Rules and Regulations

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FEDERAL LABOR RELATIONS AUTHORITY, GENERAL COUNSEL OF THE FEDERAL LABOR RELATIONS AUTHORITY, AND FEDERAL SERVICE IMPASSES PANEL

5 CFR Ch. XIV

Regional Office; Address Change

AGENCY: Federal Labor Relations Authority (including the General Counsel of the Federal Labor Relations Authority) and Federal Service Impasses Panel.

ACTION: Final rule.

SUMMARY: This document amends Appendix A, paragraph (d)(2)(a) (45 FR 80467) of the rules and regulations of the Federal Labor Relations Authority (Authority), General Counsel of the Federal Labor Relations Authority (General Counsel), and Federal Service Impasses Panel (Panel), published at 5 CFR Part 2400 *et seq.*, (1985) to establish a new location and mailing address for the Authority's Philadelphia, Pennsyslvania Sub-Regional Office within the Authority's New York, New York Regional Office. The Philadelphia, Pennsylvania Sub-Regional Office telephone numbers have not been changed.

EFFECTIVE DATE: January 27, 1986.

FOR FURTHER INFORMATION CONTACT: David L. Feder, Assistant General Counsel (202) 382-0834.

SUPPLEMENTARY INFORMATION: Effective January 28, 1980, the Authority, General Counsel and Panel published at 45 FR 3482, January 17, 1980, final rules and regulations to govern the processing of cases by the Authority, General Counsel and Panel under Chapter 71 of Title 5 of the United States Code (5 CFR Part 2400 *et seq.* (1985)). These rules and regulations are required by Title VII of the Civil Service Reform Act of 1978 and are set forth in 5 CFR Part 2400 *et seq.* (1985). Appendix A, paragraph (d) of the foregoing rules and regulations sets forth office addresses and telephone numbers of the Regional Directors of the Authority. This amendment sets forth the new location and mailing address of the Philadelphia, Pennsylvania Sub-Regional Office of the Authority. The Philadelphia, Pennsylvania Sub-Regional Office telephone numbers have not been changed. Accordingly, in Appendix A to Chapter XIV, paragraph (d)(2)(a) of the Authority, General Counsel, and Panel rules and regulations (5 CFR Part 2400 *et seq.* (1985)) is amended to read as follows:

Appendix A to 5 CFR Ch. XIV—Current Addresses and Geographic Jurisdictions

* * * * *

(d) The Office addresses of Regional Directors of the Authority are as follows:

* * * * *

(2) * * *

(a) *Philadelphia PA Sub-Regional Office*—105 S. 7th Street, 5th Floor, Philadelphia, Pennsylvania 19106, Telephone: FTS—597-1527, Commercial—(215) 597-1527.

(5 U.S.C. 7134)

Dated: January 28, 1986.

John C. Miller,

General Counsel, Federal Labor Relations Authority.

[FR Doc. 86-2254 Filed 1-31-86; 8:45 am]

BILLING CODE 6727-01-M

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Parts 420, 421, 424, 425, 431, and 432

[Doc. No. 3124S]

Grain Sorghum, Cotton, Rice, Peanut, Soybean, and Corn Crop Insurance Regulations; Sales Closing Date Extension

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Extension of sales closing date.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) herewith gives notice of the extension of sales closing date for accepting applications for grain sorghum, cotton, rice, peanut, soybean, and corn crop insurance in certain south Texas counties wherein such insurance is offered, effective for the 1986 crop year only. This action is necessary because actuarial data filings in such counties have been delayed which has the effect of foreshortening the sales period. Therefore, additional time for applications to be accepted is being provided accordingly. The intended effect of this notice is to advise all interested parties of the extension of the sales closing date and to comply with the provisions of the grain sorghum, cotton, rice, peanut, soybean, and corn crop insurance regulations with respect to the Manager's authority to extend sales closing dates.

EFFECTIVE DATE: February 3, 1986.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC 20250, telephone (202) 447-3325.

SUPPLEMENTARY INFORMATION: The sales closing date for accepting applications for crop insurance on grain sorghum, cotton, rice, peanut, soybean, and corn crop insurance in certain south Texas counties, on file in the service offices, is February 15, 1986. Because of a delay in filing actuarial data in such counties, resulting in a foreshortened marketing period, FCIC is extending the sales closing date in the counties listed below wherein such crop insurance is offered to March 3, 1986. Under the provisions of 7 CFR 420.7(b), 421.7(b), 424.7(b), 425.7(b), 431.7(b), and 432.7(b), the sales closing date for accepting applications may be extended by placing the extended date on file in the service office and by publishing a notice in the **Federal Register** upon determination that no adverse selectivity will result from such extension. If adverse conditions develop during the extended period, FCIC will immediately discontinue acceptance of applications.

Notice

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation herewith gives notice that the sales closing date of February 15, 1986, for accepting applications for grain sorghum, cotton, rice, peanut, soybean, and corn crop insurance under the provisions of 7 CFR Parts 420, 421, 424, 425, 431 and 432, respectively, in the following south Texas counties.

Aransas	Bexar
Atascosa	Brooks
Bandera	Calhoun
Bee	Cameron

Dimmit	McMullen
Duval	Maverick
Edwards	Medina
Frio	Nueces
Goliad	Real
Hidalgo	Refugio
Jackson	San Patricio
Jim Hogg	Starr
Jim Wells	Uvalde
Karnes	Val Verde
Kendall	Victoria
Kenedy	Webb
Kerr	Willacy
Kinney	Wilson
Kleberg	Zapata
La Salle	Zavala
Live Oak	

is hereby extended through the close of business on March 3, 1986, effective for the 1986 crop year only.

(Secs. 506, 516, Pub. L. 75-430, 52 Stat. 73, 77, as amended, (7 U.S.C. 1506, 1516))

Done in Washington, DC, on January 23, 1986.

Edward Hews,

Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. 86-2239 Filed 1-31-86; 8:45 am]

BILLING CODE 3410-08-M

Farmers Home Administration

7 CFR Parts 1822, 1872, 1900, 1903, 1924, 1927, 1943, 1945, 1951, 1955, 1962 and 1965

Servicing of Real Estate Security

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) revises and redesignates its regulations regarding servicing of loans by real estate. This action is being taken to comply with an overall restructuring of FmHA regulations, and to incorporate the provisions of enacted legislation affecting these regulations. The intended effect of this action is to provide more responsive and equitable credit service to farmers and other rural residents.

EFFECTIVE DATE: February 3, 1986.

FOR FURTHER INFORMATION CONTACT: Chester Bailey, Chief, Emergency Loan Servicing and Property Management Branch, FmHA, USDA, Room 5432, South Agriculture Building, Washington, DC 20250, telephone (202) 382-1648.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA Departmental Regulation 1512-1 which implements Executive Order 12291, and has been determined "nonmajor." This action has been determined "nonmajor" since the annual effect on the economy is less than $100 million and there will be no increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. There will be no 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. FmHA revises and redesignates its regulations on servicing and liquidation of real estate security and certain note-only cases from Subpart A of Part 1872, to new Subpart A of Part 1965, Chapter XVIII, Title 7, Code of Federal Regulations. Also, amendments are made to other Parts to change references from Subpart A of Part 1872 to Subpart A of 1965 and to update references to FmHA forms.

Subpart A of Part 1900 is amended to state that non-program loan debtors/applicants are not eligible to receive any program benefits such as appeal rights. This subpart has also been amended to set forth the notification process to be used to notify borrowers of FmHA farmer program servicing options where FmHA holds a lien and another lienholder is proceeding in a foreclosure action to be consistent with Subpart A of Part 1965.

Subpart A of Part 1951 is amended to treat mineral royalty payments as income which may be used for prospective payments on FmHA loans. Also, lease payments can be used for prospective payments on FmHA loans.

Subpart A of Part 1955 is amended to provide a notification process for farmer program borrowers regarding adverse action and require that farmer program appeals be concluded before any adverse action is taken. Also, Subpart B of Part 1955 is amended to provide a notification process to farmer program borrowers of FmHA loan servicing options and notice to take adverse action in cases of abandoned security property.

Implementation of Subpart A of Part 1965 is imperative for present and future FmHA borrowers to fully utilize resources and maximize credit availability in times of economic stress. Many farmers must avail themselves of these authorities to continue in agriculture during this time of severe economic stress in the industry.

Many servicing actions permitted by Subpart A of Part 1872 required approval by the National Office. The submission of individual cases to the National Office for review was a time consuming process. In Subpart A of Part 1965, approval authorities are placed within various field offices to expedite servicing actions. County and District Offices are able to carry out actions which formerly required State or National Office concurrence. This will eliminate considerable time in documentation, correspondence, and mailing delays.

Subpart A of Part 1965 enables FmHA farmer program loans secured by real estate to be serviced in compliance with the applicable statutory authorities and administrative requirements implemented since the last major revisions to the regulation in 1975. In order for borrowers to be successful in their farming operations, they must be able to manage both real estate and debts secured by real estate. Subpart A of Part 1965 prescribes the authorities, policies, and routines for servicing loans secured by real estate. These servicing authorities provide borrowers with the opportunity to be successful and allow FmHA to protect the Government's interest. Subpart A of Part 1965 clarifies the servicing of loans to partnerships, cooperatives and corporations. It also specifically provides for the transfer and assumption of Emergency loss loans and Economic Emergency loans.

FmHA has reviewed the changes and determined that they are cost-effective since they will afford both individual and entity type farm borrowers the additional opportunity to maintain their property serving as security for FmHA loans, utilize the property to obtain other essential credit or dispose of all or part of the property by partial sale or transfer to other parties.

Various sections of Subpart A of Part 1965 incorporate the provisions of the Agricultural Credit Act of 1978 and the Emergency Agricultural Credit Adjustment Act of 1978, Pub. L. 95-334, Title II.

Discussion of Final Rule

A proposed rule was published in the **Federal Register** (49 FR 26072) on June 26, 1984. The proposal provided for a 60-day comment period. The comment period ended August 27, 1984. Comments were received from FmHA personnel who will administer the regulation. No comments were received from the public.

A summary of the major comments received and actions taken follows:

1. The use of proceeds from the sale of a portion of the security should be expanded to allow for the payment of junior liens and judgments necessary to clear title. Section 1965.13(f)(2) has been expanded to allow using proceeds to pay junior liens and judgment liens.

2. FmHA should not have to give post consent to a junior lien when a borrower places a junior lien on property securing an FmHA loan.

Section 1965.16(b) gives the conditions for continuing loans with borrowers who place junior liens on security without FmHA consent.

The existence of a junior lien is not treated as a default provided the borrower pays FmHA loans as agreed, maintains the security, and meets all other conditions of the loan. The County Supervisor will continue to serve the loan to protect the Government's security interest.

3. In regard to FmHA's consent to borrowers' leasing security the requirement that the borrower or the borrower's immediate family continue to occupy the security as a home should be modified for cases where inability to occupy as a home is due to reasons beyond their control.

The requirement in § 1965.17(b) for the continued occupancy of the security as a home is changed to preclude the initiation of liquidation action provided the borrower does not enter into a lease for a term of more than 3 years or does not enter into a lease containing an option to purchase.

4. ORE loans should have their own classification code. ORE loans have been renamed Non Program (NP) loans. The Finance Office's new accounting system will provide an NP code for previously classified ORE loans.

5. In regard to subordinations, use of a 2-year-old appraisal should be permitted provided the appraiser documents that the appraisal reflects current market value and is adequate to describe the value of the security.

The recent history of changing market values of farm real estate indicates a 2-year period is too long for valid current market value determinations. Some areas of the United States have experienced as much as a 15 percent decline in values in consecutive years. Therefore, § 1965.12(d) remains unchanged and requires a current appraisal report when the existing appraisal report is more than 1 year old.

6. When real estate is taken as additional security for an annual operating advance, the mortgage filed should not list on the face of the instrument the other real estate mortgages. This only complicates the release of that mortgage when the annual operating loan is paid in full.

When making a servicing decision, FmHA considers the borrower's total FmHA debt. The current practice provides broader security coverage and encourages graduation which furthers FmHA's loan objectives.

7. Provisions for dwelling retention need to be expanded. The provisions for dwelling retention which were in the proposed rule have been deleted. Amendments to this regulation will be made to incorporate the provision of the Homestead Protection provision, Section 1321 of Pub. L. 99-198, signed into law by President Reagan on December 23, 1985.

Other major changes from the proposed rule are as follows:

1. Section 1965.1 is revised to identify the specific program loans covered by this regulation and to make editorial changes.

2. Section 1965.2 is revised to further clarify the general policies for servicing real estate security and to make editorial changes.

3. Section 1965.7(d) is added to include a definition for Farmer Program loans.

4. Section 1965.7(d) is redesignated as paragraph (e).

5. Section 1965.7 (e) and (f) are revised and redesignated as paragraphs (f) and (g).

6. Section 1965.7(h) is added to include a definition for Non-Program (NP) loans.

7. Section 1965.7 (g), (h) and (i) are redesignated as paragraphs (i), (j) and (k) respectively.

8. Section 1965.11(b) is revised for clarification and to refer to other FmHA regulations. Paragraph (b)(1) has been redesignated (b)(3), paragraph (b)(2) has been redesignated (b)(4), and paragraph (b)(3) has been redesignated (b)(2).

9. Section 1965.11(c) (2)(i) through (2)(iii) are revised. Paragraph (c)(2)(i) is retitled "Decision to pay off the Prior Lien." Paragraph (c)(2)(ii) is retitled "Decision not to pay off the Prior Lien" and provides instructions on how borrowers will be notified by the County Supervisor when FmHA decides not to pay off the prior liens. Paragraphs (c)(2)(ii) and (iii) are redesignated paragraphs (c)(2)(ii) (A) and (B) respectively and paragraph (c)(8) is retitled as "Acquisition of Property by Exercise of Government Redemption Rights" and redesignated as paragraph (c)(2)(iii). Paragraph (c)(2)(i) has been eliminated, and the reference to bidding is now found in paragraph (c)(2)(ii)(A).

10. Section 1965.11(c)(3) has been revised to provide for notifying borrowers of various servicing alternatives when FmHA learns that a junior lienholder is foreclosing or has foreclosed and the property is sold subject to an FmHA mortgage, and to reference applicable portions of § 1955.15 of Part 1955 of this chapter.

11. Section 1965.11(d) has been revised to further clarify the actions to be taken on servicing security after divorce.

12. Section 1965.12(b)(3) is revised to include Special Livestock (SL), Economic Opportunity (EO), and Rural Housing Loans for farm service buildings (RHF). This paragraph permits FmHA to subordinate its lien to another lender if the other lender's funds will be used to reduce the FmHA debt.

13. Section 1965.12(g) is retitled "Reamortizing Existing FmHA Debts other than SFH."

14. Section 1965.13(a) is revised to state that the sale of minerals by unit or lump sum payments will be considered as disposition of a portion of the security, *except:* For Farmer Program loans approved after Decembr 23, 1985, the sale of such products will be considered a disposition of security *only* if the rights to the products were specifically included as part of the appraised value of the real estate securing the loan. This revision was made to comply with Section 1305 of Pub. L. 99-198 regarding mineral rights as collateral.

15. Section 1965.13(b) is revised for clarification to provide guidance for handling of easements and rights-of-way.

16. Section 1965.13(e)(1) is changed to clarify that loan approval authorities in Exhibit C of FmHA Instruction 1901-A cannot be exceeded.

17. Section 1965.13(e)(3)(i)(A) and (B) are revised to make editorial changes and to refer to § 1965.110 of Subpart C of Part 1965 of this chapter. Paragraph (e)(3)(i)(B) of this section is revised to state for Farmer Program loans approved after December 23, 1985, if the rights to minerals were not included in the appraisal, then FmHA has no lien on the right to minerals located under the real estate.

18. Section 1965.13(f) is revised to further clarify the use of proceeds from the sale of security property. Paragraph (f)(2) of this section is revised to state that any funds not needed for taxes will be applied in the manner set out in this paragraph (f). The reference to annual installments and extra payments has been removed.

19. Section 1965.13(f) is revised to remove the requirement that any amounts not applied to any prior lien, inadequately secured FmHA loans, other creditor or used for development, must be applied to the FmHA lien with the highest priority.

20. Section 1965.13(i) is added to state that if FmHA is unable to approve a partial sale, the partial sale cannot be used as the basis for liquidation provided the spouse or children become the owners of the property, or an intervivos trust becomes the owner of the property, so long as the borrower is a beneficiary and there is no change in occupancy of the property.

21. Section 1965.16 is revised for clarification. Paragraph (a)(5) is

removed and the reference to 502 and 504 RH loans is discussed in the introductory text of this section.

22. Section 1965.17 is retitled "Lease of Security" and rewritten for clarification. Paragraphs (a) through (d) of this section are revised to set forth the criteria used when the County Supervisor learns that a borrower is leasing or intends to lease all or a portion of the security. Accordingly, paragraph (a) states the general provisions for leasing of security; paragraph (b) states what conditions the initiation of liquidation would be taken; (c) provides for leasing of Non-Program (NP) loan security; and (d) provides for the leasing of mineral rights. Paragraph (d) specifically states that a borrower does not need FmHA's consent to lease the mineral rights securing a farmer program loan approved after December 23, 1985, unless the rights were included on FmHA's real estate appraisal. Also, if FmHA consent is needed and consent is given, lease payments can be used for prospective payments on FmHA loans. This revision complies with Section 1310 of Pub. L. 99-198 regarding the leasing of mineral rights.

23. Section 1965.21 is retitled "Assignment and Release of Soil Conservation or Similar Programs" and revised to further clarify the action the County Supervisor may take regarding the assignment on income to be received by borrowers under USDA programs or similar contracts to protect the financial interest of the Government or to facilitate loan servicing.

24. Section 1965.23 is revised to refer the servicing of SFH loans to Subpart C of Part 1965 of this chapter.

25. Section 1965.26, the introductory paragraph is removed and the information therein has been clarified and included in paragraphs (a) through (f) of this section. Paragraph (a)(1) and (2) have been revised to make editorial changes. Paragraph (a)(3) of this section is redesignated as paragraph (b) and retitled "*Involuntary Liquidation*" and revised to set forth the criteria for notifying borrowers of FmHA's intent to take adverse action and loan servicing actions available to the borrower. Paragraph (c) of this section is retitled "Multiple Loans and Loans Secured by Both Real Estate and Chattels," and revised to establish criteria for continuing with a borrower who has one or more FmHA loans secured by real estate. Paragraph (d) of this section has been rewritten to provide guidance to County Supervisors on how to service a borrower's farmer program loan(s) if the borrower no longer operates the farm. Paragraph (e) of this section is revised for clarification and sets forth the criteria to permit a borrower to pay the account under an accelerated repayment agreement if the borrower is able to graduate to other credit. Paragraph (a)(9) is redesignated as paragraph (f) and the provision on dwelling retention has been deleted. This subject will be covered in a regulation to be published containing provisions of the Homestead Protection Amendment of Section 1321 of the Food Security Act of 1985.

