if necessary, payment may be made by use of Form FmHA 120–10 to contract for its removal.

(c) *Payment of costs.* Upon payment of all expenses incurred by the Government in connection with the personal property, FmHA will allow the former borrower or a lienholder access to the property to reclaim the personal property at any time prior to its disposal.

(d) *Removal of abandoned motor vehicles from inventory property.* Since State laws vary concerning disposal of abandoned motor vehicles, the State Director shall, with the advice of OGC, issue a State Supplement outlining the method to be followed which will comply with applicable State laws.

§ 1955.63 Suitability determination.

As soon as real property is acquired, a determination must be made as to whether or not the property is suitable for program purposes. The suitability determination will be recorded in the running record of the case file.

(a) *Property other than housing.* Property which secured loans or was acquired under the CONACT will be classified as "suitable" or "surplus." Properties acquired under the CONACT which are originally classified as suitable may be reclassified as surplus because of physical damage which occurs or change in economic conditions which affect its suitability for program purposes; and, if not sold within 3 years after acquisition, it must be declared surplus. If the property is offered for sale as surplus and the purchaser is eligible for FmHA program assistance, it may be reclassified as suitable if it is in fact suitable for program purposes.

(b) *Housing property.* Property which secured housing loans will be classified as "suitable" or "unsuitable" except for MFH property acquired by voluntary conveyance when the value was less than the debt and the borrower was *not* released from liability, which must be classified and disposed of under the CONACT provisions. Location, size, design, possible health and safety risks to occupants, and functional and economic obsolescence must be considered in determining suitability. It is not intended to classify an otherwise-suitable dwelling as unsuitable simply because it contains more than 1400 square feet of living area or design features which would not be permitted in a new dwelling or an existing dwelling not in the FmHA program. Although a property can be made suitable, repairs necessary to render it so must be economically feasible. Ordinarily, the cost of repairs should enhance the value so that the return on investment will be as great or greater than it would be if the repairs were not made. SFH property originally classified as suitable may be reclassified as unsuitable if physical damage occurs which is not economically feasible to repair. Where a SFH property is situated on land in excess of a minimum adequate site as defined in §1944.11 of Subpart A of Part 1944 of this chapter, a determination must be made as to whether the excess land can serve as a minimum adequate site for another dwelling. It is not intended to classify an otherwise-suitable dwelling as unsuitable solely because if is situated on more than a minimum adequate site. Consideration must be given to such things as zoning requirements, road or street access, and marketability of portions separately, if subdivided. If the excess land cannot be sold separately as a minimum adequate site for another dwelling, the property may be sold as a single tract to an eligible applicant. Surveys required to divide tracts will be obtained by contract in accordance with FmHA Instruction 1955–D (available in any FmHA office) and charged to the inventory account as a nonrecoverable cost.

(c) *Authority for determining suitability.*— (1) *County Supervisor.* The County Supervisor will determine suitability of SFH and farm property, with the advice of the District Director or State Director if the County Supervisor is uncertain of the proper classification.

(2) *District Director.* The District Director will assist the County Supervisor in determining suitability of SFH and farm property as provided in paragraph (c)(1) of this section.

(3) *State Director.* The State Director will determine suitability of all types of property other than farm or SFH with the recommendations of the District Director and will make the determination on farm or SFH property when requested to do so.

§ 1955.64 Securing, maintaining, and repairing inventory property.

When property is acquired, the servicing official shall inspect the property and take the necessary steps to see that it is secured and maintained. "NO TRESPASSING," "FOR SALE," or other appropriate signs may be posted on the property at the discretion of the responsible official. The servicing official is responsible for initiating actions to assure that the value of inventory property is preserved. Property will not be allowed to stand unsecured and unmanaged. Substantial improvement or repair of property located in a flood or mudslide hazard area is subject to the limitations outlined in Exhibit C, Paragraph 3(b) (1) and (2) of Subpart G of Part 1940 of this chapter, and § 1955.56 of this subpart.

(a) *Basic repair policies.* Repair policies for various property types are:

(1) *SFH.* SFH inventory property which is suitable for retention in the program will be repaired, renovated, and/or improved as necessary to meet program standards for existing housing, to enhance buyer appeal, and to make the maximum recovery on the Government's investment, with the objective being to sell the property at the earliest possible time. Attention should be given to the interior and exterior of the structure(s), landscaping, driveways, walks, and other site development in order to have a desirable property. Exceptions to this policy are authorized only when a prospective buyer has indicated a willingness to buy "as is" and make needed repairs with his/her own resources or with a subsequent loan made simultaneously with the credit sale, or when the property is likely to be vandalized before it can be sold. Unsuitable property which does not meet the "decent, safe, and sanitary" (DSS) standards outlined in § 1955.103(f) of Subpart C of Part 1955 of this chapter will be repaired to meet those standards when economically feasible; otherwise, the restrictions on occupancy as set forth in § 1955.116 of Subpart C of Part 1955 of this chapter will apply. To be economically feasible, repairs should increase the expected "as is" price by at least the cost of the repairs.

(2) *MFH.* MFH property should be evaluated to determine if repairs are necessary or if a prospective buyer may wish to rehabilitate the property after purchasing it in "as is" condition. Property which does not meet the DSS standards outlined in § 1955.103(f) of Subpart C of Part 1955 of this chapter is subject to the occupancy restrictions set

forth in § 1955.116 of Subpart C of Part 1955 of this chapter.

(3) *Farm property.* Only the farm service buildings and facilities typically essential for the type of farming in the area will be repaired, renovated, and/or improved as necessary to place in saleable condition. Conservation of soil, water, and forest resources will be considered and actions will be taken to correct severe problems upon advice of the Soil Conservation Service (SCS). Chattel property will be managed as outlined in § 1955.80 of this subpart.

(4) *Property other than housing and farms.* Each property will be evaluated individually to determine whether repairs should be made or the property offered for sale "as is." The State Director will obtain advice from the appropriate division in the National Office as necessary in making these determinations.

(b) *Program authority.* (1) The County Supervisor and District Director have program authority to approve expenditures for securing, maintaining, and repairing inventory properties in an aggregate amount not to exceed $15,000 per property. If expenditures in excess of $15,000 per property are necessary and are economically feasible, the servicing official may request additional program authority from the State Director, outlining the purpose(s) for which the additional monies will be spent.

(2) The State Director or any member of State Office staff duly designated by the State Director, has unlimited program authority to approve expenditures in connection with inventory property.

(c) *Contracting authority.* All contracts for securing, maintaining, and repairing inventory property will be handled in compliance with FmHA Instruction 1955–D (available in any FmHA office), subject to the limitations assigned to each position in FmHA Instruction 2024–A (available in any FmHA office). Costs incurred under this section will be charged to the inventory account as nonrecoverable costs.

§ 1955.65 Management of inventory and/or custodial real property.

(a) *Authority.*—(1) County Supervisor. The County Supervisor, with the assistance of the District Director and State Office program staff as necessary, will select the management method(s) used for property which secures (or secured) loans to individuals as defined in this subpart.

(2) *State Director.* The State Director will select the management method to be used for property which secures (or secured) loans to organizations as defined in this subpart. The State Director shall also provide guidance and assistance to County Supervisors and District Directors as necessary to insure that property under their jurisdiction is effectively managed.

(b) *Management methods.* Management methods and requirements will vary depending on such things as the number of properties involved, their density of location, and market conditions. Management tools which may be used effectively range from contracts to secure an individual property, have the grass cut, or winterize a dwelling; a simple management contract to provide maintenance and other services on a group of properties (including but not limited to specification writing, inspection or repairs, and yard and directional signs and their installation), or manage an MFH project; blanket-purchase arrangement contracts to obtain services for more than one property; to a broad-scope management contract with a real estate broker or management agent which may include inspection and specification-writing services, making simple repairs, obtaining lessees, collecting rents, coordination with listing brokers in marketing the properties, and effecting eviction of tenants when necessary. A contractor may handle evictions only where State laws permit the contractor to do so in his/her own name; a contractor may not pursue eviction in the name of the Government (FmHA). Custodial property may be managed in the same manner as inventory property except that it may be leased only if it is habitable without repairs in excess of those authorized in § 1955.55(c) of this subpart. Farm or organization property, such as rental housing and community facilities, may be operated under a management contract if the State Director has determined it is appropriate to have the property in operation. In any case, the primary consideration in selecting the method of management to be used is to protect the Government's interest. If property to be operated or leased under a management contract is located in an area identified by the Federal Insurance Administration as a special flood or mudslide hazard area, lessees or tenants must be notified to that effect in accordance with § 1955.66(d) of this subpart. A management contract which covers property in such a hazard area may provide for the contractor to issue the required notices.

(c) *Obtaining services for management and/or operation of properties.* Services for management, repair, and/or operation of properties will be obtained by contract in accordance with FmHA Instruction 1955–D (available in any FmHA office).

(1) *Management contracts.* Management contracts are flexible instruments which may be tailored to meet the specific needs of almost any situation involving custodial or inventory property. This type of contract may be used to manage and maintain SFH properties, farms, and any other type of facility for which FmHA is responsible. Organization-type properties will be secured, maintained, repaired, and operated if authorized, in accordance with a management plan prepared by the District Director and approved by the State Director if the amount of total debt does not exceed the State Director's loan approval authority, or by the Administrator. For MFH this plan should follow the guidance provided by Subpart C of Part 1930 of this chapter. An audit of the borrower's records may be required if recent financial information is not available. For MFH projects, tenant occupancy and selection will be in accordance with the occupancy standards set forth in Subpart C of Part 1930 of this chapter. Tenants will be required to sign a written lease if one does not exist when the property is acquired or taken into custody. If a contract involves management of a MFH project with 5 or more units, or 5 or more single-family dwellings located in the same subdivision, the contractor must furnish Form HUD 935.2, "Affirmative Fair Housing Marketing Plan," Subject to FmHA's approval.

(2) *Authority to enter into management contracts.* (i) The County Supervisor may enter into a management contract for basic services involving farms or not more than 25 single-family dwellings; however, the aggregate amount paid under a contract may not exceed the contracting authority limitation for County Supervisors outlined in FmHA Instruction 2024–A (available in any FmHA office).

(ii) A District Director may enter into a management contract for basic maintenance and management services for a MFH project within the contracting authority outlined in FmHA Instruction 2024–A (available in any FmHA office). The aggregate amount of any contract may not exceed that contracting authority.

(iii) A CO in the State Office may enter into a management contract for basic services involving more than 25 single-family dwellings, a more complex management contract for SFH property, or an appropriate contract for management or operation of farm or organization-type property. The aggregate amount paid under a contract may not exceed the contracting authority limitations for State Office staff outlined in FmHA Instruction 2024-A (available in any FmHA office).

(iv) If a proposed management contract will exceed the contracting authority for State Office staff within a short time, a request for contract action will be forwarded to the Administrator, to the attention of the appropriate program division.

(3) *Specifications of services.* All management contracts will provide for termination by either the contractor or the Government upon 30 days written notice. Contracts providing for management of multiple properties will also provide for properties to be added or removed from the contractor's assignment whenever necessary, such as when a property is acquired or taken into custody during the period of a contract or when a property is sold from inventory. If a contractor prepares repair specifications, that contractor will be excluded from the solicitation for making the repairs to avoid a conflict of interest. If a management contract calls for specification writing services, a clause must be inserted in the contract prohibiting the preparor or his/her associates from doing the repair work. Examples of both basic and more complex management contracts are included in Exhibit A to FmHA Instruction 1955-D (available in any FmHA office).

(4) *Costs.* Costs incurred in management of property will be paid according to FmHA Instruction 2024-P (available in any FmHA office) by completion of Form FmHA 120-10 or SF-1034 and submission of Form FmHA 2024-1 prepared and distributed according to the FMIs. For management of custodial property, costs will be charged to the borrower's account as recoverable; and for management of inventory property, costs will be charged to the inventory account as nonrecoverable. Except for management fees, costs of managing MFH inventory property when tenants are still in residence will be paid to the extent possible with rental income. Management fees will be paid to the manager by use of Form FmHA 120-10 and Form FmHA 2024-1 prepared and distributed according to the FMIs.

(d) *Additional management services.* Additional types of management services and supplies for which the State Director may authorize acquisition include: Appraisal services (except for MFH), security services, newspaper copy preparation services, market data and comparable list acquisition, and tax data acquisition. If the State Director believes there is a need to acquire other services not listed in this paragraph or authorized elsewhere in this subpart, the State Director should make a written request to the Assistant Administrator (appropriate program) for consideration and/or authorization.

§ 1955.66 Lease of real property.

When inventory real property, other than MFH properties, cannot be sold promptly, or when custodial property is subject to lengthy liquidation proceedings, leasing may be used as a management tool when it is clearly in the best interest of the Government. Leasing will not be used as a means of deferring other actions which should be taken, such as liquidation of loans in abandonment cases or repair and sale of inventory property. Leases will provide for cancellation by the lessee of FmHA on 30-day written notice unless Special Stipulations in an individual lease for good reason provide otherwise. If extensive repairs are needed to render a custodial property suitable for occupancy, this will preclude its being leased since repairs must be limited to those essential to prevent further deterioration of the security in accordance with § 1955.55(c) of this subpart.

(a) *Authority to approve lease of property.*— (1) *Custodial property.* Custodial property may be leased pending foreclosure with the servicing official approving the lease on behalf of FmHA.

(2) *Inventory property.*—(i) *SFH.* The County Supervisor may approve the lease of single-family dwellings.

(ii) *MFH.* MFH projects will generally not be leased, although individual living units may be leased under a management agreement. After the property is placed under a management contract, the contractor will be responsible for leasing the individual units in accordance with Subpart C of Part 1930 of this Chapter. In cases where an acceptable management contract cannot be obtained, the District Director may execute individual leases.

(iii) *Farm property.* The County Supervisor may approve the lease of farm property. Special Stipulations will be made a part of farm leases to provide that the Government may terminate the lease in order to sell the farm, but in that event the lessee will retain the right to harvest growing crops. Rental payment will be prorated between the Government and the purchaser of the property. The County Supervisor shall report all leases of farms to the local Agricultural Stabilization and Conservation Service (ASCS) office and all subsequent changes in leases or sale of the property. Leases for mineral exploration and/or development will be on a form approved by OGC. In approval of a lease for mineral purposes, consideration will be given to the impact on the environment, preservation of land for agricultural purposes as required by Subpart G of Part 1940 of this chapter, as well as effect on sale of the property. The Administrator may issue directives (available in any affected FmHA office) restricting the leasing of property which could be used to produce agricultural products determined to be in surplus supply. Chattel property will not normally be leased unless it is attached to the real estate as a fixture or would normally pass with the land.