26. Section 1965.27, the introductory paragraph is revised for clarification and states that farmer program borrowers must be notified of loan servicing options within 3 work days after the borrower contacts the County Supervisor inquiring about a transfer. Paragraph (a) of this section has been revised to clarify that loan approval authorities in Exhibit C of FmHA Instruction 1901-A cannot be exceeded. Paragraph (b)(4) of this section has been redesignated paragraph (b)(5) and paragraph (b)(4) of this section retitled "Payment of Costs" to clarify how costs in transfers and assumptions will be handled.

27. Section 1965.27(b)(6) is retitled "Transfer of a Portion of the Security," and redesignated as paragraph (b)(6) and paragraph (b)(5)(vii) is revised to clarify that new stockholders, members, or partners entering the organization entity must assume personal liability on the loan in transfer and assumption situations.

28. Section 1965.27(b)(8) is retitled "Partial Transfer and Assumption."

29. Section 1965.27(b)(8) and (9) are redesignated paragraphs (b) (9) and (10) respectively.

30. Section 1965.27(b)(9) is retitled "Consent of Other Lienholders" and redesignated paragraph (b)(11).

31. Section 1965.27(b) (10) through (17) are redesignated paragraphs (b) (12) through (19).

32. Section 1965.27(b)(20) entitled "Environmental Requirements" is added referring to the applicable environmental requirements of Subpart G of Part 1940 of this chapter.

33. Section 1965.27(c) is retitled "Assumption of Loans by Eligible Transferees" and rewritten to clarify how a loan may be assumed on eligible rates and terms. Paragraph (l)(i) has been retitled "SFH Assumptions," to refer only to single family housing loans. Paragraph (l)(ii) has been retitled "NP loans" and paragraph (l)(iii) has been retitled, "EE, SL, and Other Emergency Type Loans No Longer Being Made," to specifically include EE loans.

34. Section 1965.27(d) is retitled, "Assumption of Loans By Ineligible Transferees," and has been revised to clarify the procedure for processing assumptions of loans to ineligible transferees. Paragraph (d)(2) of this section has been retitled "Terms—Other Than SFH;" paragraph (d)(3) has been retitled, "Terms—SFH Loans;" paragraph (d)(5) has been retitled "NP Loans."

35. Section 1965.27(e) is revised to clarify the action to be taken by the County Supervisor when a borrower conveys security to a person who is ineligible or unwilling to assume the FmHA debt in accordance with FmHA regulations.

36. Section 1965.27(f) if revised to state that the Administrator must approve the release of liability when the transferor's remaining outstanding FmHA debt after a transfer and assumption exceeds $25,000.

37. Section 1965.27(g) is revised to clarify how funds in the supervised bank account will be applied to FmHA loans in transfer and assumption situations.

38. Section 1965.27(g)(2)(iv) is rewritten and the table used as a guide by the County Supervisor to distribute forms is now Exhibit C of this subpart (available in any FmHA office). Paragraph (g)(2)(v) is added to identify the transfer docket items to be included in the preparation and distribution of a transfer docket.

39. Section 1965.27(g)(10), "Transfer of Unused Development Funds," is now covered under paragraph (g)(1).

40. Section 1965.31(c) is revised to clarify provisions to be placed on notes evidencing FmHA loans when additional security will be taken.

41. Section 1965.33 is retitled "Cosigners SFH loans."

42. Section 1965.34 is retitled "Non-Program (NP) loans" which were previously classified as ORE loans. Paragraphs (a) through (c) of this section have been rewritten to clarify how NP loans will be serviced. Paragraph (a) specifies how subordinations will be handled; paragraph (b) sets forth when consent may be given for partial release, sale, exchange or other disposition of a portion of or interest in security. Paragraph (c) states when voluntary conveyance will be approved; paragraph (d) explains when transfers may be approved. Paragraph (e) covers action to be taken by FmHA in cases of default. Paragraph (f) explains leases; and paragraph (g) states that NP debtors are not subject to the graduation requirements in Subpart F of Part 1951 of this chapter.

43. Section 1965.35 is revised to clarify the Administrator's authority to make an exception to any requirements of this Subpart not inconsistent with the authorizing statute if the Administrator

finds that application of the requirements would adversely affect the interest of the Government.

These changes affect the following FmHA programs as listed in the Catalog of Federal Domestic Assistance:

10.404—Emergency Loans
10.406—Farm Operating Loans
10.407—Farm Ownership Loans
10.410—Low Income Housing Loans
10.416—Soil and Water Loans
10.417—Very Low-Income Housing Repair Loans and Grants

Intergovernmental consultation in accordance with 7 CFR Part 3015, Subpart V, "Intergovernmental Review of Department of Agriculture Programs and Activities" is not applicable, except in the case of soil and water (SW) loans. This program is listed in the Catalog of Federal Domestic Assistance under No. 416 and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with state and local officials.

This document has been reviewed in accordance with 7 CFR Part 1940, Subpart G, "Environmental Program." It is the determination of FmHA that the proposed 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, Pub. L. 91-190, an Environmental Impact Statement is not required.

List of Subjects in 7 CFR Part 1965

Foreclosure, Loan programs—agriculture, Rural areas.

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

PART 1822—RURAL HOUSING LOANS AND GRANTS

1. The authority citation for Part 1822 is revised to read as follows:

Authority: 42 U.S.C. 1480; 7 CFR 2.23; 7 CFR 2.70.

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

2. Section 1822.275 is amended by revising paragraph (c) to read as follows:

§ 1822.275 Actions after sites are developed.

* * * * *

(c) The proceeds from sale of the building sites will be applied on the RHS loan and any prior lien or, with the prior approval of the National Office, used in a manner consistent with the purpose of the loan and the security interest of the Government. The sites will be released from the mortgage in accordance with § 1965.110 of Subpart C of Part 1965 of this chapter or otherwise in accordance with prior approval of the National Office.

PART 1872—[REMOVED]

3. The authority citation for Part 1872 is revised to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

3a. Part 1872 is removed and reserved.

PART 1900—GENERAL

4. The authority citation for Part 1900 is revised to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart B—Farmers Home Administration Appeal Procedure

5. Section 1900.53 is amended by revising paragraph (a)(15) to read as follows:

§ 1900.53 Decisions which are not appealable.

(a) * * *

(15) Non-Program loan debtors are not eligible to receive any program benefits such as appeal rights.

* * * * *

PART 1903—VOLUNTARY DEBT ADJUSTMENT

6. The authority citation for Part 1903 is revised to read as follows:

Authority: 7 U.S.C. 1989; CFR 2.23, 2.70.

Subpart A—Voluntary Debt Adjustment

7. Section 1903.2 is amended by revising paragraph (b) to read as follows:

§1903.2 Policy.

* * * * *

(b) Debts owed to the FmHA will not be adjusted pursuant to this subpart but will be considered for settlement in accordance with Part 1864 of this chapter (FmHA Instruction 456.1) or for release of personal liability in accordance with Subpart A of Part 1965 of this chapter.

PART 1924—CONSTRUCTION AND REPAIR

8. The authority citation for Part 1924 is revised to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 42 U.S.C. 2942; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart A—Planning and Performing Construction and Other Development

9. Section 1924.5 is amended by revising paragraph (g)(4) to read as follows:

§ 1924.5 Planning development work.

* * * * *

(g) * * *

(4) Releases requested by the borrower or the buyer will be processed in accordance with applicable release procedures contained in Subpart A of Part 1965 of this chapter, or Subpart C of Part 1965 of this chapter, as appropriate.

* * * * *

Subpart B—Management Advice to Individual Borrowers and Applicants

10. Section 1924.51 is revised to read as follows:

§ 1924.51 General.

This subpart sets forth policies for providing management advice to farmer programs loan individual applicants and borrowers. The term "individual" as used in this subpart applies to individuals and to farming partnerships, corporations and cooperatives. The term "farmer program loan" as used in this subpart includes Farm Ownership (FO), Soil and Water (SW), Operating (OL), Emergency (EM), Economic Emergency (EE), Recreation (RL), Special Livestock (SL), and Economic Opportunity (EO) loans, and/or (RHF) Rural Housing Loans for farm service buildings. This subpart applies to insured farmer program loan applicants/borrowers who depend on farm income for loan repayment. It also includes Rural Housing (RH) borrowers who are also indebted for a Farmer Program loan that is not collection-only or a judgment account, and those FO, SW and/or OL loan applicants and borrowers who use the services of a "New Full-Time Family Farmer and Rancher Development Committee." (See Exhibit A of this subpart). This subpart does not apply to individuals who owe non-program loans (defined in § 1965.7(h) of Subpart A of Part 1965 of this chapter).

11. In Section 1924.72 the introductory text is revised to read as follows:

§ 1924.72 Borrowers who receive Forms FmHA 1924-25 and 1924-26.

Borrowers will receive Forms FmHA 1924-25 and 1924-26 along with form FmHA 1924-14 before a farmer program loan is involuntarily liquidated (see § 1965.26(b) of Subpart A of Part 1965 of this chapter and §§ 1962.40 and 1962.49 of Subpart A of Part 1962 of this chapter) and when an account is more than $100 delinquent on December 31 (see § 1924.71 of this subpart). These forms will also be provided to borrowers who have made unauthorized dispositions of security, who have stopped farming, or who have otherwise breached their loan agreements with FmHA. These forms will be provided, for information only, when a farmer program loan borrower files bankruptcy (see § 1962.47 of Subpart A of Part 1962 of this chapter). Form FmHA 1924-25 tells borrowers that FmHA intends to liquidate their loans (which will include terminating any previously agreed-upon releases of sales proceeds) and tells borrowers exactly why FmHA plans to take such action. The form explains that the servicing options described in Form FmHA 1924-14 are available, and also explains that FmHA will proceed to liquidate a borrower's loans unless the borrower applies for at least one of the servicing options, appeals the adverse action using FmHA's administrative appeals procedure (found at Subpart B of Part 1900 of this chapter), cures existing defaults, or liquidates the loans. Borrowers who receive Form FmHA 1924-25 will also receive Form FmHA 1924-26. This form must be completed to show whether the borrower wants to apply for servicing options, to appeal, to cure the default or to liquidate.

* * * * *

PART 1927—FEDERAL STATUTE OF LIMITATIONS

12. The authority citation for Part 1927 is revised to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480, 5 U.S.C. 301, 7 CFR 2.23; 7 CFR 2.70.

Subpart A—Federal Statute of Limitations

13. Section 1927.7, is amended by revising paragraph (c)(3) to read as follows:

§ 1927.7 Servicing contract claims.

* * * * *

(c) * * *

(3) Settling the debt according to Part 1864 of this Chapter (FmHA 456.1) when the borrower is eligible; or

* * * * *

PART 1943—FARM OWNERSHIP, SOIL AND WATER AND RECREATION

14. The authority citation for Part 1943 is revised to read as follows:

Authority: 7 U.S.C. 1989; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart A—Insured Farm Ownership Loan Policies, Procedures and Authorizations

15. Section 1943.38 is amended by revising the introductory text of paragraph (f) to read as follows:

§ 1943.38 Loan closing actions.

* * * * *

(f) *Assignment of income from real estate to be mortgaged.* Income to be received by the borrower from royalties, leases, or other existing agreements under which the value of the real estate security will be reduced will be assigned and disposed of in accordance with Subpart A of Part 1965 of this chapter including provisions for written consent of any prior lienholder. When the County Supervisor deems it advisable, assignments also may be taken on all or a portion of income to be derived from nondepleting sources such as income from bonus payments or annual delay rentals. Such income will be assigned and disposed of in accordance with Subpart A of Part 1965 of this chapter.

* * * * *

16. Section 1943.42 is revised to read as follows:

§ 1943.42 Servicing.

FO loans will be serviced in accordance with Subpart A of Part 1965 of this chapter. Chattel security for FO loans will be serviced in accordance with Subpart A of Part 1962 of this chapter.

17. Section 1943.44 is revised to read as follows:

§ 1943.44 Subordinations.

Subordinations in favor of other lenders will be processed in accordance with Subpart A of Part 1965 of this chapter.

18. Paragraph III of Exhibit A to Part 1943 is revised to read as follows:

Exhibit A—Farmers Home Administration Loans to Entrymen on Unpatented Public Lands

* * * * *

III. *Mortgage on Real Estate for Additional Security.* When it is deemed advisable to take a mortgage on the homestead or desertland entry as additional security or to otherwise protect the interests of the FmHA, a real estate mortgage will be taken on such entry. The mortgage will be taken as authorized in Subpart A of Part 1965 of this chapter. In such a case, a copy of the real estate mortgage will be sent to BLM and, if the farm is located in Federal reclamation project, a copy of the mortgage also will be sent to the BR.

* * * * *

Subpart B—Insured Soil and Water Loan Policies, Procedures and Authorizations

19. Section 1943.88 is amended by revising the introductory text of paragraph (f) to read as follows:

§ 1943.88 Loan closing actions.

* * * * *

(f) *Assignment of income from real estate to be mortgaged.* Income to be received by the borrower from royalties, leases, or other existing agreements under which the value of the real estate security will be reduced will be assigned and disposed of in accordance with Subpart A of Part 1965 of this chapter, including provisions for written consent of any prior lienholder. When the County Supervisor deems it advisable, assignments also may be taken on all or a portion of income to be derived from nondepleting sources such as income from bonus payments or annual delay rentals. Such income will be assigned and disposed of in accordance with Subpart A of Part 1965 of this chapter.

* * * * *

20. Section 1943.92 is revised to read as follows:

§ 1943.92 Servicing.

SW loans will be serviced in accordance with Subpart A of Part 1965 of this chapter. Chattel security for SW loans will be serviced in accordance with Subpart A of Part 1962 of this chapter. Bureau of Reclamation (BR) loans made during the period August 19, 1977, through September 30, 1977, will be serviced in the same manner as Soil and Water loans. See Exhibit A, "Memorandum of Understanding Between the Bureau of Reclamation, Department of Interior, and the Farmers Home Administration, Department of Agriculture" for additional information on these loans.

21. Section 1943.94 is revised to read as follows:

§ 1943.94 Subordinations.

Subordinations in favor of other lenders will be processed in accordance with Subpart A of Part 1965 of this chapter.

Subpart C—Insured Recreation Loan Policies, Procedures and Authorizations

22. Section 1943.138 is amended by revising the introductory text of paragraph (f) to read as follows:

§ 1943.138 Loan closing actions.

* * * * *

(f) *Assignment of income from real estate to be mortgaged.* Income to be received by the borrower from royalties, leases, or other existing agreements under which the value of the real estate security will be reduced will be assigned and disposed of in accordance with Subpart A of Part 1965 of this Chapter, including provisions for written consent of any prior lienholder. When the County Supervisor deems it advisable, assignments also may be taken on all or a portion of income to be derived from nondepleting sources such as income from bonus payments or annual delay rentals. Such income will be assigned and disposed of in accordance with Subpart A of Part 1965 of this chapter.

* * * * *

23. Section 1943.142 is revised to read as follows:

§ 1943.142 Servicing.

Recreation loans will be serviced in accordance with Subpart A of Part 1965 of this chapter. Chattel security for RL loans will be serviced in accordance with Subpart A of Part 1962 of this chapter.

24. Section 1943.144 is revised to read as follows:

§ 1943.144 Subordinations.

Subordinations in favor of other lenders will be processed in accordance with Subpart A of Part 1965 of this chapter.

PART 1945—EMERGENCY

25. The authority citation for Part 1945 is revised to read as follows:

Authority: 7 U.S.C. 1989; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart C—Economic Emergency Loans

26. Section 1945.135 is revised to read as follows:

§ 1943.135 Loan servicing.

Loans will be serviced in accordance with Parts 1806 and 1863 (FmHA Instructions 426.1, and 425.1, respectively) and Subpart A of Parts 1962 and 1965 of this chapter.

Subpart D—Emergency Loan Policies, Procedures, and Authorizations

27. Section 1945.169 is amended by revising paragraph (c)(3) to read as follows:

§ 1945.169 Security requirements.

* * * * *

(c) * * *

(3) When security is taken under this subsection (c) of this section it will be serviced in accordance with Subpart A of Part 1962 of this chapter, if chattels, and Subpart A of Part 1965 of this chapter, if real estate.

* * * * *

28. Section 1945.192 is revised to read as follows:

§ 1945.192 Loan servicing.

Loans will be serviced under Subpart A of Part 1806 (FmHA Instruction 426.1), Part 1863 (FmHA Instruction 425.1), Subpart A of Part 1962 and Subpart A of Part 1965 of this chapter.

PART 1951—SERVICING AND COLLECTIONS

29. The authority citation for Part 1951 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1980; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart A—Account Servicing Policies

30. Section 1951.8 is amended by revising paragraphs (a) and (b) to read as follows:

§ 1951.8 Types of payments.

(a) *Regular payments.* Regular payments are all payments other than extra payments and refunds. Usually, regular payments are derived from farm income, as defined in § 1962.4(j) of Subpart A of Part 1962 of this chapter. Regular payments also include payments derived from sources such as Agricultural Stabilization and Conservation Service payments (other than those referred to in paragraph (b) of this section), off-farm income, inheritances, life insurance, mineral royalties and income from mineral leases (see § 1965.17(d) of Subpart A of Part 1965 of this chapter), including income from leases or bonuses. Regular payments in the case of a Section 502 RH loan to an applicant involved in a mutual self-help project will include loan funds advanced for the payment of any part of the first and second installments. All payments to the Finance Office by direct payment borrowers are considered regular payments.

(b) *Extra payments.* Extra payments are payments derived from:

(1) Sale of chattels other than chattels which will be sold to produce farm income or real estate security, including rental or lease of real estate security of a depreciating or depleting nature.

(2) Refinancing of the real estate debt.

(3) Cash proceeds of real property insurance as provided in Subpart A of Part 1806 of this chapter (FmHA Instruction 426.1).

(4) A sale of real estate not mortgaged to the Government, pursuant to a condition of loan approval.

(5) Agricultural Conservation Program payments as provided in Subpart A of Part 1941 of this chapter.

(6) Transactions of a similar nature which reduce the value of security other than chattels which will be sold to produce farm income.

* * * * *

31. In Section 1951.33 the introductory text is revised to read as follows:

§ 1951.33 Consolidation and rescheduling of OL, SL, and EO loans, EE operating type loans and EM loans made for Subtitle B purposes.