(iv) *Organization property other than MFH.* Only the State Director, with the advice of appropriate National Office staff, may approve the lease of organization property other than MFH, such as community facilities, recreation projects, and businesses. Lease of utilities may require approval by State regulatory agencies. OGC assistance will be requested in preparation of the lease for property in this category.

(b) *Selection of lessees.* When the property to be leased is residential, a special effort will be made to reach prospective lessees who might not otherwise apply because of existing community patterns. A lessee will be selected considering the potential as an eligible applicant for purchase of the property (if property is suitable for program purposes) and ability to preserve the property. Every effort will be made to lease farm property to family-size farmers. When family-size farmers are not available or interested in leasing the farm, larger-than-family-size farmers may be considered. The leasing official may require verification of income and/or a credit report (to be paid for by the prospective lessee) as he/she deems necesary to assure payment ability and creditworthiness of the prospective lessee.

(c) *Lease amount.* Inventory property will be leased for an amount equal to that for which similar properties in the area are being leased or rented (market rent). In no case will inventory property be leased for a token amount.

(1) *Farm property.* The County Supervisor will make a survey of lease amounts of farms in the immediate area with similar soils, capabilities, and income potential to arrive at a market rent amount. While cash rent is preferred, lease of a farm on a crop-share basis may be approved if this is

the customary method in the area. If the lease amount is to be a share of the crop, this must be outlined in detail in Special Stipulations in to the lease in accordance with the FMI for Form FmHA 1955-20, "Lease of Real Property." The lessee will in these cases market the crop(s), provide FmHA with documented evidence of crop income, and pay the pro rata share of the income to FmHA. The leasing official is responsible for seeing that crops are properly accounted for and collecting the lease money.

(2) *SFH property.* If the lessee is a potential eligible applicant for a loan to purchase the house, the lease amount may be set at an amount approximating the monthly loan payment if a loan were made (reflecting interest credits, if any) calculated on the basis of price of the house and income of the lessee, plus 1/12 of the estimated real estate taxes, property insurance, and maintenance which would be payable by a homeowner.

(3) *Property other than farm or SFH.* Any inventory property other than a farm or single-family dwelling will be leased for market rent for that type property in the area.

(4) *Mineral leases.* The consideration for mineral leases will be what is typical in the area for the type activity proposed. Before approval of a lease for minerals with bonus rentals, the servicing official will make a survey of similar leases and contact the State Director for guidance, subject to the provisions set forth in paragraph (a)(2)(iii) of this section.

(d) *Property in flood or mudslide hazard area.* Inventory property located in an area identified by the Federal Insurance Administration as special flood or mudslide hazard areas will not be leased or operated under a management contract without prior written notice of the hazard to the prospective lessee or tenant. If property is leased by FmHA the servicing official will provide the notice, and if property is leased under a management contract, the contractor must provide the notice in compliance with a provision to that effect included in the contract. The notice must be in writing, signed by the servicing official or the contractor, and delivered to the prospective lessee or tenant at least one day before the lease is signed. A copy of the notice will be attached to the original and each copy of the lease.

(e) *Lease with option to purchase.* For inventory property *only*, a lessee may be given the option to purchase. Terms of the option will be set forth as part of the lease in accordance with the FMI for Form FmHA 1955-20. The purchase price (option price) will be the market value. A lease with option to purchase suitable farm property will normally not exceed 1 year, but may in justifiable cases be for a period not longer than 3 years. The lease payments will not be applied toward the purchase price.

(f) *Costs.* The cost of repairs to leased property will be paid by the Government. However, the Government will not pay costs of utilities or any other costs of operation of the property by the lessee. Repairs will be obtained pursuant to FmHA Instruction 1955-D (available in any FmHA office). Expenditures on custodial property as limited in § 1955.55(c)(2) of this subpart will be charged to the borrower's account as recoverable costs; and on inventory property, they will be charged to the inventory account as nonrecoverable costs.

(g) *Security deposit.* A security deposit in at least the amount of 1 month's rent will be required from all lessees of SFH properties. The security deposit for farm property should be determined by considering only the improvements or facilities which might be subject to misuse or abuse during the term of the lease. For all other types of property, the leasing official may determine whether or not a security deposits will be required and the amount of the deposit with advice from the State Office staff if requested. Security deposit will be remitted according to FmHA Instruction 1951-B (available in any FmHA office) and held by the Finance Office until the leasing official determines to return or otherwise to dispose of the security deposit. The Finance Office Property Accounting Unit will be requested by memorandum to return the deposit to the servicing office for delivery to the lessee; or, if the deposit is to be retained by FmHA, to apply it to the borrower's account (for custodial property) or to the inventory account, as appropriate. For MFH projects, either the security deposit policy may be suspended or the deposits will be handled as follows:

(1) Form FmHA 1944-9, "Multiple Housing Certification and Payment Transmittal," prepared according to the FMI must be forwarded to the Finance Office for every tenant from whom a deposit is required. A notation will be entered under the tenant's name that it is a security deposit for inventory property, Advice No. ____, formerly owned by ________.

(2) If security deposits are no longer to be required and there are outstanding deposits which should be refunded, requests will be handled as they would have been prior to acquisition of the property.

(h) *Lease form.* Form FmHA 1955-20, prepared according to the FMI, or other form approved by OGC, will be used by FmHA to lease property. The lease will be prepared, executed, and distributed according to the FMI depending on whether it is custodial or inventory property. On receipt of a lease of inventory property, the Finance Office will establish a lease account in the lessee's name.

(i) *Lease income.* Lease proceeds will be remitted according to FmHA Instruction 1951-B (available in any FmHA office).

(1) *Custodial property.* The proceeds from lease of custodial property will be applied to the borrower's account as an extra payment unless foreclosure proceedings require that such payments be held in suspense. OGC will be consulted as to the procedure to be followed in each State and instructions will be given in a State Supplement.

(2) *Inventory property.* The proceeds from lease of inventory property will be applied to the lease account.

(j) *Termination of lease of inventory property.* When a lease is terminated; or when the property is sold before expiration of the term shown on the lease submitted to the Finance Office, the servicing official will notify the Finance Office of the termination and the effective date of termination according to the FMI for Form FmHA 1955-20.

§ 1955.67 Payment of liens.

(a) If real estate was acquired subject to a lien, the FmHA official who approved the acquisition will authorize the payment of installments that may include escrow payments to the prior lienholder for taxes, if the property is taxable. Payment will be made according to FmHA Instruction 2024-P (available in any FmHA office) by preparation of SF-1034 and submission of Form FmHA 2024-1 prepared and distributed according to the FMIs. The payment will be charged to the inventory account as a nonrecoverable cost.

(b) If the State Director determines that paying a lien in full would be in the best interest of the Government, he/she will obtain the advice of OGC with respect to the procedures for paying the lien in full and having the mortgage released or assigned to the Government. The County Supervisor or District Director will obtain from the lienholder a statement of the amount owed and process SF-1034 and Form FmHA 2024-1 to request payment to the lienholder which will be charged to the inventory account as a nonrecoverable cost.

§ 1955.68 Payment of taxes.

Property acquired by FmHA is subject to taxation by State and local political jurisdictions in the same manner and to the same extent as other property of the same kind, unless State law specifically exempts property owned by the Government from taxation. Where jurisdictions change their law or codes to begin taxing Government-owned property, only taxes accruing after the effective date of the change may be paid. A State Supplement may be issued with the advice of OGC to cover individual State laws. The servicing official shall notify the appropriate taxing authority(ies) in writing when title to real estate is acquired by the Government and shall advise that claims for taxes, if applicable, during the Government's ownership should be billed to FmHA at the County Office or District Office address. When inventory property is taxable, payment will be as follows:

(a) *Suitable property.* When property is classified as suitable for program purposes, the servicing official will prepare SF-1034 and submit Form FmHA 2024-1 for payment of taxes when due, charging them as nonrecoverable costs to the inventory account. If property was acquired subject to a prior lien, the prior lienholder will be contacted before submitting a voucher to see if that lienhoder will pay the taxes.

(b) *Surplus property.* When inventory property acquired under provisions of the CONACT is classified as surplus, taxes will be paid as outlined in paragraph (a) of this section.

(c) *Unsuitable housing property.* When property is classified as unsuitable for program purposes and the value is limited to the extent that taxes which accure before disposal may exceed the value of the property, payment of taxes will be deferred until the property is sold. If the taxing authority schedules a tax sale before FmHA can sell the property, the value will be weighed against the taxes and the decision made whether to pay the taxes and continue sales efforts or to let the property go for the delinquent taxes. The decision made should be that which is in the Government's best financial interest.

§ 1955.69 Insurance.

Insurance in force at the time property is acquired will not be cancelled; however, no additional premiums will be paid, except as follows:

(a) If organization-type property is operated by the Government after acquisition, workman's compensation coverage will be obtained. If the property is located in a flood-hazard area *and* operation of the property continues, flood insurance will be continued in force. Premiums will be paid by preparation of SF-1034 and submission of Form FmHA 2024-1 and charged to the inventory account as a nonrecoverable cost.

(b) If there is an outstanding claim at the time of acquisition, it will be handled in accordance with Subpart A or B of Part 1806 of this chapter (FmHA Instruction 426.1 or 426.2). If property was acquired subject to a prior lien, the servicing official shall advise the prior lienholder that the Government does not intend to carry insurance, except as provided in paragraph (a) of this section. If, however, the prior lienholder's mortgage requires the borrower to carry insurance, FmHA may provide the required insurance if necessary to prevent foreclosure by the prior lienholder.

§ 1955.70 Inspection of property.

The servicing official shall inspect property as necessary to protect the Government's interest. Farm property will be inspected at least annually to determine if adequate measures are in effect to conserve the soil, maintain its fertility, and control erosion. Inspection will be made in connection with travel for other purposes, wherever possible, and documented in the inventory file.

§ 1955.71 Vandalism or theft.

(a) *Reporting.* Willful damage to or theft of inventory or custodial property will be reported to local law enforcement officials by the servicing official. A written report will be sent to the State Director with a copy to the Regional Office of the USDA Office of Inspector General (OIG).

(b) *Other actions.* The servicing official will cooperate with local law enforcement officials to attempt to resolve the incident. This includes signing complaints and testifying at hearings or trials under the jurisdiction of the local law enforcement system. Civil actions and prosecution under Federal criminal statutes will be processed through OGC in coordination with OIG. The State Director after consulting OGC as necessary, will provide advice and assistance to the servicing official.

(c) *Repair of damage due to vandalism or theft.* Repairs necessary because of vandalism or theft will be accomplished on inventory property in accordance with § 1955.64 of this subpart. Repairs of damage to custodial property will be limited as outlined in § 1955.55(c) of this subpart and obtained as outlined in § 1955.55(d) of this subpart.

§ 1955.72 Utilization of inventory housing property by Federal Emergency Management Agency (FEMA).

By a Memorandum of Understanding between FmHA and FEMA, inventory housing property not under lease or sales agreement may be made available to shelter victims in an area designated as a major disaster area by the President. See Exhibit A of this subpart (available in any FmHA office). Authority is hereby delegated to the State Director to implement this Memorandum of Understanding; and the State Director may redelegate this authority to County Supervisors or District Directors.

§§ 1955.73-1955.79 [Reserved]

§ 1955.80 Management of inventory chattel property.

Inventory chattel property will be disposed of as soon after acquisition as possible. Holding of chattel property for more than 60 days must be approved in writing by the State Director. Normally, chattel property will not be leased, except as provided in paragraph (c) of this section.

(a) *Care of inventory chattel property.* When the servicing official determines that inventory chattel property should be cared for by contract, the necessary services will be obtained in accordance with the provisions of this section and FmHA Instruction 1955-D (available in any FmHA office).

(b) *Contracting for services.* Services such as transportation, care, storage, and harvest of crops will be obtained by use of Form FmHA 120-10 in accordance with FmHA Instruction 1955-D (available in any FmHA office).

(c) *Lease of chattel property.* Chattels which are essential to the operation of a farm, such as bulk milk tanks, pumps, and center-point sprinkler may be leased with the real property when a farm is to be leased. The lessee will be responsible for maintenance and repairs during the lease term. Costs of repairs will be limited to those essential to place the equipment in operational condition to effect lease of the farm. When a lessee cannot or will not make needed repairs, the servicing official will contact the State Director for guidance on economic feasibility.

(d) *Documenting and reporting inventory transactions.* The servicing official is responsible for documenting and reporting inventory chattel transactions.

(1) *Losses and increases.* Losses of inventory chattel property will be

recorded on Form FmHA 462-1, "Record of the Disposition of Security Property," and maintained in the case file. Increases in inventory resulting from the birth of livestock will be noted on the original list of acquired chattel property in the inventory file, as well as any losses. These entries will be dated.

(2) *Sales.* All sales of chattel property will be reported on Form FmHA 1955-50, "Advice of Inventory Property Sold," in accordance with the FMI and Subpart C of this part. Sales will also be recorded on Forms FmHA 462-1 in the inventory file.

§ 1955.81 Exception authority.

The Administrator may, in individual cases, make an exception to any requirement or provision of this subpart or address any omission of this subpart which is not inconsistent with the authorizing statute or other applicable law if the Administrator determines that the Government's interest would be adversely affected or the immediate health and/or safety of tenants or the community are endangered if there is no adverse effect on the Government's interest. The Administrator will exercise this authority upon request of the State Director with recommendation of the appropriate program Assistant Administrator or upon request initiated by the appropriate program Assistant Administrator. Requests for exceptions must be made in writing and supported with documentation to explain the adverse effect, propose alternative courses of action, and show how the adverse effect will be eliminated or minimized if the exception is granted.

§ 1955.82 State supplements.

State Supplements will be prepared with the assistance of OGC as necessary to comply with State laws or only as specifically authorized in this regulation to provide guidance to FmHA officials. State Supplements applicable to MFH must have prior approval of the National Office; others may receive post approval. Requests for approval for those affecting MFH must include complete justification, citations of State law, and an opinion from OGC.

§§ 1955.83-1955.99 [Reserved]

§ 1955.100 OMB control number.

The collection of information requirements in this regulation have been approved by the Office of Management and Budget and assigned OMB control number 0575-0110.

Subpart C—Disposal of Inventory Property

Introduction

§ 1955.101 Purpose.

This subpart delegates program authority and prescribes policies and procedures for the sale of inventory property including real estate, related real estate rights and chattels. It also covers the granting of easements and rights-of-way on inventory property.

§ 1955.102 Policy.

Sales efforts will be initiated as soon as property is acquired in order to effect sale at the earliest practicable time. When the property is of a nature that it is suitable to enable an eligible applicant for one of Farmers Home Administration's (FmHA) loan programs to meet the objectives of that program, preference will be given to eligible applicants. Sales are authorized for program purposes which differ from the purposes of the loan the property formerly secured, and property which secured more than one type of loan may be sold under the program most appropriate for the specific property and community needs as long as the price is not diminished. Examples are: a dwelling which secured an Emergency loan may be sold as a Single Family Housing (SFH) unit if suitable for that program; detached Labor Housing or Rural Rental Housing units may be sold as SFH units; a farm which secured both Farm Ownership, Emergency and/or Labor Housing loans may be sold under the Farm Ownership program; or SFH units may be sold as a Rental Rural Housing project. All such properties and applicants must meet the requirements for the loan program under which the sale is proposed.

§ 1955.103 Definitions.

As used in this subpart, the following apply:

(a) *Auction sale.* A public sale in which property is sold to the highest bidder in open verbal competition.

(b) *Approval official.* The FmHA official having loan and grant approval authority auhorized under Subpart A of Part 1901 of this Chapter.

(c) *Closing agent.* An attorney or title insurance company designated to close loans according to Part 1807 of this chapter (FmHA Instruction 427.1, available in any FmHA office.)

(d) *CONACT or CONACT PROPERTY.* Property acquired or sold pursuant to the Consolidated Farm and Rural Development Act (CONACT). Within this subpart, it shall also be construed to cover property which secured loans made pursuant to the Agriculture Credit Act of 1978; the Emergency Agricultural Credit Adjustment Act of 1978; the Emergency Agricultural Credit Act of 1984; and other statutes giving agricultural lending authority to FmHA.

(e) *Credit sale.* A sale in which financing is provided to an applicant for the purchase of inventory property.

(f) *Decent, safe, and sanitary housing (DSS).* Standards required for the sale of Government acquired SFH, MFH, and LH structures acquired pursuant to the Housing Act of 1949. "DSS" housing unit(s) are structures which meet the requirements of FmHA as described in Subpart A of Part 1924 of this chapter for existing construction or if not meeting the requirements.

(1) Are structurally sound and habitable,

(2) Have a potable water supply,

(3) Have functionally adequate, safe and operable heating, plumbing, electrical, and sewage disposal systems, and

(4) Meet the Thermal Performance Standards as outlined in Exhibit D of Subpart A of Part 1924 of this Chapter.

(g) *Eligible terms.* Terms prescribed in FmHA program regulations for its various loan programs; available only to persons/entities meeting the eligibility requirements set forth for the respective programs.

(h) *Ineligible terms.* Credit terms offered the convenience of the Government to facilitate sales; more stringent than terms offered under FmHA's loan programs. Applicable when the purchaser does not meet program eligibility requirements or when the property is determined unsuitable (housing) or surplus (other than housing) for program purposes. Loans made on ineligible terms are classified as "Other Real Estate (ORE)" and are serviced accordingly.

(i) *Inventory property.* Property for which title is vested in the Government and which secured an FmHA loan or which was acquired from another Agency for program purposes.

(j) *Market value.* The most probable price which property should bring, as of a specific date, in a competitive and open market, assuming the buyer and seller are prudent and knowledgeable, and the price is not affected by undue stimulus such as forced sale or loan interest subsidy.

(k) *Negotiated sale.* A sale in which there is a bargaining of price and/or terms.

(1) *Organization property.* Property for which the following loans were made is considered organization

property, Community Facility (CF); Water and Waste Disposal (WWD); Association Recreation; Watershed (WS); Resource Conservation and Development (RC&D); loans to associations for Shift-in-Land Use (Grazing Association); loans to associations for Irrigation and Drainage and other soil and water conservation measures; loans to Indian Tribes and Tribal corporations; Rural Rental Housing (RRH) to both groups and individuals; Rural Cooperative Housing (RCH); Rural Housing Site (RHS); Labor Housing (LH) to both groups and individuals; Business and Industry (B&I) to both individuals and groups or corporations; and Economic Opportunity Cooperative (EOC). Housing-type (RHS, RCH, RRH and LH) organization property is referred to collectively in this subpart as Multiple Family Housing (MFH) property.

(m) *Participating broker.* A duly licensed real estate broker who has executed a listing agreement with FmHA.

(n) *Regular FmHA sale.* Sale made by other than sealed bid auction or negotiation by FmHA employees or real estate brokers. Regular FmHA sales are made at market value unless the price is administratively reduced.

(o) *Safe.* No hazard exists on property which would likely endanger the health or safety of occupants or users.

(p) *Sealed bid sale.* A public sale in which property is offered to the highest bidder by prior written bid submitted in a sealed envelope.

(q) *Suitable property.* Property that can be used to carry out the objectives of an FmHA loan program with financing provided through that program. Inventory housing property located in an area whose designation has been changed from rural to nonrural and which is otherwise suitable property will be considered as if it were still in a rural area.

(r) *Surplus property.* Real or chattel property acquired pursuant to the CONACT and other Acts authorizing agricultural lending as defined in paragraph (d) of this section that is not suitable for sale to eligible applicants. It also includes suitable CONACT property which is not sold within 3 years after acquisition.

(s) *Unsuitable property.* Property acquired to the Housing Act of 1949 that is unfit for a borrower to carry out the objectives of an FmHA loan program; for example, a dwelling that cannot be feasibly repaired to meet FmHA property standards for existing construction as adopted by FmHA in Subpart A of Part 1924 of this chapter. It may be an otherwise suitable SFH property which is so poorly located it will not serve as an adequate residential unit or an older home which is excessively expensive to heat and maintain.

§ 1955.104 Authorities and responsibilities.

(a) *Redelegation of authority.* FmHA officials will redelegate authorities to the maximum extent possible, consistent with program requirements and available resources.

(1) The State Director may redelegate, in writing, any authority delegated to him/her in this subpart, unless it is specifically excluded. These redelegation are authorized to a Program Chief, Program Specialist or Property Management Specialist on the State Office staff, and to District Directors and County Supervisors.

(2) The District Director may redelegate in writing any authority delegated to him/her in this subpart to an Assistant District Director or District Loan Specialist.

(3) The County Supervisor may redelegate in writing any authority delegated to him/her in this subpart to an Assistant County Supervisor, GS-7 or above, determined by the County Supervisor to be qualified.

(b) *Responsibility.* (1) National Office Program Directors are responsible for reviewing and providing guidance to State, District, and County Offices in disposing of inventory property.

(2) The State Director is responsible for establishing an effective program and for insuring compliance with FmHA regulations. For organization property, the State Office is responsible for approval of inventory property sales.

(3) District Directors are responsible for disposal actions for programs under their supervision and for monitoring County Office compliance with FmHA regulations and State supplements.

(4) County Supervisors are responsible for timely disposal of inventory property for programs under their supervision.

(c) *Bid or offer acceptance.* The approval official has the authority to accept or reject bids or offers for inventory property, with the final sale price to coincide with loan approval limitations.

Consolidated Farm and Rural Development Act (CONACT) Real Property

§ 1955.105 Real property affected (CONACT).

Sections 1955.106–1955.108 of this subpart prescribe procedures for the sale of inventory real property which secured any of the following type of loans (referred to as CONACT property in this subpart): Farm Ownership FO; Recreation (RL); Soil and Water (SW); Operating (OL); Emergency (EM); Economic Opportunity (EO); Economic Emergency (EE); CF; WWD; RC&D; WS; Association Recreation; EOC; Rural Renewal; Water Facility; B&I; Irrigation and Drainage; Shift-in-land Use (Grazing Association); and loans to Indian Tribes and Tribal Corporations.

§ 1955.106 Sale of suitable property (CONACT).

CONACT real property which has been declared suitable for sale to eligible applicants will be offered for regular sale to eligible applicants in accordance with FmHA regulations that apply to the appropriate loan program.

(a) *Sale by FmHA.* When possible, the sale of suitable CONACT property should be handled by County Supervisors and District Directors. The date Form FmHA 1955–40, "Notice of Real Property for Sale," as posted is the date the property is offered for sale. If an eligible applicant is not available locally, the official with responsibility for the property will advise other FmHA District and County Offices in the market area of the availability of the property. When requested by the County Supervisor, State Office Farmer Programs staff will assist in publicizing property for sale by informing other FmHA County, District, and/or State Offices. Maximum publicity should be given to the sale under guidance provided by § 1955.146 of this subpart and care should be taken to spell out eligibility criteria.

(b) *Real estate brokers.* The State Director may authorize use of real estate brokers to sell property to eligible applicants after determining that the use of brokers will be in the best interest of the Government. Selection and use of brokers will be in accordance with § 1955.130 of this subpart.

(c) *Price.* Property will be offered or listed for its market value, based on the condition of the property at the time it is made available for sale.

(d) *Credit sale procedure.* A credit sale to eligible applicants will be processed as follows:

(1) Form FmHA 1955–45, "Standard Sales Contract-Sale of Real Property By the United States," will be used to document the offer and acceptance for regular FmHA sales. When more than one acceptable offer is received during business hours on the same day, the order in which they will be considered will be decided by lot. If otherwise acceptable, the contract should be signed and accepted subject to approval

of credit. "Back-up" offers will be retained in case the first offer processed cannot be closed.

(2) The interest rate will be the interest rate for the type loan being made which is in effect on the date of approval shown on Form FmHA 1940-1, "Request for Obligation of Funds."

(3) The loan limits for the requested type of assistance are applicable to a credit sale to an eligible applicant.

(4) Title clearance and loan closing for a credit sale and any subsequent loan to be closed simultaneously *must be* the same as for an initial loan except that:

(i) Form FmHA 1955-49, "Quitclaim Deed," or other form of nonwarranty deed approved by the Office of the General Counsel (OCG) will be used.

(ii) The buyer will pay attorney's fees and title insurance costs, recording fees, and other customary fees unless they are included in a subsequent loan. A subsequent loan may not be made for the primary purpose of paying closing costs and fees.

(5) When the transaction is closed, the responsible FmHA official will prepare and distribute Form FmHA 1955-50, "Advice of Inventory Property Sold," according to the FMI.

§ 1955.107 Sale of surplus property (CONACT).

Surplus property will be offered for public sale by sealed bid or auction in accordance with § 1955.147 or § 1955.148 of this subpart as soon as possible after it has been declared surplus and made available for sale. Suitable property which has been in inventory for 3 years must be offered for sale as surplus; however, if the buyer is eligible for FmHA assistance, any surplus property which is actually suitable will be reclassified to suitable by the authorized official and sold on eligible terms. The basis for this redetermination must be documented in the running record.

(a) *Rates and terms.* Surplus property will be offered for cash or on ineligible terms of not less than a ten percent (10%) down payment with the remaining balance amortized over a period not to exceed 25 years. The interest rate for business and industrial property will be the established insured B&I rate for profit corporations plus ½ percent; for community programs property the interest rate will be the current market rate for Community Programs. The interest rate for all other surplus property will be the current Farmer Program ineligible interest rate set forth in Exhibit B of FmHA Instruction 440.1 (available in any FmHA office). The State Director will determine the loan terms for surplus property within these limitations. After extensive sales efforts where no acceptable offer has been received, the State Director may request the Administrator to permit offering surplus property for sale on more favorable rates and terms; however, a down payment of not less than ten percent (10%) must be required and the terms may not be more favorable than those legally permissible for eligible borrowers. Surplus property will be offered for sale for cash or terms that will provide the best net return to the Government. The term of any financing extended may not be longer than the period for which the property will serve as adequate security. All credit sales on ineligible terms will be identified as ORE loans.

(b) *Sale by sealed bid or auction.* Surplus real property must first be offered for public sale by sealed bid or auction. The State Director will determine the method of sale, the minimum acceptable sale price and whether or not credit will be offered prior to the offering. The minimum acceptable sale price established may not be more than the market value. For sealed bid sales, preference will be given to a cash offer which is at least ——* percent of the highest offer requiring credit.

[*Refer to Exhibit B of FmHA Instruction 440.1 (available in any FmHA Office) for the current percentage.]

Equally acceptable sealed bid offers will be decided by lot.

(c) *Negotiated sale.* If no acceptable bid is received either from a sealed bid sale or at a public auction, the State Director may sell the property at the best price obtainable without further public notice by negotiating with interested parties including all previous bidders. The rates and terms offered through negotiation will be within the limitations of paragraph (a) of this section. A sale made through negotiation will be documented and accepted by the approval official on Form FmHA 1955-46, "Invitation, Bid and Acceptance-Sale of Real Property by the United States," and will be accompanied with a bid deposit of not less than ten percent (10%) of the negotiated price in the form of cashier's check, certified check, postal or bank money order, or bank draft payable to FmHA plus any other conditions relating to acceptance. Preference will be given to a cash offer which is at least ——* percent of the highest offer requiring credit.

[*Refer to Exhibit B of FmHA Instruction 440.1 (available in any FmHA Office) for the current percentage.]

Equally acceptable offers will be decided by lot.

(1) In negotiating a sale, offers may be solicited orally, by letter, or advertised in local newspapers. The persons interested in purchasing the property may be assembled for preliminary open negotiation. Solicitation and advertisement will include a time and date by which negotiation must have been completed.

(2) If an offer represents the best price obtainable, the approval official may accept it immediately; however, if a credit sale is involved, this acceptance will be subject to confirmation of the purchaser's repayment ability. If an acceptable offer is not negotiated by the date set, a new date may be set for further negotiations. The amount offered by one interested party will not be disclosed to any other party except when negotiation is by preliminary open negotiation. An offer stipulating that the offeror will purchase the property for a specified sum above the best offer made will not be considered.

(3) Advertising will be ordered by means of Standard Form 1143, "Advertising Order," in accordance with FmHA Instruction 2024-F (available in any FmHA office). Standard Form 1034 "Public Voucher for Purchases And Services Other Than Personal" will be used to obtain other purchases and services. In either case, Form FmHA 2024-1, "Miscellaneous Payment System," will be submitted for payment in accordance with FmHA Instruction 2024-P (available in any FmHA office).

(d) *Sale through real estate brokers.* The State Director may authorize the use of real estate brokers to sell surplus CONACT real property at the market value in accordance with § 1955.130 of this Subpart only after the conditions outlined in this paragraph have been met. The conditions are:

(1) The State Director has determined that the property cannot be sold by FmHA employees;

(2) The property has been advertised for sale by sealed bid or auction and negotiation, and no acceptable bids or offers have been received; and

(3) Any negotiations have been terminated.

§ 1955.108 Processing and closing (CONACT).