All borrowers are expected to repay their loans according to planned repayment schedules. However, circumstances may occur which will not permit borrowers to pay as scheduled or to refinance the loans. This section explains how to consolidate and reschedule *existing* loans providing the borrower agrees to such actions. Non-Program loan debtors are not eligible to receive any program benefits including consolidation or rescheduling. See § 1965.34 of Subpart A of Part 1965 of this chapter.

* * * * *

32. In Section 1951.40 the introductory text is revised to read as follows:

§ 1951.40 Reamortization of FO, SW, RL, RHF, EE or EM loans made for real estate purposes.

All borrowers are expected to repay their loans according to planned repayment schedules. However, circumstances may occur which will not permit borrowers to pay as scheduled or to refinance loans. This section explains how the County Supervisor can reamortize existing loans. Non-Program loan debtors are not eligible to receive any program benefits including reamortization. See § 1965.34 of Subpart A of Part 1965 of this chapter.

* * * * *

33. Section 1951.44 is amended by revising paragraph (k) to read as follows:

§ 1951.44 Deferral of existing OL, FO, SW, RL, EM, EO, SL, RHF, and EE loans.

* * * * *

(k) *Increase in repayment ability.* At the time the County Supervisor makes the analysis required by Subpart B of Part 1924 of this chapter, the County Supervisor will determine whether the borrower has had a substantial increase in income and repayment ability. If an increase is substantial enough to enable the borrower to graduate, the case will be handled in accordance with Subpart F of Part 1951 of this chapter. If an increase would enable the borrower to make some payments during the deferral period, the County Supervisor will ask (in writing) the borrower to sign a Form FmHA 440–9, "Supplementary Payment Agreement," within 30 days of the date of the written request. If the borrower does not sign a Form FmHA 440–9 within the required time, the borrower's account will be liquidated in accordance with Subpart A of Part 1962 or Subpart A of Part 1965 of this chapter.

Subpart L—Servicing Cases Where Unauthorized Loan or Other Financial Assistance Was Received—Farmer Programs

34. Section 1951.561, is amended by revising paragraph (a)(1)(i) to read as follows:

§ 1951.561 Servicing options in lieu of liquidation or legal action.

* * * * *

(a) * * * (1) * * *

(i) Execution of Form FmHA 1965–11, "Accelerated Repayment Agreement," according to § 1965.26(e) of Subpart A of Part 1965 of this chapter, for loans secured by real estate, or rescheduling according to Subpart A of this part, for loans not secured by real estate, based on the borrower's repayment ability.

* * * * *

Subpart M—Servicing Cases Where Unauthorized Loan or Other Financial Assistance Was Received—Single Family Housing

35. Section 1951.612 is amended by revising paragraph (a)(1)(iii) to read as follows:

§ 1951.612 Servicing options in lieu of liquidation or legal action to collect.

* * * * *

(a) * * *

(1) * * *

(iii) If the recipient was not eligible for a loan, of if the loan was approved for unauthorized purposes as outlined in paragraph (a)(1)(iv) of § 1951.604 of this subpart, the recipient may be allowed to enter into an accelerated repayment agreement according to § 1965.125(a)(4) of Subpart C of Part 1965 of this chapter, if a SFH loan, except that the above-moderate interest rate which was in effect on the date the loan was approved will be used according to Exhibit C of this Subpart (available in any FmHA office). This provision should be used only where repayment ability can be projected. A loan serviced according to paragraph (a)(1)(iii) of this section will be reclassified as an NP loan.

* * * * *

PART 1955—PROPERTY MANAGEMENT

36. The authority citation for Part 1955 is revised to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; CFR 2.70.

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

37. § 1955.2 is revised to read as follows:

§ 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. Non-Program loan debtors will be liquidated as provided in § 1965.34(e) of Subpart A of Part 1965 of this chapter.

38. Section 1955.15 is amended by revising paragraph (d)(1) and the introductory text of paragraph (d)(2) to read as follows:

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

* * * * *

(d) * * *

(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 provisions of § 1965.11(c) of Subpart A of Part 1965 of this chapter must be followed for loans serviced under Subpart A of Part 1965. 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 Exhibits B, C, D, or E of this subpart (available in any FmHA office), as appropriate, to be signed by the official who approved the foreclosure. Loans secured by chattels must be accelerated at the same time as loans secured by real estate in accordance with § 1965.26(c) of Subpart A of Part 1965 of this chapter. 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. (In chattel liquidation cases which have been referred for civil action under Subpart A of Part 1962 of this chapter, the Finance Office will be sent a copy of Exhibit D or E. County Office and Finance Office loan records will be adjusted to mature the entire debt in such cases). 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, *except* for Farmer Program cases, to the hearing officer identified in the notice according to Subpart B of Part 1900 of this chapter. Farmer Program appeals will be concluded before acceleration. 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:

* * * * *

Subpart B—Management of Property

39. Section 1955.53 is amended by redesignating paragraphs (e) through (n) as (f) through (o) and adding a new paragraph (e) to read as follows:

§ 1955.53 Definitions.

* * * * *

(e) *Farmer program loans.* This includes Farm Ownership (FO), Soil and Water (SW), Recreation (RL), Economic Opportunity (EO), Operating (OL), Emergency (EM), Economic Emergency (EE), and Special Livestock (SL) loans, and Rural Housing Loans for farm service buildings (RHF).

* * * * *

40. Section 1955.55 is amended by revising paragraphs (a) and (b)(1) to read as follows:

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

(a) *Determination of abandonment.* (Multiple housing type loans will be handled in accordance with § 1965.75 of Subpart B of Part 1965 of this chapter.) 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 its care or sale, it will not be considered abandoned so long as it is adequately secured and maintained. Except for borrowers with Farmer Program loans, 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 § 1955.10 of Subpart A of Part 1955 of this chapter. In farmer program cases, borrowers must receive Forms FmHA 1924–14, "Notice—Farmer Program Servicing Options Including Deferrals and Borrower Responsibilities," FmHA 1924–25, "Notice of Intent to Take Adverse Action," and FmHA 1924–26, "Borrower Acknowledgement of Notice of Intent to Take Adverse Action," and any appeal must be concluded before any adverse action can be taken. The County Supervisor will send these forms to the borrower's last known address as soon as it is determined that the borrower has abandoned security property.

(b) * * *

(1) For loans to individuals (except those with Farmer Program loans), 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 § 1955.15 of Subpart A of Part 1955 of this chapter, unless the borrower can be located and voluntary liquidation accomplished. Farmer Program loan borrowers will be sent the forms listed in paragraph (a) of this section and the provisions of § 1965.26 will be followed.

* * * * *

PART 1962—PERSONAL PROPERTY

41. The authority citation for Part 1962 is revised to read as follows:

Authority: 7 U.S.C. 1989; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart A—Servicing and Liquidation of Chattel Security

42. Section 1962.34 is amended to revise the introductory text and paragraph (a)(2), introductory text of paragraph (b)(3), and paragraphs (f)(8) and (f)(12), and (g)(1) to read as follows:

§ 1962.34 Transfer of chattel security and EO property and assumption of debts.

Chattel and EO property may be transferred to eligible or ineligible transferees who agree to assume the outstanding loan, subject to the provisions set out in this section. A transfer and assumption may also be made when one or more of the borrowers or the former spouse and co-obligor of a divorced borrower withdraws from the operation or dies. The transfer of accounts secured by real estate or both real estate and chattels will be processed under Subpart A of Part 1965 of this chapter. The transferor (borrower) must be sent Form FmHA 1924–14, "Notice—Farmer Program Borrower Servicing Options Including Deferral and Borrower Responsibilities," as soon as the borrower contacts the County Supervisor inquiring about a transfer.

(a) * * *

(2) Generally the debts assumed will be paid in accordance with the rates and terms of the existing notes or assumption agreements. Any delinquency and any deferred interest outstanding will be scheduled for payment on or before the date the transfer is closed. Form FmHA 1965–13, "Assumption Agreement (Farmer Program Loans)," will be used. If the existing loan repayment period is extended, the debt being assumed may be rescheduled using Form FmHA 1965–13. The new repayment period may not exceed that for a new loan of the same type and the current interest rate for such loans will be charged. If any deferred interest is not paid by the time the transfer takes place, it must be added to the principal balance and the loan must be placed on new rates and terms.

* * * * *

(b) * * *

(3) FmHA debts assumed will be repaid in amortized installments not to exceed 5 years using Form FmHA 1965–13. Any deferred interest not paid by the time the transfer takes place must be added to the principle balance. The transferred property, including EO property, will be subject to any existing FmHA lien. In the absence of an existing FmHA lien, new lien instruments will be executed. Interest rates to the transferee will be as follows:

* * * * *

(f) * * *

(8) Form FmHA 1965–13.

* * * * *

(12) Form FmHA 1965–13 or Form FmHA 1965–22, "Information on Assumption on New Terms or Other Change of Terms," as appropriate, and Form FmHA 1965–23, "Supplemental Information on Assumption and/or Change of Terms."

* * * * *

(g) * * *

(1) On receipt of Form FmHA 1965–22, and Form FmHA 1965–23 the Finance Office will establish an account in the name of the assuming transferee and will notify the County Supervisor.

* * * * *

43. § 1962.40 is amended by revising paragraph (c) to read as follows:

§ 1962.40 Liquidation.

* * * * *

(c) *Multiple loans and loans secured by both real estate and chattels.* Follow the provisions of § 1965.26(c) of Part 1965 of this chapter for liquidating these loans.

* * * * *

44. Section 1962.46 is amended by revising paragraph (f) to read as follows:

§ 1962.46 Deceased borrower.

* * * * *

(f) *Liquidation of security.* When probate or administration proceedings have not been started and continuation with a survivor or transfer and assumption by another party will not be approved, chattel security and real estate security will be liquidated promptly in accordance with this subpart and Subpart A of Part 1965 of this chapter, respectively. If the proceeds from the sale of security are insufficient to pay in full the indebtedness owed to FmHA, and other assets are available in the estate or in the hands of heirs from which to collect, the State Director will request OGC to effect collection.

* * * * *

45. Section 1962.47 is amended by revising paragraph (c)(3) to read as follows:

§ 1962.47 Bankruptcy and insolvency.

* * * * *

(c) * * *

(3) In Chapter 11 of Chapter 13 cases, if liquidation is necessary it will be accomplished in accordance with either § 1962.26 of Subpart A of Part 1965 of this chapter of § 1962.40 of this subpart, as applicable. The advice of OGC will be obtained before any notices are sent to the borrower.

* * * * *

PART 1965—REAL PROPERTY

46. The authority citation for Part 1965 continues to read as follows:

Authority 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

47. Subpart A is added to reads as follows:

PART 1965—REAL PROPERTY

Subpart A—Servicing of Real Estate Security For Farmer Program Loans and Certain Note-Only Cases

Subpart A—Servicing of Real Estate Security for Farmer Program Loans and Certain Note-Only Cases

§ 1965.1 Purpose.

This subpart delegates authority and prescribes policies and procedures for servicing real estate, leasehold interests and certain note-only cases for Farmers Home Administration (FmHA) Farmer Program loans and Non-Program loans (NP). Security servicing for borrowers who have *both* FmHA Farmer Program, NP and Single Family Housing (excluding Technical Assistance Grants and Site loans) (SFH) loans, will be according to this subpart. Security servicing for borrowers who are indebted for SFH loans *only*, will be according to Subpart C of Part 1965 of this chapter. This subpart does not apply to FmHA guaranteed loans, Rural Rental Housing (RRH) loans, Labor Housing (LH) loans, Business and Industrial (B&I) loans, Community Programs (CP) loans, Shift-in-Land-Use (Grazing Association) loans, Irrigation and Drainage (I&D) loans, or loans to Indian Tribes and tribal corporations.

§ 1965.2 General policies.

FmHA will service real estate security in a manner that best accomplishes the loan objectives and protects the Government's financial interest. To accomplish this, FmHA will service the real estate security in accordance with the security instruments and related agreements, including any authorized modifications and the provisions of this subpart.

The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided that the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income is derived from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The Federal agency that administers compliance with this law is the Federal Trade Commission, Equal Credit Opportunity, Washington, D.C. 20580.

§ 1965.3 Borrower's responsibilities.

Each borrower is responsible for repaying principal and interest on a timely basis pursuant to the loan documents, paying real estate taxes in accordance with Part 1863 of this chapter (FmHA Instruction 425.1), providing adequate property insurance in accordance with Subpart A of Part 1806 of this chapter (FmHA Instruction 426.1), maintaining, protecting, and accounting to the FmHA for all real estate security, and complying with other loan requirements.

§ 1965.4 FmHA's responsibility.

The County Supervisor, District Director or other servicing official is responsible for informing borrowers of their responsibilities in connection with the loan, seeing that the security is being properly maintained and accounted for, and servicing the account and security in accordance with this subpart. When a borrower fails to maintain, protect, or account for the security, as required by the loan documents, or makes unauthorized disposition or use of any security, FmHA will institute prompt action to protect FmHA's interest. The County Supervisor, District Director or other servicing official will obtain any needed legal advice from the Office of the General Counsel (OGC) through the State Director. Once a case has been referred to the OGC for legal action, no further action will be taken by the County Supervisor, District Director or other servicing official without prior clearance from OGC. If the case has been referred to the U.S. Attorney, clearance with the U.S. Attorney will be obtained through the OGC. All FmHA employees will document actions taken to service a loan in the running case record in the borrower's FmHA file(s). When a servicing action affects a borrower's account (e.g., a foreclosure action is pending), the appropriate FmHA servicing official will notify the Finance Office.

§ 1965.5 Servicing certain insured Farm Ownership (FO) loans.

(a) *Servicing actions.* When an insured FO mortgage running to the lender as mortgagee is not held by the FmHA under trust assignment, or declaration of trust, or in the insurance fund (called insured FO mortgage held by the lender in this subpart) and a written subordination or partial release or other servicing document is requested, the document will be executed by the holder on a form prepared or approved by OGC. In those cases, execution of the document will constitute consent.

(b) *Execution of documents.* The County Supervisor is authorized to execute on behalf of the Government, all necessary forms, statisfactions, releases, and other documents required to complete any transactions in this subpart after the transaction has been approved by the appropriate approving official. The documents will be executed on behalf of the United States in the following form:

(1) "United States of America," when the mortgage names the United States as mortgagee, or when a mortgage running to the lender is not under a trust or declaration of trust and the note is held by the insurance fund.

(2) "United States of America, for Itself and as Trustee," when an FO mortgage is held by the FmHA under a trust assignment or declaration of trust, regardless of whether the note is held by a lender or by the insurance fund.

§ 1965.6 Consent of lienholders.

When this subpart requires the consent of other lienholders, consent will be obtained and furnished in writing to the FmHA by the borrower before the FmHA enters into a transaction which affects its security or its lien. This consent will, unless otherwise provided in a State Supplement, include an agreement as to the disposition of any funds involved in the transaction.

§ 1965.7 Definitions.

(a) *County Supervisor* also includes Assistant County Supervisor who has written delegated authority to carry out purposes of this subpart.

(b) *District Director* also includes Assistant District Director who has written delegated authority to carry out purposes of this subpart.

(c) *FmHA loans, FmHA accounts, FmHA interests, FmHA security, FmHA debts* and similar terms apply to indebtedness owed to, or insured by, the United States of America acting through the FmHA, and to related security instruments.

(d) *Farmer Program Loan* includes only Farm Ownership (FO), Operating (OL), Soil and Water (SW), Economic Emergency (EE), Emergency (EM), Recreation (RL), Economic Opportunity (EO), and Special Livestock (SL) loans, and/or Rural Housing Loans for farm service buildings (RHF).

(e) *Foreclosure sale.* The act of selling security either under the "Power of Sale" in the security instrument or through court proceedings.

(f) *Leasehold.* A right to use farm property for a specific period of time under conditions provided for a lease agreement.

(g) *Mortgage.* Any form of security interest or lien upon any rights or interest in real property of any kind. In Louisiana and Puerto Rico the term "mortgage" also refers to any security interest in chattel property.

(h) *Non-Program (NP) Loan.* An NP loan results when credits are extended to ineligible applicants and/or transferees in connection with loan assumptions and sale of inventory properties.

(i) *Note* includes any note, bond, assumption agreement or other evidence of indebtedness.

(j) *Security.* Property of any kind subject to a real or personal property lien including, among other things, appurtenant rights of development, leasehold, grazing or other use privileges.

(k) *Servicing action* includes, among other things, the cash sale or transfer of real estate and chattel property and the assumption of loans.

§§ 1965.8—1965.10 [Reserved]

§ 1965.11 Preservation of security and protection of liens.

(a) *Inspection of security.* The County Supervisor will inspect farm real estate security a minimum of one time every 3 years for accounts that are current. More frequent inspections will be made when a borrower is delinquent or otherwise in default or when problems exist involving the security. If all or part of the security is located in another County Office area, the County Supervisor for that area may be requested to inspect the property. Security on non-farm tracts will be inspected when:

(1) Liquidation action is likely to be taken;

(2) The property has been abandoned;

(3) Necessary to protect the interest of the Government; or

(4) Requested by the borrower.

(b) *Action by FmHA for account of borrower.* When necessary to protect the interest of the Government, action will be taken by FmHA for the account of the borrower as provided below. Any advances made for the following purposes will be considered protective advances and will be paid by Standard Form 1034, "Public Voucher for Purchases and Services Other Than Personal," or other approved voucher in accordance with FmHA Instruction 2075–A (available in any FmHA office), and forwarded to the Finance Office for issuance of the Treasury Check and charged to the borrower's account.

(1) *Abandoned and Custodial Property.* Determinations of abandonment will be made according to § 1955.55 of Subpart B of Part 1955 of this chapter. Services for the management, care, and maintenance of custodial property will be obtained according to § 1955.55 of Subpart B of Part 1955 of this chapter. Custodial property may be leased according to the provisions of § 1955.66(a)(1) of Subpart B of Part 1955 of this chapter.

(2) *Maintenance.* Complete information concerning the borrower's failure to adequately maintain the security will be documented in the case file. If there is a prior lien, expenditures for maintenance will not be made unless the prior lienholder refuses to make them. Evidence of this unwillingness to do so should be included in the case file.

(3) *Taxes and assessments.* Real estate taxes and assessments will be handled in accordance with Part 1863 of this chapter (FmHA Instruction 425.1).

(4) *Insurance.* For FmHA loans secured by liens on real estate, property insurance will be obtained and serviced in accordance with requirements for the kind of loan involved, and in accordance with Subpart A of part 1806 of this chapter (FmHA Instruction 426.1), and when appropriate, Subpart B of Part 1806 of this chapter (FmHA Instruction 426.2).