(a) *Determining repayment ability and creditworthiness.* If a credit sale is involved, the applicant must furnish necessary financial information to assist in determining repayment ability and creditworthiness. Forms FmHA 431-2, "Farm and Home Plan," or FmHA 1930-1, "Balance Sheet" FmHA 1930-2, "Cash Flow Statement", and FmHA 1930-3, known as the "Coordinated Financial

Statement" (CFS)," should be used for all eligible applicants unless the applicant has furnished all required information in another acceptable format. Information regarding eligibility, planned development and total operations will be provided the same as for the respective type of Farmer Program loan. Purchasers requesting credit on ineligible terms will be required to provide sufficient information to establish financial stability, creditworthiness and farm budgets to establish repayment ability. For organization property, information will be provided which is similar to an application including financial information required for the respective loan program.

(b) *Form of payment.* Payments at closing will be made in the form of cash, cashier's check, certified check, postal or bank money order, or bank draft made payable to FmHA.

(c) *Farm real property.* Upon acceptance by the approval official, the County Supervisor or District Director will provide the closing agent with the necessary information to close the sale.

(d) *Organization real property.* Upon acceptance of the bid or offer, the State Director will forward the original Forms FmHA 1955-45 or FmHA 1955-46, the names and legal description to be placed on the deed, the amount and terms of the note and mortgage, loan agreement or resolution and other pertinent material to OGC requesting that they provide the appropriate legal instruments and instructions for closing the transaction.

(e) *Earnest money.* Earnest money, if any, will be used to pay purchaser's closing costs with any balance of the costs being paid by the purchaser. Any excess earnest money will be credited to the purchase price or recognized as a part of the purchaser's down payment.

(f) *Closing and reporting sales.* Title clearance, loan closing, and property insurance requirements for a credit sale will be the same as for a program loan, except the property will be conveyed by Form FmHA 1955-49, in accordance with § 1955.141(a) of this subpart. When the transaction is closed, the County Supervisor or District Director will prepare and submit Form FmHA 1955-50 in accordance with the FMI.

(g) *Classification.* Credit sales on ineligible terms will be classified as ORE loans and serviced accordingly.

(h) *State Supplements.* A State Supplement specifying modifications to be made in note and mortgage instruments as pertinent to a credit sale to an ineligible purchaser will be issued with the advice and approval of OGC.

§ 1955.109 [Reserved]

Rural Housing (RH) Real Property

§ 1955.110 Sales of real estate that secured RH loans (housing).

Sections 1955.111—1955.119 of this subpart pertain to real property that secured loans made under the Housing Act of 1949, as amended, (RH property). Property which secured RH loans made under Section 502 or 504 of the Housing Act of 1949, as amended, is referred to as SFH property. All other RH property is referred to as MFH property.

§ 1955.111 Property repair (housing).

(a) *Suitable property.* Suitable property will be secured, maintained, and repaired in accordance with § 1955.64 of Subpart B of Part 1955 of this chapter.

(b) *Unsuitable property.* Sufficient maintenance to retain or enhance the visual appeal of the property will be performed provided it is economically justified. When economically feasible, repairs will be made prior to offering the property for sale unless a prospective purchaser has indicated an interest in buying the property "as is" or the County Supervisor or District Director documents that the property would likely be vandalized prior to sale. If the property is not repaired to meet DSS standards, the advertising requirements and deed restriction provisions outlined in § 1955.116 of this subpart apply; and it will immediately be offered for sale "as is." If the property is not sold within 120 days, or if the State Director determines a regular sale is not feasible, the structure may be offered for sale by sealed bid or auction or as chattel, to be removed from the site, in accordance with § 1955.122 of this subpart. If no offer is received, the structure(s) may be removed by contract in accordance with FmHA Instruction 1955-D (available in any FmHA office) and the site offered for sale.

§ 1955.112 Method of sale (housing).

(a) *Sales by FmHA.* Sales customarily will be made by FmHA personnel in accordance with § 1955.114 and § 1955.115 of this Subpart (as appropriate) when staffing and workload permit and inventory levels do not exceed those outlined in paragraph (b) of this section. Adequate and timely advertising in accordance with § 1955.146 of this subpart is of utmost importance when this method of sale is used. For MFH, this method will *always* be used unless another method is authorized by the Assistant Administrator for Housing.

(b) *Real estate brokers.* The services of real estate brokers for regular sales will be used as provided for in § 1955.130 of this subpart in any County Office with 5 or more SFH properties in inventory at any one time during the calendar year. The use of real estate brokers by County Offices having less than 5 SFH properties in inventory at any one time during the calendar year is optional by the State Director if staffing and workload permit sales directly by FmHA. When broker services for SFH are used, the FmHA office will not conduct direct sales for the listed property but will refer inquiries to the broker or list of participating brokers unless an acceptable written offer has been received on a property prior to the time it has been determined available for sale and listed with brokers. Brokers may only be used for MFH with authorization of the Assistant Administrator for Housing.

(c) *Sealed bid or auction.* If the State Director determines that *unsuitable* SFH properties have been given adequate market exposure and that diligent sales efforts, including use of real estate brokers, have not produced buyers, he/she may authorize sale by sealed bid or public auction. *Suitable* SFH property will be sold by regular sale *only*, unless the Assistant Administrator for Housing authorizes the use of the sealed bid or auction method. These authorities may not be redelegated. Indiscriminate use of these methods of sale could adversely affect other properties located in a subdivision. Therefore, the decision to use sealed bid or auction sale methods to dispose of SFH units located in a subdivision must address the number of dwellings to be sold by these methods, the suitability of the entire subdivision for further FmHA financing, and the effect of such sales on the surrounding borrowers. Detailed guidance for conducting sealed bid sales is provided in § 1955.147 of this subpart and for conducting auction sales in §§ 1955.131 and 1955.148 of this subpart.

§ 1955.113 Price (housing).

Real property will be offered or listed for its market value, as adjusted by any administrative price reductions provided for in this section. That market value will be based on the condition of the property at time it is made available for sale. However, when a Section 515 RRH credit sale is being made to a nonprofit organization or public body to utilize former single family dwellings as a rental or cooperative project for very-low-income residents, the price will be the lesser of the Government's investment or the market value, less administrative price reductions, if any.

(a) *SFH price reduction.* If SFH property has not sold after being actively marketed for at least 120 days, the County Supervisor or District Director may administratively reduce the price by an amount not to exceed five percent (5%) if deemed to be in the best interest of the Government or reappraise the property if additional market data indicates this action is warranted. Subsequent price reductions not to exceed 5% per reduction may be made in periods of not less than 120 days each. Administrative price reductions may be made without changing the SFH appraised value. Reduction(s) will be documented in the running record. Active written offers, otherwise acceptable except for price, will be retained and accepted in order of highest price if equal to or greater than the reduced price.

(b) *MFH price reduction.* For multiple-family property, the sale price will only be reduced to the extent that the market value has decreased as shown in a current market appraisal. The District Director will not reduce the price without the prior written approval of the State Director. The State Director must request National Office authorization on reductions of price for multiple-family property if the inventory value at the time of acquisition exceeded the State Director's loan approval authority.

§ 1955.114 Sales steps for suitable property (housing).

After repairs, if any, are completed, suitable property will be offered for sale as outlined in this section. The appraisal should be updated to reflect repairs and improvements, if any, and Form FmHA 1955–40, for SFH property, or other appropriate notice for MFH property, will be prepared. Suitable property will be sold by regular sale *only*, unless the Assistant Administrator for Housing authorizes another method. If the State Director determines that suitable properties have been given adequate market exposure and that diligent sales efforts including the use of real estate brokers have not produced purchasers, he/she may request the Assistant Administrator for Housing to authorize sale by sealed bid of public auction.

(a) *Single family housing.* The sale price will be established in accordance with § 1955.113 of this subpart. The County Supervisor will either offer the property for regular sale or list it with real estate brokers for sale under the provisions of § 1955.112 of this subpart. Properties will be offered or listed by use of Form FmHA 1955–40, unless FmHA has on hand a signed offer to purchase a specific property. The date the form is posted or listed with participating brokers is the effective date that the offer for sale has begun and the date it is mailed to participating brokers is the effective date of listing. Offers and listings will provide for sales on both eligible or ineligible terms. However, all suitable SFH property will be available for purchase by eligible SFH applicants *only* for the first 30 days from the date of the initial offering or listing, and for the first 30 days from the date of any reduction in price. During this 30-day period, offers will be accepted from others and held until the beginning of the business day following the 30-day period when they will be considered along with all other offers received that business day. If not sold during the 30-day period, the property may then be purchased by either eligible or ineligible buyers on a first-come first-served basis. However, for written offers received during business hours on the same day, eligibles will be given first priority, then cash offers will take precedence over offers requiring credit. Among cash offers or offers requiring credit on ineligible terms, an offer higher than the listed price will be given preference. Preference will be given to a cash offer which is at least ——*

[*Refer to Exhibit B of FmHA Instruction 440.1 (available in any FmHA office) for the current percentage.]

(For offers requiring credit on eligible terms, no preferences will be given for an offer higher than the listed price. An offer from an eligible applicant which is higher than the listed price will be treated as equally acceptable with other offers from eligibles and sold for the listed price.) Selection of equally acceptable offers in any category (eligible or ineligible) received the same business day will be made by lot. Credit sales to eligible applicants will be in accordance with the provisions of Subpart A of Part 1944 of this chapter. Sales to ineligibles will be for cash or as credit sales on ineligible terms as outlined in § 1955.118 of this subpart. Offers for less than the listed price may be held until the price has been reduced administratively to the offer price or the property is reappraised, whichever occurs first. The lesser offers will be considered as received on the date of the price reduction.

(b) *Multiple-family housing.* The sale price will be established in accordance with § 1955.113 of this subpart. Notification of known interested prospective offerors and advertising should be handled as set forth in § 1955.146 of this subpart. The sale information will include the sale price and require all offerors to submit an application package comparable to that required by the respective loan program which will be reviewed by the State Director. The sale date will be set to allow adequate time for advertising and review of applications. Offerors whose applications are rejected by FmHA will be notified in writing by the approval official. An offeror may withdraw an offer prior to the sale date, but on the sale date, all offers from applicants determined eligible for the type of loan being offered will be considered. Offers will be place in a receptacle and one offer drawn. Award will be made to the offeror drawn. The successful offeror will be notified immediately in writing by the approval official, return receipt requested, that the successful offeror's offer has been accepted even if the successful offeror was present at the sale. The remaining offerors will each be notified by letter, return receipt requested, that their offer was not successful, the selection of the successful offeror was by lot and therefore is not appealable. If an unsuccessful offeror was not present at the sale and requests the name of the successful offeror, the name may be released. If the MFH property has been listed with real estate brokers after receiving authorization from the Assistant Administrator for Housing, Form FmHA 1955–40, or other appropriate form designated for MFH property, will be used and the property sold to the first eligible applicant meeting the respective program requirements. Any other method of sale must receive the prior written authorization of the Assistant Administrator for Housing.

(c) *Single family inventory converted to MFH.* Written offers by non-profit organizations or public bodies will be considered by FmHA for the purchase of multiple SFH units for conversion to MFH.

(1) The price provisions of § 1955.113 and the processing provisions for MFH in § 1955.117 of this subpart apply to such a conversion.

(2) The provisions of § 1955.130 of this subpart pertaining to real estate brokers apply, as applicable, and a commission will be due in the normal manner on units which were listed with the broker(s).

(3) Prior approval of the National Office is required before issuance of Form AD–622, "Notice of Preapplication Review Action." A preapplication with the information outlined in Exhibit A–6 of Subpart E of Part 1944 of this chapter, along with the State Director's recommendation, will be forwarded to the National Office, Attention: Assistant

Administrator for Housing, for a determination and further guidance.

(4) A credit sale for this purpose will be made according to the provisions of Subpart E of Part 1944 of this chapter, as modified by § 1955.117 of this subpart, except the units need not be contiguous, but they must be located in close enough proximity so that management costs are not increased nor management capabilities diminished because of distance.

(5) An additional loan may be made simultaneously with the credit sale, or later, only when the property involved meets the definition of "project" set forth in § 1944.205(j) of Subpart E of Part 1944 of this chapter.

(d) *CONACT residential property suitable for the SFH program.* When a single family house acquired under the CONACT is determined to be suitable for the SFH program, it may be offered for sale as a SFH unit as though it had been acquired under the SFH program. It may, however, be sold in this manner to an eligible RH borrower on *eligible terms only*—not for cash or on ineligible terms. When a house is offered for sale under this paragraph, the listing notices and any advertising (whether being sold by FmHA or through real estate brokers) must state this restriction.

§ 1955.115 Sales steps for unsuitable property (housing).

The appropriate FmHA office will take the following steps after repairs, if economically feasible, are completed. The appraisal will be updated to reflect repairs and improvements, if any, and Form FmHA 1955–40 for SFH property, or other appropriate notice for MFH property, will be prepared.

(a) *Single family housing.* Sales steps will be the same as for suitable SFH property, as provided in § 1955.114(a) of this subpart, except that sales must be for cash or credit on ineligible terms as provided in § 1955.118 of this subpart. If an unsuitable SFH property has not sold after 120 days from being offered for sale or listed with brokers, consideration should be given to using a sealed bid or auction sale method. Use of the sealed bid or auction method without attempting a regular sale may be considered in special circumstances; e.g., where structures have been substantially destroyed by fire with the remaining value being only in the land. Special circumstances may also indicate that the structures should be sold as chattel (salvage) when authorized by the State Director. Sealed bid sales of unsuitable SFH property should be completed and closed within 90-days of the State Director's authorization to use this method. Auction sales should be completed and closed within 120 days of the State Director's authorization to use this method. The advertising requirements and deed restrictions of § 1955.116 of this subpart apply to unsuitable properties which do not meet FmHA DSS standards.

(b) *Multiple-family housing.* Sales steps will be the same as for suitable MFH property as provided in § 1955.114(b) of this subpart except that sale must be for cash or credit on ineligible terms as set forth § 1955.118 of this subpart. Additionally, if cash offers are received, they will be given first preference by drawing from the cash offers only. If the State Director determines an auction sale should be used to sell unsuitable MFH property, authority to use that method of sale must be requested from the Assistant Administrator for Housing. Inventory files including information on the acquisition, marketing efforts made, management of the property, other pertinent information, a memorandum covering the facts of the case, and recommendations of the State Director must be submitted for review.

§ 1955.116 Requirements for sale of property not meeting decent, safe and sanitary (DSS) standards (housing).

(a) *Notices and advertising.* If the inventory housing property has a single-family dwelling or a MFH unit which does not meet DSS standards as defined in § 1955.103(f) of this subpart, any "Notice of Real Property For Sale," "Notice of Sale," or any other advertisement used in conjunction with advertising the sale must contain the following notice:

The structure presently on this property does not meet the "Decent, Safe, and Sanitary Housing" standards as defined by the Farmers Home Administration. Prior to being used for residential purposes, the structure must be restored or repaired to:

(1) Be structurally sound and habitable,

(2) Have a potable water supply,

(3) Have functionally adequate, safe, and operable heating, plumbing, electrical and sewage disposal systems, and

(4) Meet the Thermal Performance Standards for existing construction as outlined in Exhibit D of Subpart A of Part 1924 of Title 7 of the Code of Federal Regulations.

(b) *Sales agreements.* If a housing structure in inventory does not meet DSS standards, the Forms FmHA 1955–45 or Form FmHA 1955–46 used in conjunction with the sale must indicate the type of deficiencies that exist and must contain the following clause:

This property contains a dwelling unit or units which FmHA has deemed to be inadequate for residential occupancy. The Quitclaim Deed by which the property will be conveyed to the purchaser will contain a covenant binding the purchasers and the property which will restrict the residential unit(s) on the property from being used for residential occupancy until the dwelling unit(s) is structurally sound and habitable, has a potable water supply, has functionally adequate, safe and operable heating, plumbing, electrical and sewage disposal systems, and meets the Thermal Performance Standards as outlined in Exhibit D, of Subpart A of Part 1924 of Title 7 of the Code of Federal Regulations. This restriction is imposed pursuant to section 510(e) of the Housing Act of 1949, as amended, 42 U.S.C. § 1480(e).

(c) *Quitclaim deed.* The following or similar restrictive clause adapted for use in an individual State pursuant to a State Supplement approved by OGC must be added to the quitclaim deed for properties with dwellings which do not meet the definition of decent, safe, and sanitary:

Pursuant to section 510(e) of the Housing Act of 1949, as amended, 42 U.S.C. § 1480(e), the purchaser ("Grantee" herein) of the above-described real property (the "subject property" herein) covenants and agrees with the United States acting by and through Farmers Home Administration (the "Grantor" herein) that the dwelling unit(s) located on the subject property as of the date of this Quitclaim Deed will not be occupied or used for residential purposes until the unit(s) is structurally sound and habitable, has a potable water supply, has functionally adequate, safe, and operable heating, plumbing, electrical and sewage disposal systems and meets the Thermal Performance Standards as outlined in Exhibit D of Subpart A of Part 1924 of Title 7 of the Code of Federal Regulations. This covenant shall be binding on Grantee and Grantee's heirs, assigns and successors and will be construed as both a covenant running with the subject property and as an equitable servitude. This covenant will be enforceable by the United States in any court of competent jurisdiction. When the existing dwelling unit(s) on the subject property complies with the aforementioned standards of the Farmers Home Administration or the unit(s) has been completely razed, upon application to Farmers Home Administration in accordance with its regulations, the subject property may be released from the effect of this covenant and this covenant will thereafter be of no further force or effect.

(d) *Release of restrictive clause.* A State Supplement outlining the procedure for releasing the DSS covenant will be issued with the advice and approval of OGC.

§ 1955.117 Processing credit sales on eligible terms (housing).

The following provisions apply to all credit sales on eligible terms:

(a) *Offers.* Form FmHA 1955–45 will be used to document the offer and acceptance for regular FmHA sales.

Contract acceptance is normally made prior to processing form FmHA 410-4, "Application for Rural Housing Assistance (Non Farm Tract)," for SFH property with the provisions that acceptance is subject to program approval. MFH property sales require an application package comparable to that submitted for the respective loan program application.

(b) *Processing.* The FmHA regulations pertaining to the type of credit being extended will be followed in making credit sales on eligible terms except as modified by the provisions of this section. All MFH credit sales may be made for up to 100 percent of the current market value of the security less any prior lien. However, if a profit or limited profit applicant desires to earn a return, the applicant will be required to contribute at least 5 percent of the purchase price as a cash down payment unless otherwise waived by the Administrator under § 1955.149 of this subpart. All credit sales of RRH, RCH, and LH properties will be subject to prepayment and use restriction specified by the respective program requirements.

(c) *Approval.* Form FmHA 1940-1 will be used to approve a credit sale even though no obligation of funds is involved.

(d) *Down payment.* When a down payment is made, it will be collected at closing, identified by advice number, purchaser's name and case number, and remitted in accordance with FmHA Instruction 1951-B (available in any FmHA office).

(e) *Interest rate.* The interest rate will be the interest rate for the type credit being extended that is in effect on the date the asssistance is approved on Form FmHA 1940-1.

(f) *Closing costs.* MFH purchasers will pay closing costs from their own funds. Where necessary, SFH purchasers who qualify may be made a subsequent loan to pay closing costs in an amount not to exceed 1 percent of the sale price of the dwelling.

(g) *Closing sale.* Title clearance, loan closing and property insurance requirements for a credit sale, and any loan closed simultaneously with the credit sale, are the same as for a program loan of the same type except:

(1) The property will be conveyed by in accordance with § 1955.141(a) of this subpart.

(2) Earnest money, if any, will be used to pay purchaser's closing costs with any balance of closing costs being paid from the purchaser's personal funds except as provided in paragraph (f) of this section. For SFH credit sales and MFH credit sales to nonprofit organizations or public bodies, any excess deposit will be refunded to the purchaser. For MFH sales to profit or limited profit buyers, any excess earnest money deposit will be credited to the purchase price and recognized as a part of the purchaser's initial investment.

(3) The County Supervisor or District Director will provide the closing agent with the necessary information for closing the sale. The assistance of OGC will be requested to provide closing instructions in exceptional or complex cases and for all MFH sales.

(h) *Reporting.* After the sale is closed, it will be reported according to § 1955.142 of this subpart.

§ 1955.118 Processing cash sales or credit sales on ineligible terms (housing).

Cash sales will be closed by the servicing official collecting the purchase price (less any earnest money or bid deposit) and delivering the deed to the purchaser. Proceeds will be remitted according to FmHA Instruction 1951-B (available in any FmHA office). The following provisions apply to credit sales on ineligible terms:

(a) *General.* The provisions of § 1955.117(a) and (c) of this subpart also apply to sales on ineligible terms. However, the following modification on instruments, if applicable, will be made and initiated by both the applicant and the approval official:

(1) On the promissory note, any covenants relating to graduation to other credit, personal occupancy, and restrictions on leasing will be deleted by lining through and will be initiated by the obligor(s).

(2) On the security instrument (mortgage or deed of trust) the covenants relating to graduation to other credit, personal occupancy, and restrictions on lease will be deleted by lining through and will be initialed by the mortgagor(s).

(b) *Down payment.* Down payment of not less than 10 percent of the purchase price is required at closing and will be remitted by the servicing official according to FmHA Instruction 1951-B (available in any FmHA office).

(c) *Interest rate.* The ineligible SFH interest rate will be charged on all credit sales of SFH property on ineligible terms. The Section 515 RRH interest rate plus ½ percent will be charged on all other types of housing credit sales. Refer to Exhibit B of FmHA Instruction 440.1 (available in any FmHA Office) for interest rates.

(d) *Term of note.* The balance of the purchase price will be amortized as follows, except the term will never be longer than the period for which the property will serve as adequate security:

(i) *SFH.* (A) When a purchaser does not own an adequate home, intends to occupy the house, and cannot obtain other credit for its purchase, the term may be for a period not to exceed 30 years.

(B) For purchasers who do not meet the criteria in paragraph (d)(i)(A) of this section, the note amount will be amortized for not more than 10 years. However, if the State Director determines more favorable terms are necessary to facilitate the sale, the note amount may be amortized using a 20-year factor with payment in full (balloon payment) due not later than 10 years from the date of closing.

(ii) *MFH.* No more than 10 years unless the State Director determines more favorable terms are necessary to facilitate the sale in which case the note amount may be amortized using a 30-year factor with payment in full (balloon payment) due not later than 10 years from the date of closing.

(e) *Closing sale.* Title clearance, loan closing and property insurance requirements for a credit sale are the same as for a program loan except:

(1) The property will be conveyed in accordance with § 1955.141(a) of this subpart.

(2) The purchaser will pay closing costs. Earnest money, if any, will be used to pay purchaser's closing costs with any balance of closing costs being paid by the purchaser.

(3) The County Supervisor or District Director will provide the closing agent with the necessary information for closing the sale. The assistance of OGC will be requested to provide closing instructions in exceptional or complex cases and for all MFH sales.

(f) *Reporting:* After the sale is closed, it will be reported according to § 1955.142 of this subpart.

(g) *Classification.* Credit sales on ineligible terms will be classified as ORE loans and serviced accordingly.

§ 1955.119 Payment of discount points (housing).

To effect regular sale of inventory SFH property to a purchaser who is financing the purchase of the property with a nonFmHA loan, the State Director may authorize the payment by FmHA of not more than three discount points. The payment must be a customary requirement of the lender for the seller within the community where the property is located. Terms of payment will be incorporated in Form FmHA 1955-45 and will be fixed as of the date the form is signed by the appropriate FmHA official. Points will not be paid to reduce the interest rate to be paid by the purchaser. The payment will be deducted from the funds to be received by FmHA at closing.

§ 1955.120 [Reserved]

Chattel Property

§ 1955.121 Sale of acquired chattels (chattel).

Sections 1955.122–1955.124 of this subpart prescribe procedures for the sale of all acquired chattel property except real property rights. The State Director is authorized to sell acquired chattels by auction, sealed bid, regular sale or, for perishable items and crops, by negotiated sale. The State Director may redelegate authority to any qualified FmHA employee.

§ 1955.122 Method of sale (chattel).

Acquired chattels will be sold as expeditiously as possible using the method(s) considered most appropriate. If the chattel is not sold within 180 days after acquisition, assistance will be requested as outlined in § 1955.143 of this subpart.

(a) *Regular sale.* Chattels may be sold by FmHA employees at market value to eligible applicants. Form FmHA 440–21, "Appraisal of Chattel Property," will be used when appraising chattels for regular sale.

(b) *Auctions.* Section 1955.148 of this subpart provides detailed guidance on auctions applicable to the sale of chattels, as supplemented by this section.

(1) *Established public auction.* An established public auction is an auction conducted at a facility that is widely advertised and that is held on a regularly scheduled basis. This method of sale is particularly suited for the sale of commodities, farm machinery and livestock. No additional public notice of sale is required other than that commonly used by the facility. This is the preferred method of disposal.

(2) *Other auctions.* Other auctions, whether conducted by FmHA employees or fee auctioneers, are suitable for on-premises sales, for sale of dissimilar chattels, and for the sale of chattels in conjunction with the auction of real property. A minimum of 5 days public notice will be given prior to the date of auction.

(c) *Sealed bid sales.* Section 1955.147 of this subpart provides detailed guidance on sealed bid sales applicable to the sale of chattels. When it is believed that financing will have to be provided through a credit sale, this method has advantages over auction sales. It requires, however, additional steps in the event any established minimum price is not obtained. Preference will be given to a cash offer which is at least ——* percent of the highest offer requiring credit.

[* Refer to Exhibit B of FmHA Instruction 440.1 (available in any FmHA office) for the current percentage.]

(d) *Negotiated sale.* Perishable acquired items and crops (except timber) and chattels for which no acceptable bid was received from auction or sealed bid methods may be sold by direct negotiation for the best price obtainable. Preference will be given to a cash offer which is at least ——* percent of the highest offer requiring credit.

[* Refer to Exhibit B of FmHA Instruction 440.1 (available in any FmHA office) for the current percentage.]

No public notice is required to negotiate with interested parties including prior bidders. Justification for the use of this method of sale will be documented. A copy of the sale instrument (Form FmHA 1955–47, "Bill of Sale 'A'—Sale of Government Property") will be kept in the County or District Office inventory file. Sale proceeds will be remitted according to FmHA Instruction 1951–B (available in any FmHA office). A State Supplement, when needed, will be prepared with the assistance of OGC to provide additional guidance on neotiated sales and to insure compliance with State laws.

§ 1955.123 Sale procedures (chattel).

(a) *Credit sales.* Although cash sales are preferred in the sale of chattels, credit sales may be used advantageously in the sale of chattels to eligible purchasers and to facilitate sales of high-priced chattels. Credit sales to eligible purchasers will be in accordance with the provisions of this Chapter for the appropriate program for which a loan would otherwise be made including eligibility determinations. Preference will be given to a cash offer which is at least ——* percent of the highest offer requiring credit.

[* Refer to Exhibit B of FmHA Instruction 440.1 (available in any FmHA office) for the current percentage.]

Credit sales to ineligible purchasers may be offered on terms of not less than ten percent (10%) down payment with the remaining balance amortized over a period not to exceed five years. The interest rate for ineligible purchasers will be the current ineligible interest rate for Farmer Program property set forth in Exhibit B of FmHA Instruction 440–1 (available in any FmHA office). Forms FmHA 431–2 or CFS, Form FmHA 440–32, "Request for Statement of Debts and Collateral," or any other financial statement considered appropriate may be used to show financial capability.

(b) *Receipt of payment.* Payment will be by cashier's check, certified check, postal or bank money order, or personal check (not in excess of $500) made payable to FmHA. Cash may be accepted if it is not possible for one of these forms of payment to be used. Third party checks are not acceptable. If full payment is not received at the time of sale, the offer will be documented by Form FmHA 1955–46, or by Form FmHA 1955–45 where the chattel is sold jointly with real estate by regular sale.

(c) *Transfer of title.* Title will be transferred to a purchaser in accordance with § 1955.141(b) of this subpart.

(d) *Reporting sale.* Sales will be reported in accordance with § 1955.142 of this subpart.

(e) *Reporting and disposal of inventory property not sold.* Refer to §§ 1955.143 and 1955.144 of this subpart for additional guidance in disposing of problem property.

§ 1955.124 Sale with inventory real estate (chattel).

Inventory chattel property may be sold with inventory real estate if a higher aggregate price can be obtained. Proceeds from a joint sale will be applied to the respective inventory accounts based on the value of the property sold. Form FmHA 440–21 will be used to determine the value of the chattel property. The offer for the sale of the chattels will be documented by incorporating the terms and conditions of the sale of Form FmHA 1955–45 or Form FmHA 1955–46, and may be accepted by the appropriate approval official based upon the combined final sale price.

§§ 1955.125–1955–.126 [Reserved]

Use of Contractors To Dispose of Inventory Property

§ 1955.127 Selection and use of contractors to dispose of inventory property.

Sections 1955.128—1955.131 prescribe procedures for contracting for services to facilitate disposal of inventory property. FmHA Instructions 1955–D and 2024–A (available in any FmHA office) are applicable for procurement of the nonpersonal services.

§ 1955.128 Appraisers.