(c) *Actions by third parties which affect security*—(1) *General provisions.* When third parties bring suit or take any other action which could affect property servicing as security, borrowers are expected to protect their own interests in the property. A few examples of actions by third parties are: condemnation proceedings, foreclosure, trespass suits, and actions to quiet title.

(i) *County Supervisor's responsibility.* When the County Supervisor learns of a third party action which could jeopardize the Government's interest in the security or when the County Supervisor or the Government is made a party to a court proceeding, the County Supervisor will immediately send the borrower Form FmHA 1924–14, "Notice—Farmer Program Borrower Servicing Options Including Deferrals and Borrower Responsibilities." Then the County Supervisor will send the County Office case file, complete with information concerning the action, and recommendation for FmHA servicing action to the State Director. The information sent to the State Director will include a copy of any petition or complaint, as soon as available; current account balances; a current appraisal report; the name and address of the borrower's attorney, if any; and any other information which the County Supervisor believes important such as unpaid taxes, judgments, or other liens.

(ii) *State Director's responsibility.* The State Director will consult OGC about all lawsuits involving the property. The State Director will also consult OGC about any other third party actions when OGC's advice would be helpful. The State Director will then advise the County Supervisor of the actions to be taken to protect the Government's interest in the property. Protective advances will only be authorized to protect the Government's interest. Protective advances will not be authorized for protection of the borrower's interest or the interest of any third party. When foreclosure or any other action which would cause the borrower to lose possession of the property is imminent, the State Director may consider making a subsequent loan or approving a subordination to permit another lender to make a loan, provided:

(A) A subsequent loan or subordination is necessary to enable the borrower to retain the property.

(B) The borrower has the ability and resources necessary to overcome the problems that caused the foreclosure or other action, and

(C) The third party agrees to postpone further action pending the processing of a subsequent loan or subordination.

(iii) *Other actions.* The State Director may also approve a transfer and assumption under this subpart provided the action will adequately protect the Government's interest and the third party agrees to delay further action pending processing of the transfer and assumption. The State Director will notify the County Supervisor of the actions to be taken to protect the Government's interest.

(2) *Sale by a prior lien foreclosure.* When FmHA learns that a prior lienholder is contemplating foreclosure, the prior lienholder will be contacted to determine the amount of the prior lien indebtedness and the estimated cost of a foreclosure sale. An insured note which is not held by the insurance fund will, whenever possible, be assigned to the insurance fund before a foreclosure sale. Otherwise, the assignment will be completed as soon as feasible after the foreclosure sale.

(i) *Decision to pay off the prior lien.* When, under State law, it is necessary prior to foreclosure to acquire the prior lienholder's rights to protect the Government's junior lien interest, title evidence will be obtained. Information clearly supporting the need to acquire the prior lienholder's rights must be documented and made a part of the file. Payment of the prior lien and required costs may be made with the advice of OGC, provided:

(A) The Government will obtain a greater recovery of the secured debt (not an inventory profit) than it could by bidding at the foreclosure sale, and

(B) The FmHA account after acquisition of the prior lien *must* be handled in accordance with § 1965.26(b) of this subpart. No exceptions will be made to this provision (B).

(C) Loans may be reamortized without regard to loan limits to include protective advances when authorized on an individual case basis by the National Office. When continuation with reamortization to include protective advances is recommended, the case file with documentation of all facts of the situation necessitating protective advances, efforts made to obtain a new participating lender, and justification for reamortizing will be submitted to the National Office.

(ii) *Decision not to pay off the prior lien.* If FmHA decides not to pay off the prior lien, the County Supervisor will immediately complete Exhibit B (available in any FmHA office) to this subpart and send it to the borrower, along with Form FmHA 1924–14, a *blank* form FmHA 1924–25, "Notice of Intent to Take Adverse Action," and a *blank* Form FmHA 1924–26, "Borrower Acknowledgement of Notice of Intent to Take Adverse Action." Then one of the following actions will be taken.

(A) *Making a bid.* Bidding will be completed in accordance with § 1995.15(f) (5) and (6) of Subpart A of Part 1955 of this chapter. Information clearly supporting the bid as being to the Government's financial advantage must be documented and made a part of the file. When FmHA enters a bid reporting actions will be taken in accordance with §§ 1955.15(g) and 1955.18 of Subpart A of Part 1955 of this chapter.

(B) *Making no bid.* When the State Director determines that no bid will be entered by FmHA, the County Supervisor will, at the discretion of the State Director, attend the sale and make a narrative report to the State Director outlining the results of the foreclosure sale and plans for future servicing of the account. If the Government is to rely on its redemption rights, that fact will be indicated in the report.

(iii) *Acquisition of property by exercise of Government redemption rights.* If the Government for any reason did not protect its interest at the time of the foreclosure sale and if the Government has any redemption rights, the State Director will determine whether to redeem the property in accordance with § 1955.13 of Subpart A of Part 1955 of this chapter.

(3) *Foreclosure sale subject to FmHA mortgage.* When FmHA learns that a junior lienholder is foreclosing, the County Supervisor will send the borrower Form FmHA 1924–14. If the borrower contacts FmHA and wants to apply for servicing relief, the request will be processed in accordance with the appropriate FmHA regulation. If the junior lien is foreclosed and the property is sold subject to the FmHA mortgage, the borrower will be sent Forms FmHA 1924–14, 1924–25 and 1924–26. The Form FmHA 1924–25 will list all conditions constituting default, such as delinquency and failure to operate the farm, as reasons for accelerating the account. Acceleration of the account and demand for payment will be accomplished according to the applicable portion of § 1955.15 of Part 1955 of this chapter.

(d) *Divorce actions.* See § 1965.27 (b)(5)(iii) of this subpart for directions on servicing security after divorce. A subsequent loan made as a result of a divorce action will be handled in accordance with § 1965.27(b)(13) of this subpart.

§ 1965.12 Subordination of FmHA mortgage to permit refinancing, extension, increase in amount of existing prior lien, to permit a new prior lien, or to permit reamortization.

See § 1965.34(e) of this subpart for requirements concerning subordinations of non-program (NP) loans.

(a) *Conditions for subordination.* A subordination may be granted subject to the following conditions:

(1) The FmHA debt cannot be refinanced on terms which the borrower can reasonably be expected to meet;

(2) The transaction will further the objectives for which the FmHA loan or loans were made;

(3) The terms and conditions of the prior lien will be such that the borrower can reasonably be expected to meet them, as well as all other debts;

(4) An assignment of the beneficial interest in any stock required in connection with a loan will be obtained as security, when possible and when needed;

(5) The FmHA indebtedness after the subordination will be adequately secured or will not be adversely affected by the transaction;

(6) The proposed use of the funds including the payment of reasonable costs and expenses incident to the transaction will improve the borrower's ability to repay the FmHA loan(s) or is necessasry to place the borrower's operation on a sound basis;

(7) The use of the funds obtained as a result of the subordination will not conflict with loan purposes, restrictions or requirements of the type of loan(s) being subordinated, and

(8) The amount of any prior lien plus the balance of the FmHA debt will not exceed the market value of the security. When the FmHA indebtedness was not fully secured by the market value of the security before the transaction, a subordination may be granted only if the market value of the total security will be increased through improvement or acquisition by an amount at least equal to the additional advance. For Section 502 SFH loans subject to recapture, FmHA indebtedness will be determined in accordance with Subpart I of Part 1951 of this chapter.

(b) *Purpose of subordination.* A subordination may be granted for any of the following purposes:

(1) *Refinance, extend, or reamortize debts of other lenders.* Refinance, extend, or reamortize an existing prior lien provided the amount of the indebtedness secured by the prior lien, as of the date of the transaction, is not increased by more than reasonable costs incidental to loan closing plus funds for the purchase of any required stock.

(2) *Increase the amount of a prior lien or permit a new prior lien when another lender's funds will not be used to reduce the FmHA debt.* The requirements of § 1965.12(a) of this subpart must also be met.

(i) *Nonfarm tract.* When a nonfarm tract secures an SFH loan, the other lender's funds will only be used for the same purposes and with the same limitations that would be applicable if an SFH loan were made.

(ii) *Farm tract.* (A) When a farm tract secures an FO loan only or an FO and any other type FmHA loan, the other lender's funds may be used for any purpose for which an FO loan can be made, regardless of the requirement of § 1965.12(a)(7) of this subpart.

(B) When a farm tract secures other type(s) of FmHA loan(s) currently authorized, the other lender's funds may be used for any purposes for which that type loan is authorized.

(C) When a farm tract secures any FmHA loan and it is determined essential for the borrower to remain in farming, the State Director may approve a subordination for operating credit when no other alternative exists. The reasons and justification supporting the subordination for operating expenses will be fully documented in the case file by the County Supervisor prior to submission to the State Director.

(D) When additional land is to be acquired by use of proceeds from the subordination, Form FmHA 440-2, "County Committee Certification or Recommendation," will be completed before the subordination is approved. A subordination for purchase of additional land will not be approved without favorable recommendation of the County Committee.

(iii) Any proposed development will be planned and performed in accordance with Subpart A of Part 1924 of this chapter or in a manner directed by the creditor which reasonably attains the objectives of Subpart A of Part 1924 of this chapter and is agreed to by FmHA.

(iv) Funds used to develop or to acquire land will be handled as prescribed in Subpart A of Part 1902 of this chapter. If the creditor will not permit the use of a supervised bank account, arrangements satisfactory to the FmHA which will assure that the funds will be spent for the planned purposes may be substituted.

(v) In cases of land purchase or exchange of property, the FmHA will obtain a valid mortgage on the acquired land. Title clearance and loan closing will be required as for an initial or subsequent FO loan, as appropriate. The mortgage will be recorded when the subordination is delivered to the other lenders or immediately after the other lender records its mortgage.

(3) *Increase the amount of a prior lien or permit a new prior lien, when the other lender's funds will be used wholly or in part to reduce the FmHA debt.* Funds of another lender may be used to pay on an FO, SL, SW, RHF, RL, OL, EO, EE, or EM loan. Funds of another lender may also be used to pay the amount delinquent on a SFH loan provided the SFH borrower also owes an FO loan. FmHA may subordinate its lien to that of the other lender, even though the primary purpose of the new loan funds is to reduce the existing FmHA loan. A written justification for allowing the subordination must be prepared and made a part of the borrower's case file. The approval official will decide whether or not to allow the subordination based on the following factors, which should be addressed in the written justification:

(i) The new loan funds must be needed to accomplish the objectives in § 1965.2 of this subpart;

(ii) The new loan funds must be needed to establish the borrower's operation on a sound basis;

(iii) The conditions in paragraph (a) of this section must be met; and

(iv) The restrictions in paragraph (b)(2) of this section apply to any part of the other lender's funds not applied on the FmHA indebtedness.

(c) *Request for subordination.* When a borrower requests the FmHA to subordinate a mortgage, Form FmHA 465-1, "Application for Partial Release, Subordination, or Consent," will be prepared. If an agreement to give notice of foreclosure is required for approval of an initial FmHA loan, an agreement with a new prior lienholder will be obtained as required in § 1807.2(f)(5) of Part 1807 of this chapter (FmHA instruction 427.1, paragraph II F 5). In case of an insured mortgage held by the lender, the holder's consent will be obtained in accordance with § 1965.5 of this subpart. Any other lienholder's consent to the transaction and use of the proceeds will be obtained as provided in § 1965.6 of this subpart.

(d) *Appraisal.* A current appraisal report will be prepared in accordance with Subpart A of Part 1809 of this chapter (FmHA Instruction 442.1) when property is to be purchased or exchanged, or when the existing appraisal report is more than 1 year old or is inadequate to make the determination required in this paragraph. When an appraisal is required by FmHA in connection with a subordination being granted to the Federal Land Bank (FLB), the appraiser may recommend, or the loan approval official may find, the market value of the total security to be equal to the market value of the real estate plus the value of the FLB stock. This determination will be recorded on a separate sheet and attached to the appraisal report. When a subordination is granted in connection with any FmHA loan to permit a loan by another lender, the FmHA appraiser is authorized to use the appraisal report prepared for the other lender in determining the recommended market value of the property in accordance with Subpart A of Part 1809 of this chapter (FmHA Instruction 442.1, Exhibit A available in any FmHA office).

(3) *Approval authority*—(1) *Nonfarm tracts*. County Supervisors and District Directors are authorized to approve subordinations under this section which do not exceed their respective loan approval authorities, as outlined in Exhibit C of FmHA Instruction 1901-A (available in any FmHA Office). State Directors are authorized to approve any subordination which exceeds the approval authority for County Supervisors or District Directors.

(2) *Farm tracts*. County Supervisors and District Directors may approve subordinations for purposes authorized in this subpart when the FmHA indebtedness plus the subordination does not exceed their approval authority for the type of loan or a combination of types of loans as outlined in Exhibit C of FmHA Instruction 1901-A. When more than one type of loan is involved in the subordination, the loan approval authority of County Supervisors and District Directors will be the highest combination amount authorized in Exhibit C of FmHA Instruction 1901-A for any of the loan types involved, except for subordination of real estate security for operating credit, for which the authority is reserved to the State Director. State Directors are authorized to approve any subordination, consistent with this subpart, which exceeds the approval authority of County Supervisors and District Directors.

(f) *Processing*. When the approval of the subordination by the State Director is required or when the County Supervisor or District Director desires advice before approval of the subordination, the borrower's case folder with current documents to support the applicable determinations, such as, where appropriate, Forms FmHA 431-2, "Farm and Home Plan" (or other plan of operation acceptable to FmHA), FmHA 431-1, "Long-Time Farm and Home Plan," FmHA 431-3, "Household Financial Statement and Budget," FmHA 422-1, "Appraisal Report (Farm Tract)," FmHA 1922-8, "Residential Appraisal Report," FmHA 440-2, other necessary forms, and Form FmHA 465-1 will be sent to the State Office. As required by § 1965.12(b)(2)(ii)(D), Form FmHA 440-2 will be completed when a subordination is granted for the purchase of additional land. After approval of the subordination, it will be closed in accordance with State Supplements to the maximum extent possible as provided in § 1965.36 of this subpart. However, when legal advice on an individual case is necessary, Form FmHA 465-1, any subordination form furnished in connection therewith, the original or a copy of the FmHA mortgage, the refinancing mortgage or agreement, and related documents will be submitted to the OGC for review and preparation of the necessary instruments and closing instructions. The documents and closing instructions will be sent to the County Office. If the signature of the State Director is required on some of the instruments, the docket and closing instructions will be routed through the State Office. The subordination will be completed in accordance with the closing instructions.

(g) *Reamortizing existing FmHA debts other than SFH*. The County Supervisor, District Director, or State Director (as appropriate) may consent to a reamortization of an existing FmHA debt when a subordination is granted to the debt of another lender. The reamortization will be allowed only if the borrower cannot reasonably be expected to meet installments when due. Reamortizations of farmer program loans will be processed in accordance with Subpart A of Part 1951 of this chapter. Reamortization of SFH loans will be processed in accordance with Subpart G of Part 1951 of this chapter. Refer to § 1965.34(f) of this Subpart if an NP loan is involved.

§ 1965.13 Consent by partial release or otherwise to sale, exchange or other disposition of a portion of or interest in security, except leases.

If an NP loan is involved, see § 1965.34 of this subpart.

(a) *Provisions of FmHA mortgages*. In all FmHA mortgages except SFH loan mortgages prepared before October 1, 1950, and a few OL, EM, Special Livestock (SL), and Water Facilities (WF) loan mortgages, the borrower has agreed not to sell, transfer, assign, mortgage, or otherwise encumber the security or any portion of or interest in it without the prior written consent of the mortgagee. Furthermore, in the case of the few SFH, OL, EM, SL, and WF loan mortgages not requiring FmHA consent, any property, or any part of it or interest in it, which is subject to the FmHA mortgage and which is disposed of by the borrower without consent remains subject to the mortgage lien. In all FmHA mortgages the borrower expressly agrees not to engage, without prior consent, in certain specified transactions, including the cutting or removal of timber, or mining or removal of gravel, oil, gas, coal, or other minerals, except small amounts used by the borrower for ordinary domestic purposes. The sale of timber (other than harvests for thinning purposes approved by FmHA on a farm plan), mining products, removal of gravel, oil, gas, coal, or other minerals by unit or lump sum payments will be considered as disposition of a portion of the security, *except:* For Farmer Program loans approved after December 23, 1985, the sale of such products, other than timber, will be considered a disposition of a portion of the security *only* if the rights to the products were specifically included as a part of the appraisal value of the real estate securing the loan; if the rights were not included in the appraisal, then FmHA has no lien on the rights to oil, gas or other minerals located under the real estate. Any payment or other compensation the borrower may receive for damages to the surface of the collateral real estate resulting from exploration for or recovery of minerals will be assigned to FmHA and will be used to repair the damage or used as authorized in § 1965.13(f) of this subpart. This section explains how and under what circumstances FmHA will grant partial releases, and give its consent to certain transactions affecting the security. Subordinations, transfers, consents to junior liens, leases and severance agreements are discussed individually in other sections of this subpart. Releases granted in connection with a final payment on real estate will be handled in accordance with Part 1866 of this chapter (FmHA Instruction 451.4).

(b) *Conditions of FmHA consent*. A State Supplement will be developed, with guidance of OGC, and issued to provide guidance for handling of easements or rights-of-way in connection with the development, extension, construction or modification of community based programs, such as rural water districts, drainage, and irrigation districts, without requiring monetary consideration or detailed appraisals. Otherwise, FmHA may consent to certain transactions affecting the security (for example, a sale or an exchange of security or granting a right-of-way across security) and/or grant a partial release if:

(1) The transaction will further the objectives for which the FmHA loan or loans were made;

(2) The proposed use of the funds including the payment of reasonable costs and expenses incident to the

transaction will improve the borrower's ability to repay the FmHA loan(s) or is necessary to place the borrower's operation on a sound basis;

(3) The consideration is adequate for the security being disposed of or the rights granted (see paragraph (c) of this section);

(4) Orderly repayment of the FmHA indebtedness will not be impaired (does not apply in condemnation cases after final judgment or award which is not appealed);

(5) The transaction will not interfere with successful operation of any farming or other enterprise providing the borrower with repayment ability (does not apply in condemntation cases after final judgment or award which is not appealed);

(6) The market value of the remaining security is adequate to secure the unpaid balance of the FmHA debts, or if the market value of the security before the transaction was inadequate to fully secure the FmHA debts, the FmHA's security interest is not adversely affected;

(7) The requirements of § 1965.6 of this subpart are met; and

(8) The borrower cannot graduate to other credit.