The State Director may authorize the County Supervisor or District Director to procure fee appraisals of inventory property, except MFH properties, to expedite the sale of inventory real or chattel property. (Fee appraisals of MFH properties will only be authorized by the

Assistant Administrator for Housing when unusual circumstances preclude the use of a qualified FmHA MFH appraiser.) The decision will be based on availability of comparables, capability and availability of personnel and the number and type properties (such as large farms and business property) requiring valuation. Contract appraisers should be "designated" (i.e., an appraiser designated by major appraisal organizations, such as Society of Real Estate Appraisers, American Institute of Real Estate Appraisers, American Society of Appraisers, American Right of Way Association, Appraisal Institute of Canada and Independent Appraisers). Appraisers may not purchase property they have appraised.

§ 1955.129 Business brokers.

The services of business brokers or business opportunity brokers may be authorized by the appropriate Assistant Administrator in lieu of or in addition to real estate brokers for the sale of businesses as a whole, including goodwill and chattel, when:

(a) The primary use of the structure included in the sale is other than residential;

(b) The business broker is duly licensed by the respective state; and

(c) The primary function of the business is other than farming or ranching.

§ 1955.130 Real estate brokers.

Contracting authority for the use of real estate brokers is prescribed by Exhibit C of FmHA Instruction 2024–A (available in any FmHA office). Brokers who are managing custodial or inventory property may also participate in sales activities under the same conditions offered other brokers. Brokers must be properly licensed in the State in which they are doing business.

(a) *Type of listings.* The State Director may elect to authorize use of open listings, exclusive listings, or combinations thereof during any calendar year as follows:

(1) *Exclusive listing contract.* An exclusive listing contract provides for the selection of one broker by competitive negotiation who will be the only authorized broker for the FmHA office awarding the contract within a defined area and for a specified property or type property. Since the commission rate is pre-established, additional criteria will be specified in the solicitation together with the numerical weighting system to be used (usually 1–100). Responses will be calculated on the basis of criteria such as personal qualifications, membership in Multiple Listing Services, previous dealings with FmHA, advertising plans, innovative promotion methods proposed, and financial capability. The responsibilities of the broker under the exclusive listing contract exceed those of the open listing agreement.

(2) *Open listing.* Open listing agreements provide for any licensed real estate broker to provide sales services for any property listed consistent with the terms and conditions of Form FmHA 1955–42, "Open Real Property Master Listing Agreement." If this method is used, a newspaper advertisement will be published in the counties served by the FmHA office, informing brokers that sales services are being requested. The advertising will be substantially in accordance with the example given in Exhibit B of this subpart (available in any FmHA office). An open listing agreement may be executed at any time during the year, but must be effective prior to the broker showing the property.

(b) *Listing notices.* Form FmHA 1955–40 will be used to provide brokers with notice of initial listing, withdrawals, price change, terms change, relisting, sale cancellation, restrictions on sale, etc.

(c) *Priority of offers.* Offers will be given priority in the order received; however, all offers received during the same business day will be considered as having been received at the same time. The successful offer from among equally acceptable offers within each category will be determined by lot by FmHA. Priority rules for specific categories of property are:

(1) *Suitable SFH.* See § 1955.114(a) of this subpart.

(2) *Suitable MFH.* Offers will be considered from eligible applicants only.

(3) *Unsuitable SFH.* See § 1955.115(a) of this subpart.

(4) *Unsuitable MFH.* See § 1955.115(b) of this subpart.

(5) *Suitable CONACT.* See § 1955.106 of this subpart.

(6) *Surplus CONACT.* See § 1955.107 of this subpart.

(d) *Price.* No offer for less than the listed price will be accepted during the period of regular sale. However, other offers will be held by FmHA pending any administrative price reduction, prior sale, withdrawal, or expiration of offer.

(e) *Earnest money.* Earnest money in the amount specified in paragraph (e)(1) of this section will be collected when a sales contract is executed. The earnest money will be retained by the broker until contract closing, withdrawal, cancellation, or rejection by FmHA. When a contract is cancelled because FmHA rejects the offeror's application for credit, the earnest money will be returned to the offeror. When a contract closes, the broker will make the earnest money available to be used toward closing costs, or in the case of a cash sale it may be returned to the purchaser. For MFH sales to profit or limited profit buyers, any excess earnest money deposit will be credited to the purchase price and recognized as a part of the purchaser's initial investment.

(1) *Amount.* The amount of earnest money collected will be:

(i) For single-family residence or multiple-family residence of 2 to 4 units, $50.

(ii) For all property other than that covered in paragraph (e)(1)(i) of this section, the *greater* of the estimated closing costs shown on the notice of listing (Form FmHA 1955–40) or ½ of 1 percent of the purchase price.

(2) *Offeror default.* When a contract is cancelled due to offeror default, the earnest money will be delivered to and retained by FmHA as full liquidated damages and will be remitted by the servicing official according to FmHA Instruction 1951–B (available in any FmHA office) for application to the General Fund.

(f) *Commission.* The broker's commission is contingent on the closing of the sale and will not be paid until the sale is closed and title has passed to the purchaser. No commission will be paid where the sale is to the broker, the broker's salesperson(s), to persons living in his/her or salesperson's immediate household or to legal entities in which the broker or salesperson(s) have an interest. Commission will be paid at closing only if sufficient cash to cover the commission is paid by the purchaser. Otherwise the commission will be paid by the appropriate FmHA official completing a Standard Form 1034 and submitting Form FmHA 2024–1, for payment to be charged as a nonrecoverable cost to the inventory account. A uniform fee or commission schedule, by property type, will be established by the State Director within a given sales area and will not exceed commissions paid for similar types of services provided by the broker to other sellers of similar real property. (The percentage normally decreases as the value of the property increases over $100,000.) The State Director, without authority to redelegate, may authorize fixed amount bonuses for special-effort property, such as property with a value so low that the commission alone does not warrant broker interest or property that has been held in inventory for an extended period where it is believed an added bonus will create additional efforts by the broker to sell the property.

Commissions for sealed bids procured through brokers may be authorized by the appropriate Program Assistant Administrator upon written request by the State Director.

(g) *Nondiscrimination.* Brokers who execute listing agreements with FmHA shall certify to nondiscrimination practices as provided in Forms FmHA 1955–42 and FmHA 1955–43 (available in any FmHA office). In addition, all brokers participating in the sale of the property shall sign the nondiscrimination certification on Form FmHA 1955–45.

§ 1955.131 Auctioneers.

The services of licensed auctioneers, if required, may be used to conduct auction sales as described in § 1955.148 of this subpart and procured by competitive negotiation under the contracting authority of Exhibit C to FmHA Instruction 2024–A (available in any FmHA office).

(a) *Selection criteria.* The auctioneer should be selected by evaluating criteria such as proposed sales dates, location, advertising, broker cooperation, innovations, mechanics of sale, sample advertising, personal qualifications, financial capability, private sector financing and license/bonding.

(b) *Commission.* The commission to be paid is normally the customary auctioneer's fee for the area for the type of property being sold. Payment will be made in the same manner as provided for brokers in § 1955.130(f) of this subpart.

(c) *Auctioneer restriction.* The auctioneer, his/her sales agents, cooperating brokers or persons living in his, her or their immediate household are restricted from bidding or from subsequent purchase of any property sold or offered at the auctioneer's sale for a period of one year from the auction date.

§ 1955.132 [Reserved]

General

§ 1955.133 Nondiscrimination.

(a) *Title VI provisions.* If the inventory real property to be sold secured a loan that was subject to Title VI of the Civil Rights Act of 1964, and the property will be used for its original or similar purpose, or if FmHA extends credit and the property then becomes subject to Title VI, the buyer will sign Form FmHA 400–4, "Assurance Agreement." The instrument of conveyance will contain the following statement:

> The property described herein was obtained or improved through Federal financial assistance. This property is subject to the provisions of Title VI of the Civil Rights Act of 1964 and the regulations issued pursuant thereto for so long as the property continues to be used for the same or similar purposes for which the Federal financial assistance was extended.

(b) *Affirmative Fair Housing Marketing Plan.* Exclusive listing brokers or auctioneers selling SFH properties having 5 or more properties in the same subdivision listed or offered for sale at the same time will prepare and submit to FmHA an acceptable Form HUD 935.2, "Affirmative Fair Housing Marketing Plan," for each such subdivision in accordance with § 1901.203(c) of Subpart E of Part 1901 of this chapter.

(c) *Equal Housing Opportunity logo.* All FmHA and contractor sale advertisements will contain the Equal Housing Opportunity logo.

§ 1955.134 Loss, damage, or existing defects in inventory real property.

(a) *Property under contract.* If a bid or offer has been accepted by the FmHA and through no fault of either party, the property is lost or damaged as a result of fire, vandalism, or an act of God between the time of acceptance of the bid or offer and the time the title of the property is conveyed by FmHA, FmHA will reappraise the property. The reappraised value of the property will serve as the amount FmHA will accept from the purchaser. However, if the actual loss based on the reduction in market value of the property as determined by FmHA is less than $500, payment of the full purchase price is required. In the event the two parties cannot agree upon an adjusted price, either party, by mailing notice in writing to the other, may terminate the contract of sale, and the bid deposit or earnest money, if any, will be returned to the offeror.

(b) *Existing defects.* FmHA does not provide any warranty on property sold from inventory. Subsequent loans may be made to eligible purchasers to correct defects.

§ 1955.135 Taxes on inventory real property.

Where FmHA owned property is subject to taxation, taxes will be prorated between FmHA and the purchaser as of the date the title is conveyed in accordance with the conditions of Form FmHA 1955–45 or Form FmHA 1955–46. The purchaser will be responsible for paying all taxes due and payable after the title is conveyed. The County Supervisor or District Director will advise the taxing authority of the sale, the purchaser's name, and the description of the property sold. Only assessments for property improvements (water, sewer, curb and gutter, etc.) due and payable as of the date property is sold will be paid by FmHA for all types of inventory property. At the closing, taxes and assessments due to be paid by FmHA will be paid by voucher, if the local taxing authority will accept payment at that time, or will be deducted from the selling price. However, for eligible borrowers other than MFH who lack payment ability, FmHA may pay the prorated taxes and assessments by use of Standard Form 1034 and Form 2024–1, when later due and payable, in lieu of deduction from the selling price at closing.

§ 1955.136 Environmental Assessment (EA) and Environmental Impact Statement (EIS).

(a) Prior to a final decision on some disposal actions, an environmental assessment must be made and when necessary, an enviornmental impact statement. Detailed guidance on when and how to prepare an EA or an EIS is found in Subpart G of Part 1940 of this Chapter. Assessments must be made for those proposed conveyances that meet one of the following criteria:

(1) The conveyance is controversial for environmental reasons and/or is qualified within those categories described in § 1955.137 of this subpart.

(2) The FmHA approval official has reason to believe that conveyance would result in a change in use of the real property. For example, farmland would be converted to a nonfarm use; or an industrial facility would be changed to a different industrial use that would produce increased gaseous, liquid or solid wastes over the former use or changes in the type or contents of such wastes. Assessments are not required for conveyance where the real property would be retained in its former use within the reasonably foreseeable future.

(b) When an EA or EIS is prepared it shall address the requirements of Departmental Regulation 9500–3, "Land Use Policy," in connection with the conversion to other uses of prime and unique farmlands, farmlands of statewide or local importance, prime forest and prime rangelands, the alteration of wetlands or flood plains, or the creation of nonfarm uses beyond the boundaries of existing settlements.

§ 1955.137 Real property located in special areas or having special characteristics.

(a) *Real property located in flood, mudslide hazard, wetland, or Coastal Barrier Resources System (CBRS).*—(1)

Use restrictions. Executive Order 11988, "Floodplain Management," and Executive Order 11990, "Protection of Wetlands," require the conveyance instrument for inventory property in floodplains or wetlands which is proposed for lease or sale to specify those uses that are restricted under identified Federal, State, and local floodplains or wetlands regulations as well as other appropriate restrictions. The restrictions shall be to the uses of the property by the lessee or purchaser and any successors, except where prohibited by law, as determined by the FmHA official responsible for the conveyance. Applicable restrictions will be incorporated into quitclaim deeds in format similar to that contained in § 1955.116(c) of this subpart with the advice and approval of OGC. Upon application by the owner of any property so affected and upon determination by the appropriate FmHA servicing official that the condition for which a deed restriction was imposed no longer exists, the restriction clause may be released by the State Director. A listing of these restrictions will be included in the notices required in paragraph (a)(2) of this section.

(2) *Notice of hazards.* Acquired real property located in an identified special flood or mudslide hazard area as defined in Subpart B of Part 1806 of this chapter (FmHA Instruction 426.2) will not be sold for residential purposes unless determined by the County Supervisor or District Director to be safe (that is, any hazard that exists would not likely endanger the safety of dwelling occupants). Prior written notice of the specific hazard must be given to prospective purchasers. The notice will be prepared in accordance with the following:

(i) *Property offered for sale by FmHA.* The County Supervisor or District Director will inform prospective purchasers at the time of the first inquiry and in any notice of public sale that the property is located in a special flood, mudslide hazard or wetland area and specify any use restrictions resulting from this location. The County Supervisor or District Director will also prepare and deliver a written notice to the prospective purchaser at the time the bid or offer to purchase is signed by the purchaser. The prospective purchaser will acknowledge the receipt of the notice. Exhibit A of this subpart (available in any FmHA office) may be used as a guide for preparing the notice and the acknowledgment. The acknowledgment will be placed in the County or District Office inventory file.

(ii) *Property offered for sale through real estate brokers or auctioneers.* If real estate brokers or auctioneers are engaged to sell inventory property, they must notify prospective purchasers in writing that the property is located in a special flood, mudslide hazard, or wetland area and specify any use restrictions resulting from this location.

(A) When sending Form FmHA 1955–40 or other notice to the brokers or auctioneers listing property for sale, the County Supervisor or District Director will attach a written notice and acknowledgment as a guide in meeting this requirement. Exhibit A of this subpart (available in any FmHA office) may be used for this purpose.

(B) After the prospective purchaser signs the acknowledgment, the broker or auctioneer will forward it to the County Supervisor or District Director, as appropriate, with Form FmHA 1955–45 of Form FmHA 1955–46.

(3) *Limitations placed on financial assistance.* (i) Financial assistance is limited to property located in areas where flood insurance is available. Flood insurance must be provided at closing of loans on eligible and ineligible terms. Appraisals of property in flood or mudslide hazard areas will reflect this condition and any restrictions on use. Financial assistance for substantial improvement or repair of property located in a flood or mudslide hazard area is subject to the limitations outlined in Exhibit C, Paragraph 3b (1) and (2) of Subpart G of Part 1940 of this chapter.

(ii) Pursuant to the requirements of the Coastal Barrier Resources Act (CBRA) and except as specified in paragraph (a)(3)(v) of this section, *no* credit sales will be provided for property located within a CBRS where:

(A) It is known that the purchaser plans to further develop the property;

(B) A subsequent loan of any other type of federal financial assistance as defined by the CBRA has been requested for additional development of the property;

(C) The sale is inconsistent with the purposes of the CBRA; or

(D) The property to be sold was the subject of a previous financial transaction that violated the CBRA.

(iii) For purposes of this section, additional development means the expansion, but not maintenance, replacement-in-kind, reconstruction, or repair of any roads, structures or facilities. Water and waste disposal facilities as well as community facilities may be repaired to the extent required to meet health and safety requirements, but may not be improved or expanded to serve new users, patients or residents.

(iv) A sale which is not in conflict with the limitations in paragraph (a)(3)(ii) of this section shall not be completed until the approval official has consulted with the appropriate Regional Director of the U.S. Fish and Wildlife Service and the Regional Director concurs that the proposed sale does not violate the provisions of the CBRA.

(v) Any proposed sale that does not conform to the requirements of paragraph (a)(3)(ii) of this section must be forwarded to the Administrator for review and approval. Approval will not be granted unless the Administrator determines, through consultation with the Department of Interior, that the proposed sale does not violate the provisions of the CBRA.

(b) *Historic preservation.* (1) Pursuant to the requirements of the National Historic Preservation Act and Executive Order 11593, "Protection and Enhancement of the Cultural Environment," the FmHA official responsible for the conveyance must determine if the property is listed on or eligible for listing on the National Register of Historic Places. (See Subpart F of Part 1901 of this chapter for additional guidance.) To determine the former, the current listing of the Register is reviewed. To determine the latter, the State Historic Preservation Officer (SHPO) must be consulted whenever one of the following criteria are met:

(i) The property includes a structure that is more than 50 years old.

(ii) Regardless of age, the property is known to be of historic/archeological importance or has apparent significant architectural features or is similar to other FmHA properties that have been determined to be eligible.

(iii) An environmental assessment is required prior to a decision on the conveyance.

(2) When consultation is not required based upon the above criteria, the responsible FmHA official shall note in the inventory file the basic reason why no consultation was necessary. For example, the running record may indicate the property to be conveyed may be a standard, 10-year old, single family house, a check may have been made with a local historical society on a less obvious property or the property may have been previously cleared.

(3) If the result of the consultations with the SHPO is that a property may be eligible or that it is questionable, an official determination must be obtained from the Secretary of the Interior. The State Office should be contacted for assistance in obtaining this

determination. The National Office Program Support Staff is also available to assist the State Office.

(4) If a property is listed on the National Register or is determined-eligible for listing by the Secretary of Interior, the FmHA official responsible for the conveyance must consult with the SHPO in order to develop any necessary restrictions on the use of the property so that the future use will be compatible with preservation objectives and which does not result in an unreasonable economic burden to public or private interests. The Advisory Council on Historic Preservation must be consulted by the State Director after the discussions with the SHPO are concluded regardless of whether or not an agreement is reached.

(5) Any restrictions that are developed on the use of the property as a result of the above consultations must be made known to potential bidders or purchasers through a notice procedure similar to that in § 1955.137(a)(2) of this subpart.

§ 1955.138 Property subject to redemption rights.

Routine care and maintenance will be provided according to §1955.64 of Subpart B of this part to preserve and protect the property; however, repairs are limited to those essential to prevent further deterioration of the property and protect the Government's interest. Repairs and rehabilitation needed to return the property to program standards, either under contract by FmHA of financed with an FmHA loan, must be deferred until expiration of the redemption period. If, under State law, FmHA's interest may be sold subject to redemption rights, the property may be sold provided there is no apparent likelihood of its being redeemed.

(a) Since property sold subject to redemption rights will be sold "as is," credit sale to eligible applicants is precluded unless the property fully meets FmHA standards for the applicable loan program "as is."

(b) Each purchaser will sign a statement acknowledging that:

(1) The property is subject to redemption rights according to State law, and

(2) If the property is redeemed, ownership and possession of the property would revert to the previous owner and likely result in loss of any additional investment in the property not recoverable under the State's provisions of redemption.

(c) The signed original statement will be filed in the purchaser's County or District Office case file.

(d) If real estate brokers or auctioneers are engaged to sell the property, the County Supervisor or District Director will inform them of the redemption rights of the borrower and the conditions under which the property may be sold.

(e) The State Director, with prior approval of OGC, will issue a State supplement incorporating the requirements of this section and providing additional guidance appropriate for the State.

§ 1955.139 Disposition of real property rights.

(a) *Easements or rights-of-way.* The State Director is authorized to convey easements or rights-of-way for roads, utilities and other appurtenances as follows:

(1) Easements or rights-of-way may be conveyed to public bodies or utilities if the conveyance is in the public interest and will not adversely affect the value of the real estate. The consideration must be adequate for the inventory property being released or for a purpose which will enhance the value of the real estate. If there is to be an assessment as a result of the conveyance, relative values must be considered, including any appropriate adjustment to the property's market value, and adequate consideration must be received for any reduction in value.

(2) Easements or rights-of-way may be sold by negotiation for market value to any purchaser for cash without giving public notice if the conveyance would not make otherwise suitable property unsuitable or surplus, nor decrease the value by more than the price received. Sale proceeds will be handled in accordance with Subpart B of Part 1951 of this chapter.

(3) A copy of the conveyance instrument will be retained in the County or District Office inventory file. The grantee is responsible for recording the instrument.

(b) *Mineral and water rights, mineral lease interests, air rights, and agricultural or other leases.* (1) Mineral and water rights, mineral lease interests, mineral royalty interests, air rights, development rights, and agricultural and other lease interests will be sold with the surface land and will not be sold separately, except as provided in § 1955.66(a)(2)(iii) of Subpart B of Part 1955 of this chapter. If the land is to be sold in separate parcels, any rights or interests that apply to each parcel will be included with the sale.

(2) Lease or royalty interests not passing by deed will be assigned to the purchaser when property is sold. The County Supervisor or District Director, as applicable, will notify the lessee or payor of the assignment. A copy of this notice will be furnished to the purchaser.

(3) The value of such rights, interests or leases will be considered when the property is appraised.

§ 1955.140 Sale in parcels.

(a) *Individual property subdivided.* An individual property may be offered for sale as a whole or subdivided into parcels as determined by the State Director. For MFH property guidance will be requested from the National Office for all properties other than RHS projects. Division of the land or separate sales of portions of the property, such as timber, growing crops, inventory for small business enterprises, buildings, facilities, and similar items may be permitted if a better total price for the property can be obtained in this manner. The division of the property must not change its character from suitable to unsuitable or surplus unless authorized by the appropriate Assistant Administrator. Environmental effects should also be considered pursuant to Subpart G of Part 1940 of this chapter. Any applicable State laws will be set forth in a State Supplement and will be complied with in connection with the division of land. If property is to be subdivided, a plan will be provided by the State Director protecting the FmHA security interest when the subdivided portions are sold. The plan will provide for partial releases based upon 110% of the portion of the outstanding loan prorated to the property released.

(b) *Grouping of individual properties.* The State Director may authorize the combining of two or more individual properties into a single parcel for sale as one block of it is determined this will facilitate the sale.

§ 1955.141 Transferring title.

(a) *Real property.* Real property will be conveyed by Form FmHA 1955-49, or other form of nonwarranty deed approved by OGC, executed by the State Director. This authority may not be redelegated. FmHA or an approved closing agent may prepare the granting instrument for real property. Any FmHA expenses involved will be paid by use of Standard Form 1034 and Form FmHA 2024-1 and charged to the inventory account or may be paid from any down payment where the funds are being disbursed by the closing agent the closing.

(b) *Chattel.* Chattel property will be conveyed by Form FmHA 1955-47, executed by the County Supervisor, District Director, or State Director.

(c) *Additional real property documentation.* For MFH property, documentation will be in accordance with appropriate program procedure. For SFH suitable real property sold to eligible applicants or whenever required, the County Supervisor or District Director will also provide the purchaser the following documents or statements:

(1) A termite certificate from a reliable firm.

(2) Local authority certification, if customary in the State, that the individual water and sewage systems are functional and adequate for property not being served by public water and sewer systems.

(d) *Rent increases for MFH property.* After approval of a credit sale for an occupied MFH project, but prior to closing, the purchaser will prepare a realistic budget for project operation (and a utility allowance, if applicable) to determine if a rent increase may be needed to continue or place project operations on a sound basis. Exhibit C of Subpart C of Part 1930 of this chapter will be followed in processing the request for a rent increase. In processing the rent increase the purchaser will have the same status as a borrower. An approved rent increase will be effective on or after the date of closing.

(e) *Interest credit and rental assistance for MFH property.* Interest credit and rental assistance may be granted to eligible applicants purchasing MFH properties in accordance with the provisions of Exhibit B of Subpart E of Part 1944 and Exhibit E of Subpart C of Part 1930 of this chapter, respectively.

§ 1955.142 Reporting sale.

When the transaction is closed and the conveying instrument has been delivered, the appropriate FmHA official will prepare and distribute Form FmHA 1955–50, "Advice of Inventory Property Sold," or for MFH, Form FmHA 1965–20, "Multiple Family Housing Advice of Mortgaged Real Estate Sold," in accordance with the respective FMI. Real or chattel property which has been disposed of by means other than sale, including total loss or destruction, will be reported in the same manner.

§ 1955.143 Report on inventory property not sold.

For any unsuitable or surplus real or chattel property not sold within 18 months (6 months for chattel) after acquisition the County Supervisor or District Director will send the inventory file, advertisments, and a summary of the facts covering the efforts to sell the property to the State Director for further guidance. If the property is not sold within an additional 6 months (3 months for chattel), the State Director will send the package to the appropriate Assistant Administrator for advice.

§ 1955.144 Disposal of surplus property to, through, or acquired from other Agencies.

(a) *Property which cannot be sold.* If unsuitable or surplus real or chattel property cannot be sold (or only token bids are received for it), the appropriate Assistant Administrator shall give consideration to disposing of the property to other Federal Agencies or State or local governmental entities through the General Services Administration (GSA). Chattel property will be reported to GSA using Standard Form 120, "Report of Excess Personal Property," with transfer documented by Standard Form 122, "Transfer Order Excess Personal Property." Real property will be reported to GSA using Standard Form 118, "Report of Excess Real Property," Standard Form 118A, "Buildings, Structures, Utilities and Miscellaneous Facilities (Schedule A)," Standard Form 118B, "Land (Schedule B)" and Standard Form 118C, "Related Personal Property (Schedule B), " with final disposition documented by a "Receiving Report," executed by the recipient with original forwarded to the Finance Office and a copy retained in the inventory file. Forms and preparation instructions will be obtained from the appropriate GSA Regional Office by the State Office.

(b) Urban Homesteading Program (UH). Section 810 of the Housing and Community Development Act of 1979, as amended, authorizes the Secretary of Housing and Urban Development (HUD) to pay for acquired FmHA single family residential properties sold through the HUD–UH Program. Local governmental units may make application through HUD to participate in the UH Program. State Directors will be notified by the Assistant Administrator for Housing, when local governmental units in their States have obtained funding for the UH Program. The notification will provide specific guidance in accordance with the "Memorandum of Agreement between the Farmers Home Administration and the Secretary of Housing and Urban Development" dated October 2, 1981. (See Exhibit C of this subpart.)

§ 1955.145 Land acquisition to effect sale.

The State Director is authorized to acquire land which is necessary to effect sale of inventory real property. This action must be considered only on a case-by-case basis and may not be undertaken primarily to increase the financial return to the Government through speculation or to make suitable property more suitable. The State Director's authority under this section may *not* be redelegated. For MFH and other organization-type loans, prior approval must be obtained from the appropriate Assistant Administrator prior to land acquisition.

(a) *Alternate site.* Where real property has been determined to be unsuitable for program purposes due to location and where it is economically feasible to relocate the structure thereby making it suitable, the State Director may authorize the acquisition of a suitable parcel of land to relocate the structure if economically feasible. The remaining unsuitable parcel of land will be sold for its market value.

(b) *Additional land.* Where real property has been determined unsuitable for reasons that may be cured by the acquisition of adjacent land or an alternate site, in order to cure title defects or encroachments or where structures have been built on the wrong land *and* where it is economically feasible, the State Director may authorize the acquisition of additional land at a price not in excess of its market value.

(c) *Easements or rights-of-way.* The State Director may authorize the acquisition of easements, rights-of-way or other interests in land to cure title defects, encroachments or in order to make otherwise unsuitable property suitable, if economically feasible.

§ 1955.146 Advertising.

(a) *General.* The success of any sales effort is highly dependent on vigorous advertising which covers the potential market. The primary means of advertisement available to the County Supervisor, District Director, or State Director are newspaper advertisements in accordance with FmHA Instruction 2024–F (available in any FmHA office), public notices using Form FmHA 1955–41, "Notice of Sale," "synopsis" advertising in accordance with § 1955.157 of FmHA Instruction 1955–D (available in any FmHA office), and notification of known interested parties. Other innovative means are encouraged, such use of a display board in the FmHA office with photographs and Form FmHA 1955–40 posted together to solicit applicant and broker interest; posting of Form FmHA 1955–41 at employment center; door-to-door distribution of the notice to apartment dwellers and advertisements in magazines or other periodical publications. An example of newspaper advertising is provided in Exhibit B of this subpart (available in any FmHA office). Advertisement costs will be paid by using Standard Form 1143 and Form FmHA 2024-1. Appropriate FmHA officials will make sure that, where contractually required, brokers and auctioneers provide adequate, timely advertising. When property is being sold by FmHA or by use of open listings with brokers, it is the servicing official's responsibility to insure the adequate advertising of each property. A statement must be included in any advertising stating the amount of FmHA's preference for cash offers in conformity with the applicable sections of this subpart, depending on the type property being advertised.

(b) *Large-value and complex properties.* Advertising for MFH, B&I and other large-value or complex properties should also be placed in appropriate newspapers and publications designed to reach the type of particular purchasers most likely to be interested in the inventory property. The State Director will assist the District Director in determining the scope of advertising necessary to adequately market these properties. Advertising for MFH and other complex properties must also include appropriate language stressing the need to obtain and submit complete application materials for the type program involved.

(c) *Racial and socio-economic considerations.* In accordance with the policies set forth in § 1901.203(c) of Subpart E of Part 1901 of this chapter, the approval official will make a special effort to insure that those prospective purchasers in the marketing area who traditionally would not be expected to apply for housing assistance because of existing racial or socio-economic patterns are reached.