(c) *Exchange of property.* When an exchange of property serving as security for an FmHA loan results in a balance owing to the FmHA borrower, the provisions of this section applicable to a sale of a portion of the security will apply as to disposition of proceeds. When property is exchanged, the property acquired by the FmHA borrower must meet requirements of the program objectives, purposes and limitations outlined in this subpart relating to the type of loan involved as well as respective requirements for appraisal, title clearance and security. Requests for exchange of property which cannot be approved under this section may be submitted to the National Office for consideration, provided the request meets conditions in § 1965.35 of this subpart.

(d) *Appraisals.* When the official authorized to approve the transaction is uncertain whether the proposed consideration is adequate, or for any other reason considers an appraisal necessary to complete Form FmHA 465-1, or when the transaction involves more than $10,000, a new appraisal report will be obtained in accordance with Subpart A of Part 1809 of this chapter (FmHA Instruction 422.1). However, a new appraisal report need not be obtained if there is an appraisal report not over 1 year old in the case file which will permit the official authorized to approve the transaction to make the proper determination of the market value of the property being retained and the market value of the portion to be released. When a new appraisal is not required, the appraiser will indicate the estimate of values and the basis for it in the comments section of the existing appraisal report. The notation will be initialed and dated. When a new appraisal report is required, it will be completed to show the present market value of the property being retained. The rights to mining products, gravel, oil, gas, coal or other minerals will be specifically included as a part of the appraised value of the real estate securing the loans. Also, the present market value of the property being released will be shown under the comments section of the same appraisal report. Information regarding sales of comparable properties used in arriving at the present market value of the property being released will be shown in the comments section or on an attached sheet.

(1) *Stationary units.* If timber or minerals, including sand, gravel, and stone which appear to be worth more than $2,000 are to be sold on the basis of the timber stand or the mineral deposit rather than the units to be removed, the borrower will be encouraged to obtain the assistance of a qualified technician other than an FmHA employee to provide advice on the quality or value of the timber or minerals, and the manner in which they should be sold. Generally, assistance can be obtained from State or Federal employees who are located in the area, such as U.S. Department of Agriculture Forest Service employees.

(2) *Units removed.* When timber or minerals including sand, gravel, or stone, are to be sold on the basis of the units to be removed, or when an easement or a right-of-way is to be sold or granted, the employee authorized to make the appraisal may insert the date, and initial a notation on the existing appraisal report instead of making a new appraisal report. The notation should show (i) the unit value of timber or minerals, or the value of the easement or right-of-way, based on the consideration being paid for similar items in the area; and (ii) the manner in which the remaining property will be affected. If the market value of the remaining property is significantly decreased, a market value appraisal of the remaining property usually will be required.

(e) *Authority of the County Supervisor and District Director*—(1) *General.* County Supervisors and District Directors may approve transactions for purposes authorized in this subpart when the FmHA indebtedness after the transaction does not exceed their approval authority for the type of loan or a combination of types of loans as outlined in Exhibit C of FmHA Instruction 1901-A (available in any FmHA Office). When more than one type of loan is involved in the transaction, the loan approval authority of County Supervisors and District Directors will be the highest combination amount authorized in Exhibit C of FmHA Instruction 1901-A for any of the loan types involved. State Directors are authorized to approve any transaction, consistent with this subpart, which exceeds the approval authority of County Supervisors and District Directors.

(2) *Forest products.* County Supervisors and District Directors can approve most applications for consent or release involving the harvest or sale of forest products. In the case of 3 percent loans for forestry purposes, applications for consent or release will be forwarded to the State Director for approval if:

(i) The harvest or sale is not in accordance with strict provisions of the initially approval forestry plan,

(ii) Future repayments on the 3 percent advance are scheduled on any basis other than equal annual installments,

(iii) There is a lien on the forest land prior to the lien of the FmHA, or

(iv) There is a delinquency on any FmHA real estate loan.

(3) *Terms of a sale.* County Supervisors and District Directors may approve sales made on the following terms.

(i) Sale of a portion of the security for its market value on the following terms:

(A) For SFH loans, refer to § 1965.110 of Subpart C of Part 1965 of this chapter.

(B) For all other loans, not less than 10 percent (of the purchase price) down and payments not to exceed ten annual installments of principal plus interest at not less than the current rate being charged on regular FO loans plus 1 percent or the rate on the borrower's note(s), whichever is greater. Payments may be in equal or unequal installments with a balloon final installment. For farmer program loans approved after December 23, 1985, the sale of mining products gravel, oil, gas, coal, or other minerals will be considered a sale of security *only* if the rights to such products were specifically included as a part of the appraised value of the real estate securing the loan; if the rights were not included in the appraisal, then FmHA has no lien on the rights to such products located under the real estate.

(ii) In each case it must be determined that: (A) The government's security rights, including the right to foreclose on either the portion being sold or retained, are not impaired,

(B) The down payment and any subsequent payments are applied to the FmHA debt(s), prior lien(s), or otherwise used as authorized in this section under paragraph (f) of this section, and

(C) If applicable, the requirements of Subpart G of Part 1940 of this chapter must be met.

(iii) In each case the following conditions must be met: (A) Any amount to be paid FmHA from the down payment and subsequent payments must be assigned to FmHA,

(B) The property sold will not be released prior to either full payment of the borrower's account or receipt of full amount of sale proceeds with proper application or release of the proceeds, and

(C) The borrower must agree in writing that the sale proceeds will not affect the borrower's primary and continued obligation for making payments under terms of the note or any other agreements approved by FmHA.

(f) *Use of proceeds.* County Supervisors or District Directors may approve transactions if the proceeds will be used in one of the following ways.

(1) Proceeds may be applied on liens in order of priority. Written consent of any prior or junior lienholder will be obtained by the borrower and delivered to the FmHA if any proceeds are not to be applied in accordance with lien priorities.

(2) The borrower may use a portion of any proceeds to pay customary incidental costs appropriate to the transaction and reasonable in amount which the borrower cannot arrange to pay from personal funds or cannot have the purchaser pay. The costs may, for example, include real estate taxes which must be paid to consummate the transaction; costs of title examination, surveys, abstracts, title insurance, reasonable attorney's fees; reasonable attorney's fees and court costs in condemnation cases; costs necessary to determine the reasonableness of an offer or asking price, such as fees for appraisal of minerals, land, or timber when the necessary appraisal cannot be obtained without costs; real estate broker's commissions; judgment liens and additional income tax which the borrower is required to pay for the year because of the capital gain or other payments from the transaction. The amount of the estimated tax on the particular transaction will be deposited in an interest bearing or supervised bank account, and any deposited funds not needed to pay the borrower's adjusted tax liability for the year of the transaction will be applied in a manner set out in this paragraph (f). In any State in which it is necessary to obtain the insured note from the lender to present to the recorder before a release of a portion of the land from the mortgage, the borrower must pay any costs for postage and insurance of the note while in transit. The County Supervisor will advise the borrower when requesting a partial release that the borrower must pay the costs. If the borrower is unable to pay the costs from personal funds, they may be deducted from the sale proceeds. The amount of the charge will be based on the statement of actual costs furnished by the payee.

(3) Proceeds may be used for development of land owned by the borrower or for enlargement, if development or enlargement is necessary to improve the borrower's debt-payment ability and to place the borrower's operation on a sound basis, or to otherwise further the objectives of the loan. The use of proceeds for these purposes will not conflict with the loan purposes, restrictions or requirements of the type loan(s) involved. Any proposed development work will be in accordance with Subpart A of Part 1924 of this chapter. Funds to be used for development or enlargement will be handled under Subpart A of Part 1902 of this chapter.

(4) When FmHA loans secured by a lien on real estate will be adequately secured after a transaction affecting the real estate takes place, proceeds may, with the consent of the State Director and other lienholders on the real estate, be used as follows:

(i) Applied to delinquent or unmatured FmHA loan installments when the borrower is otherwise unable to meet the installments.

(ii) For other than SFH loans, applied on debts owed creditors other than FmHA to the extent needed to establish a basis for continuation of the other creditor's account.

(iii) Develop land not owned by the borrower which is essential to the borrower's operation in an amount not to exceed $10,000, provided: the improvements are needed to improve the borrower's repayment ability and the borrower has tenure arrangements which justify the use of the proceeds on the land not owned by the borrower. Development work performed will be in accordance with Subpart A of Part 1924 of this chapter. Funds will be handled under Subpart A of Part 1902 of this chapter.

(5) When liquidation action is pending in accordance with § 1965.26 of this subpart, the County Supervisor or District Director is authorized to approve transactions only when all the proceeds (other than costs authorized in paragraph (f)(2) of this section) will be applied to the liens against the security in the order of their priority.

(g) *Authority of the State Director.* The State Director is authorized to approve transactions that exceed the approval authority granted in paragraph (e) of this section to the County Supervisor and District Director, or that involve an easement or right-of-way granted or conveyed without monetary compensation or for a token consideration. When approving these transactions, the State Director must determine that the requirements of paragraph (b) of this section are met.

(h) *Processing.* FmHA's consent will be given by approving a completed Form FmHA 465-1 if the transaction meets the conditions of paragraph (b) of this section. Also, when requested, FmHA will give a written partial release on Form FmHA 460-1, "Partial Release," or other form approved by OGC. A formal release may not be delivered for 15 days after the payment is received unless payment is made in the form of cash, money order, certified check, or check from a reputable lending agency. Releases not delivered will usually be voided 30 days after notification to the requesting party that the release is available. When an insured FO mortgage is held by the lender, the holder's consent will be obtained only if a written partial release or other written servicing document is requested by the borrower. When the approval of a transaction by the State Director is required, or when the County Supervisor or District Director desires advice in connection with approval of a transaction, the borrower's case folder, Form FmHA 465-1, and any other information pertinent to the transaction will be sent to the State Office.

(i) *Liquidation.* If FmHA is unable to approve a partial sale, the partial sale cannot be used as the basis for liquidation in the following circumstances:

(1) The spouse or children of the borrower become the owner of the property.

(2) The sale results from a divorce or legal separation and the spouse of the borrower becomes the owner of the property.

(3) An intervivos trust becomes the owner of the property so long as the borrower is a beneficiary of the trust

and there is no change in occupancy of the property.

§ 1965.14 Subordination of FmHA real estate mortgages to easements to the U.S. Fish and Wildlife Service, (formerly the Bureau of Sport Fisheries and Wildlife.)

Exhibit A (available in any FmHA office) of this subpart, "Memorandum of Understanding between Bureau of Sport Fisheries and Wildlife (now the U.S. Fish and Wildlife Service) and the Farmers Home Administration," outlines the procedure to follow in processing a subordination of an FmHA mortgage on wetlands on which the Bureau of Sport Fisheries and Wildlife requests an easement for waterfowl habitats. The County Supervisor will handle the request in accordance with the steps outlined in Exhibit A and applicable processing portions of § 1965.12 of this subpart.

§ 1965.15 Subordination of FmHA's lien to the Commodity Credit Corporation's (CCC) security interest taken for loans made for farm storage and drying equipment.

The CCC makes loans under its Farm Storage and Drying Equipment Loan Program for the purchase, construction, erection, remodeling, or installment of either farm storage or drying equipment or both and requires that any loan at the discretion of the approving committee, be secured by a lien on the real estate. When the CCC proposes to make a loan to an FmHA borrower and requests a subordination of the FmHA real estate lien, the request will be handled on an individual case basis under § 1965.12 of this subpart. A borrower's request for the FmHA's consent to a severance agreement or other similar instrument for an item or items to be acquired with a CCC loan will be handled under § 1965.19 of this subpart.

§ 1965.16 Consent to junior liens.

As a general policy, FmHA borrowers will be discouraged from giving other creditors junior liens on real estate securing an FmHA loan. (For Sections 502 and 504 loans, see § 1965.111 of Subpart C of Part 1965 of this chapter).

(a) *Processing request.* When consent to a junior lien is requested by a borrower, the County Supervisor may consent by executing Form FmHA 465-1 or other form approved by OGC for use in the state provided:

(1) The terms of the junior lien debt are such that repayment is not likely to jeopardize payment of the FmHA loan;

(2) Operating plans made with the junior lienholder are consistent with plans made with FmHA;

(3) Total debt against the security will not exceed its market value; and

(4) The junior lienholder agrees in writing not to foreclose the mortgage before a discussion with the County Supervisor and after giving a reasonable specified period of written notice to FmHA.

(b) *Consent not requested or granted.* When a junior lien is placed on any property without FmHA consent and consent cannot be granted under this section, FmHA may continue with the loan as long as the borrower pays FmHA loans as agreed, maintains the security, and meets all other conditions of the loan. The existence of a junior lien cannot be treated as a default. The County Supervisor will continue to service the loan to protect the Government's security interest.

§ 1965.17 Lease of security.

(a) *General provisions.* When the County Supervisor learns that a borrower is leasing or intends to lease all or a portion of the security, the County Supervisor will ask the borrower for a copy of the lease, if it is written. If the borrower leases or proposes to lease the real estate security for a term of more than 3 years or with an option to purchase, the County Supervisor will normally initiate liquidation action in accordance with § 1965.26(b) of this subpart. However, if under unusual circumstances the County Supervisor believes FmHA should consent to such a lease arrangement, prior approval of the Assistant Administrator, Farmer Programs, or the Administrator, if a SFH loan is secured by the same security, is required. The State Director should forward such a request, along with a justification, to the National Office.

(b) *Liquidation.* No action to initiate liquidation based on the lease will be taken unless the borrower:

(1) Enters into a lease for a term of more than 3 years; or

(2) Enters into a lease for any term containing an option to purchase.

(c) *NP loan.* If an NP loan is involved, § 1965.34 of this subpart applies.

(d) *Mineral leases.* When a borrower requests consent to lease the mineral rights to security, the County Supervisor may consent provided the proposed use of the leased rights will not result in the Government's security interest being adversely affected. If applicable, the requirements of Subpart G of Part 1940 of this chapter must be met. A borrower does not need FmHA's consent to lease the mineral rights securing a Farmer Program loan approved after December 23, 1985, unless the oil, gas or other minerals were included on FmHA's real estate appraisal. If FmHA consent is needed and consent is given, lease payments can be used for prospective payments on FmHA loans. Any payment or other compensation the borrower may receive for damages to the surface of the collateral real estate resulting from exploration for or recovery of minerals will be assigned to FmHA and will be used to repair the damage or used as authorized in § 1965.13(f) of this Subpart. Form FmHA 465-1 will be used to process requests under this section. The County Supervisor should carefully document the facts to support the determinations reached concerning the effects of a mineral lease on the Government security. Assignment of income will be taken by use of Form FmHA 443-16, "Assignment of Income from Real Estate Security," or other form approved by OGC which is necessary to comply with State law.

§ 1965.18 Transfer of upland cotton, peanut, or tobacco allotments.

(a) *General.* Agriculture Stabilization and Conservation Service (ASCS) regulations, pursuant to approved legislation, permit the transfer of upland cotton, peanut, or tobacco allotments by one or more of the following transactions: (1) Sale, (2) lease, or (3) transfer by the owner to another farm owned or controlled by the owner. These regulations require, among other things, that no allotment be transferred from a farm which is subject to a mortgage or other lien, unless the transfer is agreed to by the lienholders. It is FmHA's policy to approve the transfer of any crop allotments permitted by the ASCS regulations if the conditions and requirements of this subpart can be met. FmHA personnel should familiarize themselves with the States ASCS policies and requirements concerning the sale, lease, or transfer of allotments to assure compliance with established FmHA policies and servicing of security.

(b) *Authorization.* County Supervisors are authorized to approve a transfer of upland cotton, peanut, or tobacco allotment by execution of a completed Form FmHA 465-1. County Supervisors are also authorized to execute the lienholder or mortgagee agreement on appropriate ASCS forms provided by ASCS for those cases in which a transfer is approved.

(c) *Transfer by sale.* Crop allotments enhance the value of a farm mortgaged to the FmHA and constitute security for the FmHA loan. Accordingly, when a borrower whose farm is mortgaged to the FmHA inquires about the sale of any of the allotted acres or requests the FmHA to sign the required lienholder or mortgagee agreement, the request will be treated the same as for a sale of a portion of the security and approval of the sale can be granted only in accordance with the applicable conditions and requirements of § 1965.13 of this subpart. The sale proceeds may be used as authorized in § 1965.13(f) of this subpart.

(d) *Transfer of allotment by lease.* The County Supervisor has the authority to approve a lease of all or a portion of an allotment for a 1 year period, provided the lease or its terms will not adversely affect the repayment of the loan; leasing is not an alternative to or means of delaying liquidation; and the lease and use of proceeds will further the objectives of the loan. If a 1 year lease is approved, the lease proceeds may be used as farm income as outlined in § 1962.17(b) of Subpart A of Part 1962 of this chapter. Leases for a period of more than 1 year will be granted only with the concurrence of the District Director. When a lease is for more than 1 year, an assignment of the rental proceeds should be obtained.

(e) *Transfer of allotment by owner to other land owned or controlled by the owner.* A transfer by an owner to other land owned or controlled by the owner is normally interpreted by the ASCS as a permanent transfer and can be avoided only by stipulating in the mortgage approval that the transfer is to be considered as a lease for the appropriate number of years. This type of transfer will be approved only as a lease under conditions in paragraph (d) of this section to assure that the crop allotment on the security is not adversely affected.

§ 1965.19 Severance agreement.

Form FmHA 440-26, "Consent and Subordination Agreement," will be completed when a borrower requests FmHA's consent to a severance agreement, or other instrument of similar effect, so that items to be acquired by the borrower through other credit and subject to a chattel lien will not become a part of the real estate securing the FmHA debt. Some examples of items which may be acquired subject to a chattel lien are silos, storage bins, bulk milk tanks, irrigation or income producing facilities, non-farm enterprise facilities, and recreational equipment. County Supervisors are authorized to give FmHA consent by executing Form FmHA 440-26 and any necessary severance agreements, provided that the following determinations are made:

(a) The financing arrangements are in the best interest of the Government and the borrower.

(b) The transaction will not adversely affect FmHA's security position and will be within the borrower's debt-paying ability, and

(c) The facility does not exceed the borrower's needs, is modest in cost and design; and is otherwise in line with FmHA financing policies. OGC will be requested to approve any severance agreement submitted by a borrower that is of a type not previously approved for use in the State and, when necessary, to issue closing instructions. The State Director may request the OGC to prepare a severance agreement instrument for use in the State.

§ 1965.20 [Reserved]

§ 1965.21 Assignment and release of Soil Conservation or similar program payments.

The County Supervisor may take an assignment on income to be received under USDA Programs or similar contracts to protect the financial interest of the Government or to facilitate loan servicing. The assignments of all or a portion of the income from the assignment may be released to the borrower by the County Supervisor when not to the financial detriment of the Government, and when payments due on all FmHA loans have been made from other income or the assigned income is needed for family living and farm operating expenses. This income will *not* be shown on Form FmHA 1962-1, "Agreement for the Use of Proceeds/Release of Chattel Security." The receipt of these proceeds and their planned use will be clearly identified on the current farm pan.