(d) *Rejected application for SFH loan.* If an application for a SFH loan is being rejected because income is too high, a statement should be included in the rejection letter that inventory properties may be available for which they may apply.

§ 1955.147 Sealed bid sales.

Before the sealed bid sale, the appropriate FmHA official will determine and document the minimum sale price, if any, and whether or not credit will be offered. Credit may be offered to facilitate the sale; however, the term will *never* be longer than the period for which the property will serve as adequate security. Sealed bids will be made on Form FmHA 1955-46 with an accompanying deposit of not less than ten percent (10%) of the bid in the form of cashier's check, certified check, postal or bank money order or bank draft payable to FmHA. The bid will be considered delivered when actually received at the FmHA office in a sealed envelope marked as follows:

"SEALED BID OFFER

Date of Bid opening ______
FmHA Advice No. ______
Property Address or Location ______

(a) *Opening bids.* Sealed bids will be held in a secured file before bid opening which will be at the place and time specified in the notice. The bid opening will be public and usually held at the FmHA office. The County Supervisor, District Director, or State Director or his/her designee will open the bids with at least one other FmHA employee present. Each bid received will be tabulated showing the name and address of the bidder, the amount of the bid, the amount and form of the deposit, and any conditions of the bid. The tabulation will be signed by the County Supervisor, District Director or State Director or his/her designee and retained in the inventory file.

(b) *Successful bids.* The highest complying bid meeting the minimum established price will be accepted by the approval official; however, it will be subject to loan approval by the appropriate official when a credit sale is involved. Preference will be given to a cash offer which is at least ——* percent of the highest offer requiring credit.

[*Refer to Exhibit B of FmHA Instruction 440.1 (available in any FmHA office) for the current percentage.]

Otherwise equal bids will be selected by public lot drawing. The successful bid will be accepted by signing Form FmHA 1955-46. The approval official will give a copy of the form to the successful bidder or his/her representative. If the bidder or his/her representative is not present at the bid opening, the form will be sent by certified mail, return receipt requested, to the bidder. The bid deposit of the successful bidder will be used at closing to be applied first to the purchaser's closing costs with any balance then applied to the down payment or in the case of a cash sale to be deducted from the funds required from the successful bidder at closing.

(c) *Unsuccessful bids.* Deposits of unsuccessful bidders will be returned by certified mail with letter of explanation, return receipt requested. If there were no acceptable bids, the letter will advise each bidder of any anticipated negotiations for the sale of the property and deposits will be returned.

(d) *Disqualified bids.* Any bid that does not comply with the terms of the offer will be disqualified. Minor deviations and defects in bid submission may be waived by the FmHA official approving the sale.

(e) *Failure to close.* If a successful bidder fails to perform under the terms of the offer, the bid deposit will be retained as full liquidated damages and will be remitted according to Form FmHA 1951-B (available in any FmHA office) for application to the General Fund. However, if a credit sale complying with the FmHA notice is an element of the offer and FmHA disapproves the credit application, then the bid deposit will be returned to the otherwise successful bidder. Upon determination that the successful bidder will not close, the State Director may authorize either another sealed bid or auction sale of direct negotiations with the next highest bidder, all available unsuccessful bidders, or other interested parties.

(f) *No acceptable bid.* Where no acceptable bid is received although adequate competition is evident, the State Director may authorize a negotiated sale in accordance with § 1955.107(c) of this subpart except that the established minimum sale price shall remain unchanged.

§ 1955.148 Auction sales.

Before an auction, the State Director, with advice of the National Office for organizational property, will determine and document the minimum acceptable price, if any, whether or not a credit sale will be offered and the minimum down payment; and whether an FmHA employee or contract auctioneer will conduct the auction sale. The State Director may authorize the use of a professional auctioneer if the value of the property or the complexity of the sale make it advisable, if no qualified FmHA employee will be available or if otherwise considered in the best interest of the Government. This will be handled by contract in accordance with FmHA Instructions 1955-D and 2024-A (available in any FmHA office). Chattel property may be sold at a public auction that is widely advertised and held on a regularly scheduled basis without solicitation. At the auction, successful bidders will be required to make a deposit of not less than ten percent of their bid in the form of cashier's check, certified check, postal money order or bank draft payable to FmHA or to the contracting auctioneer, if applicable. Cash and personal checks may be accepted when deemed necessary for a successful auction by the person conducting the auction. The high bid will be reduced to writing on Form FmHA 1955-46. Where credit sales are to be allowed, all notices and publicity should provide for a method of prior approval of credit and the credit limit for potential bidders. This may include submission of letters of credit of financial statements prior to the auction. When the highest bid is lower than the minimum amount acceptable to FmHA, negotiations should be conducted with the highest bidder or, in turn, next highest bidder or other persons to obtain an executed bid at the predetermined minimum. Upon purchaser's default the approval official will remit the bid deposit as a Miscellaneous Collection according to FmHA Instruction 1951-B. The bid deposit will be remitted *only* when the bidder defaults; otherwise, pursuant to agreement between the approval official and the purchaser, it will be applied to the closing costs or down payment, or will be deducted from the selling price in a cash sale. The closing will be conducted in accordance with the procedures prescribed in this subpart for cash sales or credit sales on ineligible terms according to the type property and program involved.

§ 1955.149 Exception authority.

(a) The Administrator may, in individual cases, make an exception to any requirement or provision of this subpart or address any omission of this subpart which is not inconsistent with the authorizing statute or other applicable law if the Administrator determines that the Government's interest would be adversely affected or the immediate health and/or safety of tenants or the community are endangered if there is no adverse effect on the Government's interest. The Administrator will exercise this authority upon request of the State Director with recommendation of the appropriate program Assistant Administrator or upon request initiated by the appropriate program Assistant Administrator. Requests for exceptions must be made in writing and supported with documentation to explain the adverse effect, propose alternative courses of action, and show how the adverse effect will be eliminated or minimized if the exception is granted.

(b) The Administrator may authorize withholding sale of surplus farm inventory property temporarily upon making a determination that sales would likely depress real estate market and preclude obtaining at that time the best price for such land.

§ 1955.150 State supplements.

State Supplements will be prepared with the assistance of OGC as necessary to comply with State laws or only as specifically authorized in this Instruction to provide guidance to FmHA officials. State Supplements applicable to MFH, B&I, and CP must have prior approval of the National Office. Request for approval for those affecting MFH must include complete justification, citations of State law, and an opinion from OGC.

PART 1962—PERSONAL PROPERTY

Subpart A—Servicing and Liquidation of Chattel Security

20. Section 1962.40 is amended by removing paragraph (a)(4), by redesignating paragraphs (a)(5) through (a)(8) as paragraphs (a)(4) through (a)(7) respectively, by removing paragraphs (c)(1)(i) and (c)(1)(ii), and by revising paragraph (c)(1) to read as follows:

§ 1962.40 Liquidation.

* * * * *

(c) * * *

(1) When liquidation has been approved, the County Supervisor will accelerate all unmatured installments by using Form FmHA 455-21, except in cases referred to OGC for civil action. A notice of acceleration is not necessary if the notice has previously been given. However, when security is to be liquidated under the "Power of Sale" in the lien instrument without referral to OGC, the County Supervisor will use Form FmHA 455-21.

* * * * *

21. Section 1962.42 is amended by removing paragraphs (c)(7)(i) and (c)(7)(ii) and by revising paragraphs (a)(2), (b)(1), (b)(2), (b)(3), and (c)(7) to read as follows:

§ 1962.42 Repossession, care and sale of chattel security or EO property by the County Supervisor.

(a) * * *

(2) *Recording.* A list, dated and signed by the County Supervisor, of all security or EO property repossessed, except items on Form FmHA 455-4, will be maintained in the borrower's case file. Whenever the County Supervisor is transferred to another position or leaves FmHA or there is a change in jurisdiction, the District Director will give the succeeding County Supervisor, in writing, the names of such borrowers and a list of the property repossessed in the custody of the County supervisor and caretakers, its location, and the names and addresses of the caretakers.

(b) * * *

(1) *Livestock.* Care and feeding of livestock will be obtained by contract pursuant to FmHA Instruction 1955-D (available in any FmHA office). The value of animal products (such as milk) may constitute all or part of the contractor's quotation, and if this is desired, such a statement should be included in the solicitation. Possession of the livestock will be turned over to the contractor only after the contract is awarded using Form FmHA 120-10, "Solicitation, Quotation, Purchase Order, Inspection and Invoice." If a contractor's services are needed for a longer period than is authorized in subparagraph (c)(4)(i) of this section, the State Director may authorize the County Supervisor to continue obtaining the necessary services for the time needed.

(2) *Machinery, equipment, tools, harvested crops, and other chattels.* Property will be stored and cared for pending sale. Storage and necessary services may be obtained by contract using Form FmHA 120-10. Use of property by the contractor is not authorized.

(3) *Crops.* Form FmHA 120-10 will be used for obtaining services for the custody, care, and disposition of growing crops and for unharvested matured crops unless the crops are to be sold in place. Where a landlord is involved, written consent of the landlord should be obtained. If landlord consent cannot be obtained, where applicable, the circumstances should be reported to the State Director for advice.

(c) * * *

(7) *Payment of costs and prior lienholders.* If expenses must be paid before the sale or if cash proceeds are not available from the sale of the property to pay costs referred to in § 1962.44(b) of this Subpart or to pay prior lienholders, such costs or prior liens will be paid by use of Form FmHA 120-10, Standard Form 1034, or Standard Form 1143, "Advertising Order," and Standard Form 1143a, "Memorandum Copy," for newspaper or publisher's invoice for newspaper advertising and Form FmHA 2024-1, "Miscellaneous Payment System," in accordance with FmHA Instructions 2024-F and 2024-P (available in any FmHA office). The amount of the voucher will be charged to the borrower's account, except as limited by State law in a State supplement. No costs in the repossession and sale of security should be incurred unless they can be charged to the borrower's account, and in no event will the Government pay them. However, if costs are not legally chargeable to the borrower, they may be paid as provided in this subpart, and charged to an account set up for the officials or other persons found responsible for them.

* * * * *

22. Section 1962.45 is revised to read as follows:

§ 1962.45 Reporting sales.

Form FmHA 1955-3, "Advice of Property Acquired," will be prepared and distributed according to the FMI when property is acquired by FmHA.

Authorities: (7 U.S.C. 1989; 42 U.S.C. 1480; 42 U.S.C. 2942, 5 U.S.C. 301, Sec. 10, Pub. L. 93-357, 88 Stat. 392, 7 CFR 2.23; 7 CFR 2.70, 29 FR 14764, 33 FR 9850)

Dated: April 30, 1985.

Frank W. Naylor, Jr.,

Under Secretary for Small Community and Rural Development.

[FR Doc. 85-13576 Filed 6-6-85; 8:45 am]

BILLING CODE 3410-07-M

Animal and Plant Health Inspection Service

9 CFR Part 78

[Docket No. 85-052]

Brucellosis in Cattle; State and Area Classifications

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document amends the regulations governing the interstate movement of cattle because of brucellosis. Prior to the effective date of this document, Sublette County and a portion of Lincoln County in Wyoming were designated as Class A, and the remainder of Wyoming was designated as Class Free. This document amends the regulations to designate the entire State of Wyoming as Class Free. This rule is necessary because it has been determined that the entire State of Wyoming meets the standards for Class Free status. The effect of this action is to relieve certain restrictions on the interstate movement of cattle from the area in Wyoming redesignated as Class Free.

DATES: Effective Date: June 3, 1985. Written comments must be received on or before August 6, 1985.

ADDRESSES: Written comments should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Written comments received may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Thomas J. Holt, Cattle Diseases Staff, VS, APHIS, USDA, Room 817, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8711.

SUPPLEMENTARY INFORMATION:

Background

The brucellosis regulations (contained in 9 CFR Part 78 and referred to below as the regulations) provide a system for classifying States or portions of States according to the rate of brucella infection present and the general effectiveness of a brucellosis control and eradication program. The classifications are Class Free, Class A, Class B, and Class C. States or Areas which do not meet the minimum standards for Class C are required to be placed under Federal quarantine.

The brucellosis Class Free classification is based on a finding of no known brucellosis in cattle for the period of 12 months preceding classification as Class Free. The Class C classification is for States or Areas with the highest rate of brucellosis, with Classes A and B in between. Restrictions on the movement of cattle are more stringent for movements from Class A States or Areas compared to movements from Free States or Areas, and are more stringent for movements from Class B States or Areas compared to movement from Class A States or Areas, and so on. The restrictions include testing for movement of certain cattle from other than Class Free States or Areas.

The basic standards for the different classifications of States or Areas concern maintenance of: (1) A State or Area-wide accumulated 12 consecutive month herd infection rate not to exceed a stated level; (2) a Market Cattle Identification (MCI) reactor prevalence rate not to exceed a stated rate (this concerns the testing of cattle at auction markets, stockyards, and slaughtering establishments); (3) a surveillance system which includes a testing program for dairy herds and slaughtering establishments, and provisions for identifying and monitoring herds at high risk of infection, including herds adjacent to infected herds and herds from which infected animals have been sold or received under approved action plans; and (4) minimum procedural standards for administering the program.

Prior to the effective date of this document, the State of Wyoming was divided into a Class Free Area and a Class A Area. Sublette County and a portion of Lincoln County were designated as Class A, and the remainder of Wyoming was designated as Class Free. The State of Wyoming has requested that the entire State be designated as Class Free.

To attain and maintain Class Free status, a State or Area must, among other things, remain free from brucellosis in cattle for the preceding 12 month period and the adjusted MCI reactor prevalence rate for such 12 month period must not exceed one reactor per 2,000 cattle tested (0.050 percent). Sublette County and a portion of Lincoln County were designated as Class A rather than as Class Free because of the herd infection rate. A review of brucellosis program records establishes that the entire State of Wyoming meets the criteria for classification as Class Free. Therefore, it is necessary to designate all of Wyoming as Class Free.

Executive Order and Regulatory Flexibility Act

This rule is issued in conformance with Executive Order 12291 and has been determined to be not a major rule. Based on information compiled by the Department, it has been determined that this rule will not have a significant effect on the economy; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not have any significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived its review process required by Executive Order 12291.

Changing the status of a portion of the State of Wyoming reduces testing requirements on the interstate movement of certain cattle. Cattle moved interstate are moved for slaughter, for use as breeding stock, or for feeding. Testing requirements for cattle moved interstate for immediate slaughter or to quarantined feedlots are not affected by the change in status. Also, cattle from Certified Brucellosis-Free Herds moving interstate are not affected by the change in status. It has been determined that the change in brucellosis status made by this document will not affect marketing patterns and will not have a significant economic impact on those persons affected by this document.

Therefore, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.