§ 1965.22 Deceased borrower.

Deceased borrower cases will be handled under § 1962.46 of Subpart A of Part 1962 of this chapter.

§ 1965.23 Bankruptcy and insolvency.

Bankruptcy and insolvency cases will be handled under § 1962.47 of Subpart A of Part 1962 of this chapter. For SFH loans, refer to Subpart C of Part 1965 of this chapter.

§ 1965.24 Servicing note-only cases.

Each loan made on a note-only basis without real estate security will be serviced in a manner consistent with the best interests of the FmHA.

(a) *Sale of real property on which improvements were made with note-only FmHA funds.* Any loan evidenced only by an unsecured note will be collected by voluntary means at the time of the sale of the property, is possible. If collection is not possible, the loan may be assumed by the purchaser of the property on the terms of the note if the assumption is determined to be in the FmHA's best financial interest. If collection or assumption cannot be effected, consideration should be given to settling the account in accordance with Part 1864 of this chapter (FmHA Instruction 456.1) if it is eligible, obtaining judgment, or classifying it as collection-only. In case of a judgment sale, the State Director with the advice of OGC and the U.S. Attorney, will authorize an employee to attend the sale and if appropriate, enter a bid on behalf of the Government under Subpart A of Part 1955 of this chapter.

(b) *Assumption of note-only when real property securing another FmHA loan is involved.* When a borrower has an FmHA loan secured by real estate and another FmHA loan evidenced only by a note and the real estate is to be transferred and the entire secured real estate debt is to be assumed, all or a part of the unsecured note up to the present market value of the property in excess of existing liens must also be assumed.

§ 1965.25 Release of FmHA mortgage without monetary consideration on basis of additional security because of mutual mistake, non-existence of evidence of indebtedness, or valueless liens.

(a) *Additional real estate, chattel, or miscellaneous security.* Real estate, chattels, or miscellaneous items which were taken as additional security for a loan secured by real estate may be released by the State Director without consideration before the loan is paid in full, if the market value of the remaining security for the loan is clearly adequate to secure the unpaid balance of the loan. For any loans made for operating purposes, a real estate lien may be released only if the real estate was considered "additional" security when the loan was made. For the purposes of this paragraph, real estate securing any loan made for real estate purposes is not considered "additional security." Additional security for an SFH non-farm loan is real estate in addition to the tract on which the dwelling is located. Before a release can be granted, there must be reasonable assurance that orderly payments can be made on the FmHA indebtedness, and;

(1) The release is needed in order for FmHA or other creditors to finance the borrower's operations; or

(2) The purpose for which the loan was made would be facilitated; or

(3) The borrower's ability to repay the loan will be improved.

(b) *Release of real estate from mortgage because of mutual mistake.* Land or buildings included in the mortgage through mutual mistake, when substantiated by the facts of the situation, may be released from the mortgage by the State Director. The release is contingent on a determination of the State Director, with the advice of the OGC, that a mutual error existed at the time such property was included in the Government's mortgage.

(c) *No evidence of indebtedness.* The FmHA mortgage may be released by the County Supervisor in situations where there is no evidence of an existing indebtedness secured by the mortgage in the records of the FmHA County, State, and Finance Offices.

(d) *Release of valueless liens.* State Directors are authorized to release FmHA mortgages or other liens which have no present or prospective value or when their enforcement would likely be ineffectual or uneconomical. This authority does not extend to valueless judgment liens or valueless statutory redemption rights except with the consent of the OGC. The following information will be obtained in determining present or prospective value:

(1) *Appraisal report.* A market value appraisal report on the security prepared by an FmHA employee authorized to appraise under Subpart A of Part 1809 of this chapter (FmHA Instruction 422.1).

(2) *Lienholders.* The names of the holders of prior liens on the property, the amount secured by each lien which is prior to the FmHA, the amount of taxes or assessments, and other items which might constitute a prior claim. This information will be recorded in the running case record of the borrower's County Office case folder and submitted to the State Director for review.

§ 1965.26 Liquidation action.

(a) *Voluntary liquidation*—(1) *General.* When a borrower contacts FmHA and asks about voluntarily liquidating security, the borrower will be told that liquidation can be accomplished by:

(i) Selling the security under paragraph (f) of this section.

(ii) Transferring the security under § 1965.27 of this subpart.

(iii) Conveying all security to FmHA as outlined in Subpart A of Part 1955 of this chapter.

(iv) Refinancing the FmHA debt with another lender.

The County Supervisor will explain the provisions of these regulations to the borrower.

(2) *Sale or Transfer for less than secured debt.* If the property is to be sold or transferred for less than the total secured debts against it, the property will be appraised immediately to determine its present market value. The appraisal will be completed by an authorized FmHA employee in accordance with Subpart A of Part 1809 of this chapter (FmHA Instruction 422.1) and placed in the borrower's case file.

(b) *Involuntary liquidation.* When the County Supervisor, with the advice of the District Director, determines that continued servicing of the loan will not accomplish the objectives of the loan, or that for other reasons further servicing cannot be justified under the policy stated in § 1965.2 of this subpart, liquidation of the account(s) will be accomplished as expeditiously as possible. In former program cases, borrowers must receive Forms FmHA 1924–14, FmHA 1924–25, and FmHA 1924–26, and *any appeal must be concluded before any adverse actions can be taken.* The County Supervisor will send these forms to the borrower as soon as a decision is made to liquidate.

(1) *General.* After the borrower is notified that FmHA wants the account liquidated and if the borrower is willing to voluntarily liquidate the account immediately by one of the methods indicated in paragraph (a)(1) of this section, the borrower is allowed 120 days to accomplish such action after the borrower has indicated the action to be taken on Form FmHA 1924–26 and has returned the form to the County Supervisor. If the property is to be sold or transferred for less than the total secured debts against it, the property will be appraised immediately to determine the present market value. The appraisal will be completed by an authorized FmHA employee in accordance with subpart A of 1809 of this chapter (FmHA Instruction 422.1) and placed in the borrower's case file.

(2) *Problem case report.* If the borrower is unwilling to voluntarily liquidate or fails to carry out a voluntary liquidation within the time set out in paragraph (b)(1) of this section, the County Supervisor will complete Form FmHA 1955–2, "Report on Real Estate Problem Case," and submit it according to § 1955.15 of Subpart A of Part 1955 of this chapter.

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

(4) *Voluntary liquidation after acceleration.* Granting time for voluntary liquidation after acceleration is not authorized for farmer program loans.

(c) *Multiple loans and loans secured by both real estate and chattels.* (1) When a borrower is indebted to the FmHA for more than one type of FmHA loan, a thorough study should be made of each loan and the effect liquidation of one or more of the loans would have on any and all other loans. When liquidation of one or more FmHA loans secured by real estate is necessary and it will jeopardize the repayment of or the accomplishment of the purpose of other loans, liquidation of all real estate and all chattel security for all loans will be started at the same time. Chattel security will be liquidated under Subpart A of Part 1962 of this chapter, except that when an account(s) secured by chattels only or by both chattel and real estate will be transferred, such transfer(s) will be accomplished in accordance with § 1965.27 of this subpart. When a farmer program loan borrower also has another FmHA loan secured by property which also serves as security for the farmer program loan, the non-farmer program loan will be accelerated at the same time the borrower is sent Form FmHA 1924–25.

(2) SFH loans on non-farm tracts should not be routinely liquidated just because the borrower could not be successful in the farming operation. When a borrower is indebted for both farmer program loans and an SFH loan for a dwelling on a non-farm tract, consideration may be given to continuing with the SFH loan when the farmer program loans are liquidated, provided the borrower:

(i) Has acted in good faith;

(ii) Has satisfactorily accounted for all security;

(iii) Has paid in accordance with ability;

(iv) Voluntarily liquidates all security for the loans other than the SFH non-farm security;

(v) Has repayment ability and agrees to continue to pay on the SFH loan;

(vi) Continues to comply with conditions of the SFH loan; and

(vii) Will further agree to compromise or adjust the FP debt on the following terms:

(A) When the market value of the dwelling is greater than the amount of the SFH debt, the borrower will pay an amount equal to the difference between balance owed on the SFH loan and market value of the retained property at the time and any additional amount the borrower is able to pay; or

(B) When the market value of the dwelling is less than the amount of the SFH debt, the borrower will pay any amount the borrower is able to pay.

(d) *Operation of the security.* A borrower with farmer program loan(s) who without FmHA consent does not operate the farm or recreational facility is violating agreements with FmHA.

After complying with the requirements of § 1965.26(b) of this section pertaining to notice and appeals, such a borrower's accounts will be accelerated in accordance with § 1955.15(d)(2) of Subpart A of Part 1955 of this chapter, based on the failure to operate.

(e) *Accelerated repayment agreement.* When liquidation of an account is necessary because of failure to graduate to other credit the State Director may, in lieu of foreclosure, permit the borrower to pay the account under an accelerated repayment agreement. The State Director will determine that:

(1) Authorization for repayment of the debt under an accelerated repayment agreement is necessary to protect the Government's financial interest,

(2) The borrower can reasonably be expected to meet the accelerated payments, and

(3) The borrower will continue to comply with other requirements of the loans and security instruments.

(4) When an understanding is reached with the borrower, Form FmHA 1965–11, "Accelerated Repayment Agreement," will be prepared and executed in accordance with the Forms Manual Insert (FMI) for each note accelerated. Accounts rescheduled under Form FmHA 1965–11 will be reclassified as NP loans. The balance of the debt will be scheduled for repayment in annual or monthly amortized installments. If the borrower has monthly income, monthly payments will be scheduled. If annual payments are scheduled, the first installment may be less than an equal amortized installment if it is due less than a full year after the date the agreement is executed and the borrower will not be able to pay the first full amortized installment. If the borrower fails to meet any installment when due as provided in the agreement, foreclosure action will be initiated. Rates and terms authorized are:

(i) *Other than SFH loans.* (A) For real estate purpose loans secured by real estate when the remaining repayment period exceeds 10 years, the term generally will not exceed 10 years. In justified cases, the term may be up to 15 years. In no case may the term exceed the final due date of the note. An amortization factor for 20 to 25 years may be used, with a balloon installment due on the final due date. The interest rate will be that in effect for regular FO loans on the date the agreement is executed plus 1 percent or the interest rate of the note, whichever is greater.

(B) For loans for operating purposes secured by real estate when the remaining repayment period exceeds 2 years, the term may not exceed 5 years and in no case may the term exceed the final due date of the note. The interest rate will be that in effect for regular OL loans on the date the agreement is executed plus 1 percent or the interest rate of the note, whichever is greater.

(C) For loans for either real estate or operating purposes when the remaining repayment period is less than 10 years or 2 years, respectively, the State Director may authorize a shorter term. For loans made for a combination of loan purposes, the State Director may authorize an accelerated repayment term of up to 10 years, not to exceed the final due date of the note. The interest rate will be as specified in (A) or (B) of this paragraph.

(ii) *Single-family housing (SFH) loans.* For SFH loans, the term may not exceed ten years and the interest rate will be the SFH-Ineligible rate in effect on the date the agreement is executed.

(f) *Cash sales.* Before any cash sale, farmer program borrowers must be sent Form FmHA 1924–14. When a cash sale of mortgaged real estate will not result in the secured debts being paid in full, the County Supervisor is authorized to approve the sale for an amount not less than the present market value of the property and to release the borrower(s) from liability and release the Government's liens, provided:

(1) A substantial recovery can be made on the FmHA secured indebtedness based on the recent appraisal report required by paragraph (a)(2) of this section.

(2) All the proceeds are applied on the mortgage debts in accordance with their respective priorities except authorized costs as specified in § 1965.13(f)(2) of this subpart.

(3) Any applicable requirements of Subpart G of Part 1940 of this chapter must be met.

(4) The FmHA liens are not released by the County Supervisor until the appropriate sale proceeds for application on the Government's claim are received. The release will be made on forms approved or prepared by OGC.

(5) When the debt is not paid in full and a deficiency judgment is not to be obtained, a release of liability of the borrower can be processed.

(i) The County Committee has recommended release of liability with the following comment on the County Committee Certification:

In our opinion [*Name of Borrower(s) and any co-signer*] does not have reasonable ability to pay all or a substantial part of the balance of the debt owed after the cash sale, 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 convenants 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 completion of the transaction.

(ii) When the borrower's remaining outstanding FmHA debt after a cash sale exceeds $25,000, the Administrator must approve the release of liability. The case will be sent through the State Office to the National Office.

(6) If a release from liability cannot be granted, the case will be settled under the provisions of Part 1864 of this chapter (FmHA Instruction 456.1).

§ 1965.27 Transfer of real estate security.

When the mortgage requires the consent of the FmHA to any proposed sale or other transfer of real estate security, the borrower should be reminded that before firm agreements have been reached with a purchaser of all or a portion of the security, the borrower and purchaser should contact the County Supervisor concerning the proposed sale. Farmer program loan borrowers must be sent Form FmHA 1924–14 within 3 working days after the borrower contacts the County Supervisor inquiring about a transfer. If a proposed sale would not result in the FmHA accounts being paid in full at the time of sale, the County Supervisor should explain thoroughly the requirements of this section and §§ 1965.13 or 1965.26 of this subpart, as appropriate. When the transferor is receiving a substantial down payment from the sale of the property, the purchaser must be required to contact other sources of credit in an effort to secure a loan for repayment of the FmHA loan(s) in full. If an NP loan is involved, § 1965.34 of this subpart also applies. When real estate security, including water, access, development or other rights, is to be sold and the mortgage requires FmHA consent to the sale and the transaction cannot be approved under the appropriate sections of this subpart, the account will be liquidated as required in § 1965.26 of this subpart, or will be handled in accordance with § 1965.27(g) of this subpart.

(a) *Authority.* County Supervisors, District Directors, and State Directors are authorized to approve initial and subsequent transfers of real estate security to eligible or ineligible transferees, to approve assumptions in accordance with the respective loan approval authorities in Exhibit C of FmHA Instruction 1901–A (available in any FmHA office) and to release borrowers and co-signers from liability when applicable, in accordance with paragraph (f) of this section. When a transfer is not within the County Supervisor or District Director's approval authority, the docket and the transferor's case file will be sent to the District Director or State Director, as appropriate, for approval or disapproval. State Directors may approve transfers to eligible transferees not to exceed the maximum statutory loan limits for the total FmHA indebtedness for the loan types involved including the loan(s) being transferred. State Directors may approve transfers to ineligible transferees regardless of the amount of the transfer without the FmHA National Office approval.

(b) *General policies.* The following general policies will be applicable when an FmHA borrower transfers, or proposes to transfer, real estate which is security for an FmHA loan(s). The loan account(s) will be assumed by use of Form FmHA 1965–13, "Assumption Agreement for Farmer Program Loans," or Form FmHA 1965–15, "Assumption Agreement (Single Family) Housing Loans," for SFH loans.

(1) *Agreement.* Form FmHA 465–5, "Transfer of Real Estate Security," will be completed to reflect the agreement between the transferor and the transferees. This agreement will not be completed for farmer program loan borrowers until the borrower has received Form FmHA 1924–14.

(2) *Assignment.* If an insured loan is involved, the Finance Office will have the note assigned to the insurance fund when the assumption agreement changes the terms of the note.

(3) *Amount assumed.* All transfers will be based on present market value. When the total secured FmHA debt(s) exceeds the present market value, the transferee will assume an amount of the principal and interest equal to the present market value as determined under § 1965.26(a)(2) of this subpart, less prior liens and any authorized costs. Otherwise, the transferee will assume the total FmHA secured debt(s). The unpaid principal balance and accrued interest will be shown in Table I of Form FmHA 1965–13 and the accrued interest will be computed from Form FmHA 451–26, "Transaction Record," or obtained from the monthly payment account Status Report. The transferee will be informed of the amount of the principal and interest owed, the total amount paid as of the closing date which has not been credited to the account, the amount that would be required to be paid to place the account on schedule as of the previous installment due date, the amount of interest, if any, that accrued during a deferral period, and any accounts that must be paid to bring any monthly payments up to date. Whenever reasonably possible, any delinquency should be paid at the time of assumption. However, this is not required if the total FmHA debt to be assumed is within the debt paying ability of the transferee. If the transferor received a loan deferral under § 1951.44 of Subpart A of Part 1951 of this chapter, the interest that accrued during the deferral period must be paid by the time the transfer takes place, or such interest will be added to the loan principal and the loan must be assumed on ineligible terms.

(4) *Payment of costs.* The payment of customary incidental costs appropriate to transfer of real estate will be the responsibility of the transferor and transferee. Costs may, for example, include real estate taxes, title examination, title insurance, abstracts, surveys, reasonable attorney's fees, real estate brokers fees and junior liens. State Directors may, in individual cases, approve the payment of transferor's costs by the transferee which are reasonable in amount and which the transferor cannot pay from personal funds provided:

(i) Cash equity due the transferor (if any) is applied first to payment of costs and the transferor will not be receiving any cash payment above costs.

(ii) Payment of any junior liens by the transferee does not exceed $5,000.

(iii) Real estate commission does not exceed the customary rate for the type of property for the area.

(iv) The transferee's personal funds equal to the transferee's costs and transferor's equity (if any) will be held in escrow by an FmHA designated closing agent for disbursal at closing of the transfer.

(v) The transferee will assume the entire FmHA debt less costs and less equity, if any.

(vi) The payment of the costs by the transferee is advantageous to the government. The probability of foreclosure, voluntary conveyance, maintenance and disposal of the security will be considered in making the determination.

(5) *Assumption on same terms.* In the following situations only, the debt will be assumed on the same terms as in the original note. The interest rate, final due date, account status (current, delinquent, ahead of schedule) and repayment schedule will not be changed at the time of the assumption. The interest rate and repayment schedule may be changed after the assumption, in accordance with FmHA loan servicing regulations. Except as noted below, Forms FmHA 450–10, "Advice of Borrower's Change of Address or Name," FmHA 465–5, and FmHA 1965–13 must be prepared and distributed in accordance with the FMI in each of the following situations.

(i) EM actual loss loans may be assumed on the same terms by those who were actually involved in the operation at time of the loss and meet one of the following requirements:

(A) If an individual received the actual loss loan, the transferee must be either an individual who is an immediate family member of the borrower or an entity which is made up of only immediate family members of the borrower. Such a transferee can assume the entire amount of the actual loss loan on the same terms.

(B) If a partnership received the actual loss loan, the transferee must be either a partner who was a partner in the partnership at the time the actual loss loan was made or an entity which is made up of only those who were partners in the partnership at the time the actual loss loan was made. Such transferees can assume the entire amount of the actual loss loan on the same terms.

(C) If a corporation/cooperative received the actual loss loan, the transferee must be either a stockholder/member who was a stockholder/member of the corporation/cooperative at the time the actual loss loan was made or an entity which is made up of only stockholders/members who were stockholders/members of the corporation/cooperative at the time the actual loss loan was made. Such transferees can assume on the same terms only that portion of the actual loss loan equal to the transferee's percentage of ownership in the corporation/cooperative (or, in the case of an entity transferee, the combined percentages of the individual stockholders/members).

(ii) A deceased borrower's spouse, other relative or joint tenant who did not sign the note but who acquires title to the property will be allowed to assume the loan on the same terms. Form FmHA 465–5 will not be completed.

(iii) When one of the joint individual borrowers withdraws from the operation and conveys his or her interest in the security to the remaining borrower who will repay the total indebtedness, an assumption agreement is not required. Partners in a partnership, stockholders in a corporation, or members of a cooperative who signed the note are not joint borrowers, but only co-signers; therefore, this paragraph does not apply to them. The previous joint owner will be released from liability for the indebtedness by completing Parts 1 and

3 of Form FmHA 1965-8, "Release from Personal Liability," provided:

(A) A divorce decree or property settlement document did not make the withdrawing party responsible for loan payments;

(B) The value of the security property is at least equal to the debt;

(C) The withdrawing party's interest in the security property is conveyed to the person with whom the loan will be continued; and

(D) The person with whom the loan will be continued has adequate repayment ability.

(iv) A family member of a borrower who wants to assume a debt with the existing borrower(s) may do so on the same terms. After the transfer, the assuming family member may own the property jointly with the existing borrower(s) or subject to a life estate of the existing borrower.

(v) If there is only one stockholder/member/partner of a corporation/cooperative/partnership who is personally liable on the note and that stockholder/member/partner withdraws from the operation or dies, all of the remaining stockholders/members/partners will be required to assume personal liability on the loan or else the transfer will not be approved. A Form FmHA 465-5 does not have to be processed unless title to the real estate is transferred.

(vi) If a stockholder/member/partner or a corporation/cooperative/partnership buys out the shares of the other stockholders/members/partners and continues to operate the farm, and if the remaining stockholder/member/partner is not personally liable on the note, that stockholder/member/partner will be required to assume personal liability on the loan or else the transfer will not be approved. A Form FmHA 465-5 does not have to be processed unless title to the real estate is transferred.

(vii) New stockholders/members/partners entering the corporation/cooperative/partnership will be required to assume personal liability on the loan or else the transfer will not be approved. A Form FmHA 465-5 does not have to be processed unless title to the real estate is transferred.

(6) *Loan type.* The type(s) of loan will remain the same for all loans except that loans which are transferred to ineligible applicants will be classified as NP.

(7) *Transfer of a portion of the security.* Generally, title to all FmHA real estate security, including any water, access, development or other rights, must be conveyed to the transferee not later than the date of closing of the transfer. However, a transfer of a portion of the FmHA real estate security with an assumption of the *total* indebtedness may be approved, provided:

(i) The portion of the FmHA security transferred has a present market value at least equal to the total indebtedness owed by the borrower or such indebtedness is reduced by a cash payment to the present market value of the property;

(ii) The transaction is advantageous to the Government; and

(iii) In cases of SFH loans, the portion of the property improved with SFH funds is conveyed to the person assuming the SFH loan.

(iv) The security retained by the transferor will be released from the Government's lien. The transferor will be released from liability if the conditions of paragraph (f) of this section are met.

(8) *Partial transfer and assumption.* When a request is made by a borrower to transfer a portion of the real estate security the transferee must assume an amount which meet the requirements of paragraph (b)(3) of this section. The considerations for approval will be as set forth in § 1965.13(b) of this subpart. Whole notes must be assumed; notes cannot be split. The portion of the security transferred will be released from the transferor's mortgage by partial release. When the assumption is by an eligible transferee, or by an ineligible transferee on terms of 5 years or less, the transferor may be released of liability on the loans assumed. The transferor will not be released of liability when the transferee is ineligible and terms exceed 5 years. Before approving a partial transfer and assumption it must be determined that the transaction is necessary for the borrower to establish a debt structure compatible with repayment ability, management ability or other limiting factor such as health, labor or markets available.

(9) *Multiple sales and assumptions.* When a request is made by a borrower to transfer the real estate security as parcels to two or more transferees with each assuming a portion of the debt, the County Supervisor may send the proposed action to the State Director for consideration if the County Supervisor recommends that the transaction would be advantageous to the Government. The total debt owed on all outstanding notes must be assumed by the transferees even though a portion of the security may be retained by the transferor. The County Supervisor will submit to the State Director the complete factual information concerning the transaction, including appraisal reports showing the present market value of each portion to be transferred; value of the total unit before subdivision; the amount of indebtedness to be assumed by each transferee; and the cases file with other pertinent information outlining the reasons for the proposed actions. If approved by the State Director, new security instruments will be required for each transferee at closing and any security retained by the transferor will be released from the Government lien. This policy is to permit transfer to two or more transferees when the transferor owes more than one note evidencing indebtedness or the indebtedness on one note is to be divided between transferees. OGC guidance will be requested in these case to ensure enforceable liens are obtained.

(10) *Dual security.* When the account(s) is secured by both chattels and real estate, all the chattel security must be transferred, sold or liquidated by the time of the transfer of real estate, except that in cases of EM, EE, or SL security, the real estate security may be transferred without transfer or liquidation of the chattel security upon prior approval of the National Office.

(11) *Consent of other lienholders.* Written consent to a proposed transfer and assumption must be obtained if required by any other lienholder(s).

(12) *Junior liens.* When the full amount of the FmHA debt is assumed, there must be no liens, judgments, or other claims against the security which are junior to any FmHA liens being assumed unless the State Director determines that the liens, judgments, or claims will not adversely affect the Government's security interests and that the transferee's ability to pay the FmHA debt will not be impaired. When less than the full amount of the FmHA debt is being assumed, there must be no liens, judgments, or other claims against the security which are junior to any FmHA loans being assumed.

(13) *Loans.* A loan for which the transferee is eligible may be made in connection with a transfer, subject to the policies and procedures governing the type of loan being made. When the transfer is being made to an eligible FO applicant, FO loan funds may be used to pay for the equity in the property being transferred. When real estate security for an SFH loan is transferred to a person eligible under Subpart A of Part 1944 of this chapter for an SFH loan to purchase the real estate, SFH loan funds may be used to pay for the equity in the property being transferred other than income-producing land or buildings. In

lieu of a subsequent loan of the kind involved, the Government's lien may be subordinated to enable the transferor to take a first mortgage, or permit another lender to take a first mortgage, in return for furnishing the funds needed in connection with the transfer. In these cases, the subordination will be processed in accordance with the applicable provisions of § 1965.12 of this subpart. For other than SFH loans, the transferor may convey title to the property by warranty deed or by purchase contract or similar instrument which meets the conditions of § 1943.16 (a)(3) of Subpart A of Part 1943 of this chapter. Prior lienholder's agreements will be obtained in accordance with § 1807.2 (f)(5) of Part 1807 of this chapter (paragraph II F 5 of FmHA Instruction 427.1). When necessary to settle a divorce action, a subsequent loan may be made, or a subordination may be granted to permit the remaining borrower to obtain a loan in an amount not to exceed the equity in the property provided the purchase of land is an authorized loan purpose or the subordination is in accordance with § 1965.12 of this subpart. (Also see § 1965.11(d) of this subpart.)

(14) *Payments.* When a payment is made to the transferor in connection with the transfer and assumption, and the full amount of the FmHA secured debt is not being assumed and other FmHA debts owed by the transferor are not adequately secured, the State Director may, as a condition of approving the transfer, require that all or a part of any payment be applied on the debts.

(15) *Down payment.* An eligible transferee who is financially able, will be required to make a downpayment on the FmHA secured debts. When a downpayment is required it will be collected at closing.

(16) *Date.* The effective date of the assumption will be the date on which Form FmHA 1965-13 is signed.

(17) *Nondiscrimination assurance.* When the property transferred will continue to be used for the same or a similar purpose, and the assistance was subject to the Civil Rights Act of 1964 and Subpart E of Part 1901 of this chapter which prohibits discrimination on the basis of race, color, national origin, handicap, age, religion, marital status, or sex in programs or activities receiving Federal financial assistance, the transferees must agree to comply with requirements of the statute and the regulation. The transferee will be required to sign a Form 400-4, "Assurance Agreement."

(18) *Recapture of subsidy.* Recapture of SFH subsidy in connection with assumption will be as provided in Subpart I of Part 1951 of this chapter.

(19) *County Committee.* The County Committee, except for SFH loans, must find that the transferee will honestly endeavor to make payments in accordance with the assumption agreement, maintain the security, and carry out the other obligations in connection with the loan. (See paragraph (g)(6) of this section.)

(20) *Environmental requirements.* Applicable provisions of Subpart G of Part 1940 of this chapter must be met.

(c) *Assumption of loans by eligible transferees*—(1) *Eligibility.* A loan may be assumed on eligible terms by an applicant (including an entity applicant) who meets all of the eligibility and loan purpose requirements for the type of loan being assumed or whose situation after the transfer of the real estate will satisfy the eligibility and loan purpose requirements. Eligibility and loan purpose requirements can be found in the loan making regulations applicable to the type of loan being assumed. (See paragraph (b)(5) of this section for a list of situations in which the debt can be assumed on the same terms as in the existing note.) Eligible applicants can assume loans so long as their FmHA principal and interest indebtedness after the assumption does not exceed the maximum loan limits for the type(s) of loan(s) involved. Loans may also be assumed on eligible terms under the following conditions:

(i) *SFH assumptions.* An applicant who is eligible for SFH assistance under Subpart A of Part 1944 of this chapter may assume a low-or-moderate, or an above-moderate income SFH loan. An above-moderate loan assumed by a low-or-moderate applicant will be reclassified and serviced as a low-or-moderate loan. Where a property securing an SFH loan is located in an area which has been redesignated from rural to nonrural, the loan may be transferred without regard to the nonrural designation.

(ii) *NP loan.* An NP loan may be assumed by an applicant who is determined eligible for an FO loan if the property is a suitable farm tract, or an applicant eligible for an SFH loan if the property is a suitable dwelling on a farm or non-farm tract. When closing the assumption, the loan will be reclassified as "FO" or "SFH", as applicable. See § 1965.34 of this subpart.

(iii) *EE, SL and other type loans no longer being made.* EE, SL and other type loans no longer being made may be assumed in accordance with paragraph (d) of this section. The loan(s) will be serviced in accordance with Section 1965.34 of this subpart.

(iv) *EM actual loss loans.* See paragraph (b)(5)(i) of this section.

(v) *Other loan types currently being made*—(A) *Individual transferees.* If real estate security is transferred to an individual who meets all of the eligibility requirements and loan purpose requirements for the type of loan being assumed, the loan may be assumed on eligible terms. This applies to transfers of real estate from individual borrowers and from entity borrowers, including entities in which the transferee had an interest.

(B) *Entity transferees.* If real estate security is transferred to an entity which meets all of the eligibility requirements and loan purposes requirements for the type of loan being assumed, the loan may be assumed on eligible terms.

(C) *EM non-actual loss loans (if currently being made).* These loans can be assumed on eligible terms. The loan making regulation requirement that an applicant must have suffered an actual loss in order to be eligible for a non-actual loss loan does *not* apply, for the purposes of this paragraph. If EM non-actual loss loans are not currently being made, refer to (c)(1)(iii) of this section.

(2) *Rates and terms.* Except as provided in paragraph (b)(5) of this section and in this paragraph, all loans will be assumed by eligible applicants at the current interest rate in effect for the loan type involved on the date the assumption agreement is signed. The approval official will approve the assumption by executing and delivering a copy of Form FmHA 1940-1, "Request for Obligation of Funds," to the assuming party. Form FmHA 1965-22, "Information on Assumption on New Terms or Other Change of Terms," and Form FmHA 1965-23, "Supplemental Information on Assumption and/or Change of Terms," will be prepared and distributed according to the respective FMI's. The repayment period will not exceed the repayment period for a new loan of the type involved; for example, FO—40 years, OL—7 years, EM—depends on loan purpose and SFH—33 years. An NP loan will be considered an FO or SFH loan as appropriate, if the applicant and the property meet the requirements of paragraph (c)(1) of this section. Above-moderate loans assumed by low-or moderate-income applicants will be assumed at the current low- or moderate-income SFH interest rate. (See Exhibit C to Subpart A of Part 1944 for income categories). See Subparts A of Parts 1941 and 1943 of this chapter for the definition of a limited resource applicant and an explanation of limited resource eligibility criteria; FO and OL loans may be assumed at the current

rate in effect for limited resource loans if the applicant is a limited resource applicant.

(d) *Assumption of loans by ineligible transferees.* When a borrower sells or proposes to sell the real estate security to a person(s) or entity not eligible to assume the debt under paragraph (b)(5) or (c) of this section and the mortgage requires the Government's consent for the transaction, it will be the policy to permit assumption of the account by an ineligible transferee if it is in the best interest of FmHA. Otherwise, the account will be liquidated as provided for in § 1965.26 of this subpart except as outlined in paragraph (e) or (h) of this section. Types of loans for which there are no existing authorization or eligibility requirements in FmHA regulations may be assumed under the requirements and conditions of this paragraph (see also paragraph (c)(1)(iii) of this section). Forms FmHA 1965-22 and FmHA 1965-23 will be prepared and distributed according to the respective FMI's. If the approval official determines that it is in the best financial interest of FmHA to have the account assumed, the approval official may consent to the initial or subsequent assumption agreement provided that:

(1) *Down payment.* Each assuming party is required to make as large a down payment on the FmHA secured debt as the party is financially able to make under the circumstances. However, no SFH loan may be assumed by an ineligible applicant without at least a 10 percent down payment of the purchase price. No farmer program loan may be assumed without at least a 5 percent down payment of the purchase price.

(2) *Terms—Other than SFH.* The balance of the FmHA debt assumed will generally be scheduled for repayment over a period not to exceed 15 years with amortized annual installments. Form FmHA 1940-17, "Promissory Note," and Form FmHA 440-9, "Supplementary Payment Agreement," if appropriate, will be used in accordance with the provisions of the FMI. Interest on farmer program loans will be at the current rate being charged for regular FO loans, plus 1 percent, or at the rate of interest specified in the note(s) being assumed, whichever is greater. If it is determined that the property cannot be transferred on terms of 15 years or less because of conditions in the area, the State Director may authorize a balloon installment or a longer repayment term not to exceed 25 years. In the case of real estate loan transfers originally made on repayment terms of not more than 15 years, an extension of the repayment period, not to exceed a total of 25 years from the date of the transfer, may be authorized when the borrower, because of crop failure, a natural disaster, or economic condition beyond the borrower's control, is unable to meet the scheduled installment(s). An extension may be granted only if the County Committee and the State Director determine that the extended repayment period is necessary to prevent foreclosure action and that the Government's interest will not be adversely affected. In these cases, the unpaid balance owned may be reamortized over the remainder of the 25 year period, and the borrower will execute a replacement assumption agreement evidencing the debt.

(3) *Terms—SFH loans.* For SHF loans, the balance of the SFH debt assumed will be scheduled for repayment in not more than 10 years with amortized annual or monthly installments. The interest rate charged on the amount assumed will be the current SFH ineligible rate.

(4) *Payment.* The transferee must have the ability to pay the FmHA debt in accordance with the assumption agreement and the legal capacity to enter into the contract.

(5) *NP loan.* An NP loan may be assumed by an applicant on ineligible rates and terms if it is in the best interest of FmHA.

(6) *County Committee.* The County Committee, except for SFH loans, must find that the transferee will honestly endeavor to make payments in accordance with the assumption agreement, maintain the security and carry out other obligations in connection with the loan. (See paragraph (g)(6) of this section.)

(7) *Condition.* The transfer must not adversely affect the FmHA program in the area.

(e) *Consent of FmHA not required to transfer.* When the FmHA mortgage(s) does not require the Government's consent to the sale of the security and the borrower conveys or proposes to convey the security to a person who is ineligible or unwilling to assume the FmHA debt in accordance with paragraphs (c) or (d) of this section, the Government will not consent to the sale. However, the sale cannot be used as a reason for liquidation. In such cases involving SFH loans, the County Supervisor will advise the State Director of the sale. If the account is delinquent or the loan is otherwise in default, the County Supervisor will also advise the State Director of the nature of the default and any specific plans that may have been made to correct the default. If the State Director decides to continue with the account, it will be serviced in the name of the original FmHA borrower, in the usual manner. In such cases involving farmer program loans, the borrower will be sent Form FmHA 1924-14.

(f) *Release of transferor from liability.* The borrower (and any cosigner for an SFH loan) may be released from personal liability when all of the real estate security is transferred under paragraph (c) or (d) of this section and the total outstanding debt or that portion of the debt equal to the present market value of the security is assumed. Borrowers, however, will not be released from personal liability to the FmHA when real estate securing loans is transferred to an ineligible transferee under paragraph (d) of this section unless the debt assumed by the transferee is scheduled for repayment in not to exceed 5 years from the date of the Assumption Agreement. When the transferor's remaining outstanding FmHA debt after a transfer and assumption exceeds $25,000, the Administrator must approve the release of liability. Therefore, the case will be sent through the FmHA State Office to the FmHA National Office. When the total outstanding debt is not assumed and a farmer program borrower is not being released from liability, the borrower must be sent a letter similar to Exhibit F of Subpart A of Part 1955 of this chapter (available in any FmHA office). When a portion of the real estate is transferred and the total SFH debt is assumed, a release may be granted under paragraph (b)(7)(iii) of this section. When only that portion of the debt equal to the market value of the security is assumed and the borrower is to be released from liability the following conditions must be met:

(1) *Required certification.* (i) Certification by County Committee. The County Committee must determine that the facts in each case support signing a memorandum containing the following statement:

(*Name of transferor and any cosigner*) in our opinion do not have reasonable ability to pay all or a substantial part of the balance of the debt not assumed after considering their assets and income at the time of transfer. Transferors have cooperated in good faith, used due diligence to maintain the security against loss, and otherwise fulfilled the covenants incident to the loan to the best of their ability. Therefore, we recommend that the transferor and any cosigner be released of personal liability upon the transferees' assumption of that portion of the indebtedness equal to the present market value of the security.

(ii) The official approving the transfer of SFH loans must also execute a memorandum containing the statement in paragraph (f)(1)(i) of this section.

(2) *Release.* For an SFH loan involving a cosigner, the transferor may be released from personal liability only if the cosigner also can be released (See § 1965.129 of Subpart C of this part).

(g) *Processing transfers and assumptions of indebtedness.* When the transfer is not within the County Supervisor's approval authority, the docket with the transferor's case file will be sent to the District Director or the State Office, as appropriate, for approval or disapproval.

(1) *Refund of unused funds, loan funds not advanced, transaction record.* Unexpended funds in the supervised bank account will be applied as a refund unless FO, SW, RL, or EM security is transferred to an eligible applicant and the funds are needed for completing planned development. Any obligations of or request for loan funds not yet advanced will be cancelled. Form FmHA 451-26, or the monthly payment account Status Report will be used to compute the unpaid balance due on the effective date of the transfer.

(2) *Preparation and distribution of transfer docket.* Loan docket processing and forms required will be the same as for an initial or subsequent loan of the type(s) involved.

(i) *Checking docket forms.* When the transfer docket forms, including those applicable forms, shown in Exhibit C (available in any FmHA office) of this subpart have been completed, the approval official will determine that the proposed transfer conforms to the applicable procedural requirements, each form is prepared correctly in accordance with the FMI or other appropriate instructions, and items such as names, addresses, and the amount of the indebtedness to be assumed are the same on all forms in which the items appear.

(ii) *Information on the availability of other credit.* An eligible transferee must meet the "no credit elsewhere" requirements for the type of loan being assumed. The County Supervisor will record in the running case record the pertinent information concerning the negotiations made by an eligible transferee and the discussion by FmHA personnel with the applicant's creditors and other lenders. The investigation and availability of other credit for eligible transferees will be documented as required for the kind of loan being assumed. This must be sufficiently clear and adequate to establish that other credit is not available to pay the debt in full, which would make the transfer unnecessary. Any letters from lenders or other evidence which may have been obtained indicating that the applicant is unable to obtain satisfactory credit elsewhere will be included in the loan docket.

(iii) *Transferor records.* The transferor's copies of notes, mortgages and other instruments in connection with the security are to be made available to the transferee.

(iv) *Distribution of transfer docket forms.* The necessary forms will be distributed in accordance with the appropriate loan processing regulation and the FMI for the form. See Exhibit C (available in any FmHA office) of this subpart which identifies the FmHA forms that will be used as appropriate.

(v) *Other transfer docket items when applicable.* Other transfer docket items may include a mortgage title policy, title evidence or report of lien search, foreclosure notice agreement, original or certified copy of deed to any property to be taken as additional security, purchase contract or other instrument of ownership, and information on prior mortgage(s) and cosigner(s). When the County Supervisor is the approval official, in lieu of including the document evidencing ownership, he or she may include a statement in the docket indicating that the document has been seen and reviewed. When less than the total amount of the indebtedness is assumed, the transferor's financial statement will be included. When an initial or subsequent loan is involved, include any additional forms required by the appropriate loan making regulation.

(3) *Collections and receipts.* During the period that a transfer is pending in the County Office, payments received by the Finance Office will continue to be applied to the transferor's account and Form FmHA 451-26 will be forwarded to the County Office. When the County Supervisor has received a payment on the account which is not included in the latest transaction record or monthly payment account Status Report, the amount will be deducted from the total amount of principal and interest only when received in the form of currency and coin, treasury check, cashier's check, certified check, postal or bank money order, or bank draft (this figure will be based on the latest information available) before completing the assumption agreement and having it signed. The following will also be done:

(i) *Transaction record.* When the borrower has made a direct payment to the Finance Office and there is no record of the payment in the County Office, the account will be assumed on the basis of the latest record in the County Office. In those cases, the application of the direct payment will be reversed from the account and the assumption agreement will be processed in the Finance Office. The Finance Office will contact the County Supervisor to determine the disposition of the proceeds from the direct payment.

(ii) *Identification of payments.* For payment received on the date of transfer, Form FmHA 451-2, "Schedule of Remittances," will be prepared to show "Transfer in process for account owed by (borrower's name and case number), to be transferred to (name of borrower and case number, if known)." If the borrower number portion of the case number has not yet been assigned for a transferee, only the State and County portion of the case number will be shown. A statement for the information of the Finance Office will be attached to the assumption agreement showing the date of Form FmHA 451-2 and the amount paid.

(iii) *Payment.* When a payment is due on the assumption agreement shortly after the transfer is completed, the payment should, if possible, be collected at the time of transfer and remitted in the name of the transferee.

(4) *Farm and Home plans and financial statements.* When the transfer involves an ineligible transferee, Forms FmHA 431-3 or FmHA 431-2 will be used with Tables A and J completed in the same manner as for any other borrower and other tables and portions of the form will be completed only to the extent necessary to determine the debt paying ability of the transferee and to give sufficient information for completing Table J. Another plan of operation acceptable to FmHA may be used in lieu of Form FmHA 431-2. When an assumption will be of less than the amount of the indebtedness and a release of liability is involved, a current financial and income statement of the transferor will be obtained on Forms FmHA 431-3 or FmHA 431-2 or other plan of operation acceptable to FmHA.

(5) *Appraisal report.* Forms FmHA 422-1 or FmHA 1922-8, as appropriate, will be obtained when the amount to be assumed is less than the full amount of the indebtedness, when required in connection with an initial or subsequent loan to be processed with the transfer, or when the loan approval official requests a current appraisal.

(6) *County Committee certification and recommendation.* The complete transfer docket, except SFH loans, will be presented to the County Committee for review.

(i) The transfer will be contingent upon the County Committee certification on Form FmHA 440-2 for an eligible applicant or, when the transfer is to an ineligible applicant, executing a memorandum containing the following statement:

In our opinion, the transferee, (Name of transferee), will honestly endeavor to make payments in accordance with the assumption agreement, maintain the security, and carry out the other obligations in connection with the loan.

(ii) When the County Committee recommends a release of the transferor and any cosigner from liability when real estate security is being transferred under paragraph (c) or (d) of this section with an assumption of less than the total debt, the provisions of paragraph (f) of this section will be followed.

(iii) When the total outstanding debt is not assumed, a farmer program loan borrower who is not being released from liability must be sent a letter similar to Exhibit F of Subpart A of Part 1955 of this chapter.

(7) *Property insurance.* The transferee will obtain property insurance in accordance with the property insurance requirement for the loan(s) involved. If insurance is required, it may be obtained either by transfer of the existing coverage by the transferor or by acquisition of new coverage by the transferee. The insurance company will be notified by the County Supervisor immediately after completion of the transfer. When the full amount of the FmHA indebtedness is being assumed and an insurance premium has been advanced to the account, the transfer will not be completed until the amount of the premium has been charged to the transferor's account.

(8) *Title clearance and legal services.* Title clearance and legal services for closing transfers will be accomplished in accordance with Part 1807 of this chapter (FmHA Instruction 427.1). When the original repayment terms are altered, it may be necessary to obtain a new mortgage from the transferee to continue FmHA's lien on the transferred real estate. The advice of OGC will be obtained on a state-by-state basis and implemented through State Supplements to provide for new mortgages when required, and to further provide instructions on whether the original mortgage should be released. Title clearance and legal services for the above transfer(s) are not required when a joint borrower's interest in the security is conveyed to the remaining borrower who assumes the total indebtedness on the same terms, provided a subsequent loan or subordination is not involved. For all other kinds of transfers, title clearance and loan closing services will not be required unless the approval official, with the advice of OGC, determines that the services are needed to maintain FmHA's security position or for other reasons. If another mortgagee's mortgage requires the mortgagee's consent to the transfer, consent will be obtained.

(9) *Assumption agreements, releases from personal liability, receipts.* When the full amount of the debt is assumed or a release from personal liability is otherwise approved under this subpart and all of the security is being transferred. Forms FmHA 1965-13; 1965-22 (as applicable); 1965-23; 451-1, "Acknowledgment of Cash Payment;" and 1965-8, will be prepared and distributed according to the FMI.

(h) *Transfer of security without FmHA consent or approval.* When a borrower transfers or proposes to transfer real estate security to another party and FmHA is unable or unwilling to approve the transferee as either an eligible or ineligible applicant, the conveyance cannot be used as the basis for liquidation if the borrower's spouse or children become the owner of the property *or* if an intervivos trust becomes the owner of the property so long as the borrower is a trust beneficiary and there is no change in occupancy of the property. If the transfer is to someone other than a spouse, child or intervivos trust and the County Supervisor determines that it is not in the best interest of FmHA to liquidate to the loan(s) in accordance with § 1965.26 of this subpart, the following actions will be taken in order listed:

(1) The County Supervisor will advise the State Director of the transfer or proposed transfer of the security and reasons why FmHA cannot approve the transferee as eligible or ineligible. Complete details of the transfer conditions, terms and consideration will be submitted to the State Director with the borrower (transferor) file. Current information on status of the loan(s) owed FmHA and of any debts owed other lenders on the property will be included with a current appraisal of the FmHA security and security equity position. The appraisal will be completed in accordance with Subpart A of Part 1809 of this chapter (FmHA Instruction 422.1). Recommendations of the County Committee, County Supervisor, and District Director will be included on the following:)

(i) Reasons why continuation of the loan would be in the best interest of the Government.

(ii) The effect continuation of the account will have on the FmHA program in the area.

(iii) Comments and opinion on adequacy of security and ability of transferor to pay the FmHA debt.

(2) The State Director will review all information submitted and request additional information needed to reach a decision. This includes advice of OGC. After deciding, the State Director will either:

(i) Return the file to the County Supervisor with instructions to proceed with liquidation of the account in accordance with § 1965.26(b) of this subpart and state reasons for the decision; or

(ii) Return the file to the County Supervisor stating reasons for the decision and giving consent to continue the account as an NP loan with instructions for obtaining liability of the transferee, maintaining security position and future servicing. If FmHA is adequately secured and the entire FmHA debt will be paid in 5 years or less from date of the transfer, the borrower-transferor can be released of liability under paragraph (f) of this section and the account serviced in the name of the transferee. If the entire FmHA debt will not be paid within 5 years from date of the transfer, the borrower will not be released of liability, the account will continue to be serviced in the borrower's name and the borrower will remain liable for the debt under the terms of the security instruments. Advice of OGC will be obtained as needed to determine the borrower's continued liability and adequacy of security.

§§ 1965.28-1965.30 [Reserved]

§ 1965.31 Taking liens or real estate as additional security in servicing FmHA loans.

(a) *Liens.* When taking real estate as additional security, the best lien obtainable will be taken on any real estate owned by the borrower, including any real estate which already serves as security for another loan. Normally, the prior concurrence of the District Director will be obtained. Liens will be taken only when:

(1) Present security for the loan is not adequate to protect the interests of the FmHA, and

(2) The borrower has substantial equity in the real estate to be mortgaged and it is determined that the taking of the mortgage will not prevent the making of an FmHA real estate loan, which might be needed in the foreseeable future.

(b) *Real estate.* Before taking real estate as additional security for an FmHA loan the following items will be documented in the running record:

(1) the facts which justify taking the real estate lien;

(2) A conservative estimate of the present market value of the real estate to be mortgaged. (It will not be necessary to submit an appraisal of the property to be mortgaged.);

(3) A brief description of any existing liens on the property, and the repayment terms and the unpaid balance on the bebts secured by existing liens, unless this is accurately reflected on a recent financial statement; and

(4) The name of the title holder and how title of the property is held. (Title evidence need not be required.)

(c) *Forms.* Each real estate lien taken as additional security for the FmHA loans will be taken on Form FmHA 427-1 (State), "Real Estate Mortgage for (State)," unless a State Supplement requires the use of a form of mortgage comparable to that which secures the existing loan(s) to be additionally secured. The notes evidencing the FmHA loans for which the additional security will be taken will be described in the same mortgage.

§ 1965.32 [Reserved]

§ 1965.33 Cosigners—SFH Loans.

See § 1965.129 of Subpart C of this part for servicing SFH loans with cosigners.

§ 1965.34 Non-Program (NP) loans.

Except as set out in the following paragraphs, debtors to FmHA for only NP loans are not eligible to receive any program benefits. Such benefits include limited resource interest rates, reamortization, rescheduling, consolidation, deferral, and appeal rights. Any NP debtor with farmer program loans will be serviced in accordance with regulations applicable to those loans. Any servicing to debtors with only NP loans will be limited solely to the following:

(a) *Subordination.* (1) Subordination of FmHA NP loan mortgages may be permitted to refinance, extend, reamortize, increase the amount of an existing prior lien, or to permit a prior lien *only when the security for the NP loan is also the security for an FmHA Farmer Program loan* and the request for the subordination meets all the requirements for the subordination of the FmHA Farmer Program loan and is in the best interest of the Government. Such actions can only be approved by the State Director.

(2) NP loans of debtors with only NP loans will not be subordinated unless it is in the best interest of the Government.

(b) *Consent by partial release or otherwise to sale, exchange or other disposition of a portion of or interest in security, except leases.* Consent may be given providing that the funds received are applied to the liens in order of lien priority. Such actions can only be approved by the State Director and are subject to the provisions of paragraphs (b) (1) through (5), (d), (h) and (i) of § 1965.13 of this subpart.

(c) *Voluntary conveyance.* Voluntary conveyance of security for NP loans will only be considered when it is clearly in the best interest of the Government. The debtor will not be released from liability for any FmHA debt that exceeds the value of the security plus and additional costs which might result in a charge to the Government such as closing costs and maintenance of the security. Such actions can only be approved by the State Director and will be processed in accordance with the provisions of Subpart A of Part 1955 of this chapter.

(d) *Transfers.* NP loans will not be assumed by an FmHA applicant unless the security and the transferee meet the requirements for an OL or FO loan as applicable. In such cases the transfer will be processed the same as an OL or FO loan being assumed by an eligible applicant. NP loans may be assumed under authorities in § 1965.27(c)(1)(ii) of this subpart. Transfers made without FmHA's approval will be handled under § 1965.27(h) of this subpart.

(e) *Default.* When an NP debtor is in default of the loan and/or security instruments and the default cannot be corrected in a reasonable period of time (usually less than 1 year) the account will be accelerated by the use of Exhibit D and E of Subpart A of Part 1955 (available in any FmHA office). The statement regarding deferrals in Exhibit D will be deleted. If the debtor has not cured the default within the time provided in the acceleration notice, FmHA will proceed with the foreclosure without further notice or any extension of time.

(f) *Leases.* An NP debtor does not need FmHA consent to lease security property.

(g) *Graduation.* NP debtors are not subject to the graduation requirements outlined in Subpart F of Part 1951 of this chapter.

§ 1965.35 Exception authority.

The Administrator or delegate 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.

§ 1965.36 State Supplements and reference to the OGC.

State Supplements will be prepared, with the advice of the OGC, as necessary to carry out this subpart and forwarded to the National Office for prior or post approval.

§ 1965.37 Redelegation of authority.

The State Director is authorized to redelegate in writing any authority delegated to the State Director in this subpart to one or more of the following State Office employees: Chief, Farmer Programs; Farmer Programs Specialist.

§§ 1965.38-1965.49 [Reserved]

§ 1965.50 OMB Control Number.

The collection of information requirements in this regulation have been approved by the Office of Management and Budget and have been assigned OMB Control Number 0575-0086.

* * * * *

Subpart C—Security Servicing for Single Family Rural Housing Loans

48. Section 1965.101 is amended to revise the introductory text to read as follows:

§ 1965.101 Purpose.

This subpart prescribes policies and procedures for servicing actions related to real estate which secures section 502 and section 504 Rural Housing (RH) loans on nonfarm tracts or on farms when the borrower is indebted to Farmers Home Administration (FmHA) for an RH loan(s) *only*, herein referred to as Single Family Housing (SFH) loan(s). Security servicing for RH loans when the borrower is also indebted for Farmer Program loans is under Subpart A of Part 1965 of this chapter.

* * * * *

Dated: January 21, 1986.

Vance L. Clark,

Administrator, Farmers Home Administration.

[FR Doc. 86-2029 Filed 1-31-86; 8:45 am]

BILLING CODE 3410-07-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 238

Contracts With Transportation Lines; Addition of San Juan Airlines

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule adds San Juan Airlines to the list of carriers which have entered into agreements with the Service to guarantee the passage through the United States in immediate and continuous transit of aliens destined to foreign countries.

EFFECTIVE DATE: December 26, 1985.

FOR FURTHER INFORMATION CONTACT: Loretta J. Shogren, Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536, Telephone: (202) 633-3048.

SUPPLEMENTARY INFORMATION: The Commissioner of Immigration and Naturalization entered into an agreement with San Juan Airlines on December 26, 1985 to guarantee passage through the United States in immediate and continuous transit of aliens destined to foreign countries.

The agreement provides for the waiver of certain documentary requirements and facilitates the air travel of passengers on international flights while passing through the United States.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because the amendment merely makes an editorial change to the listing of transportation lines.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that the rule will not have a significant impact on a substantial number of small entities.

This order constitutes a notice to the public under 5 U.S.C. 552 and is not a rule within the definition of section 1(a) of E.O. 12291.

List of Subjects in 8 CFR Part 238

Airlines, Aliens, Government contracts, Travel, Travel restriction.

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

PART 238—CONTRACTS WITH TRANSPORTATION LINES

1. The authority citation for Part 238 continues to read as follows:

Authority: Secs. 103 and 238 of the Immigration and Nationality Act, as amended (8 U.S.C. 1103 and 1228).

§ 238.3 [Amended]

2. In § 238.3 Aliens in immediate and continuous transit, the listing of transportation lines in paragraph (b) *Signatory lines* is amended by: Adding in alphabetical sequence, San Juan Airlines.

Dated: January 15, 1986.

Richard E. Norton,

Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 86-2298 Filed 1-31-86; 8:45 am]

BILLING CODE 4410-10-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 795

Reporting and Recordkeeping Requirements; OMB Control Numbers and Expiration Dates Assigned Pursuant to the Paperwork Reduction Act

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: NCUA amends its table of OMB control numbers to reflect the newly-assigned number to the criminal referral form added in the final rule entitled "Report of Crime or Catastrophic Act."

ADDRESS: National Credit Union Administration, 1776 G Street, NW., Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT: Hattie M. Ulan, Staff Attorney, Office of General Counsel, at the above address. Telephone: (202) 357-1030.

SUPPLEMENTARY INFORMATION: On Tuesday, December 31, 1985, the final rule entitled "Report of Crime or Catastrophic Act" (Part 748 of NCUA's Regulations) was published in the **Federal Register** (50 FR 53294). A new OMB control number for collection requirements found in NCUA's new form 2362 was published with the final rule. OMB approved collection requirements for use through July 31, 1988, unless continued and assigned OMB Number 3133-0094 to the collection requirements. Section 795.1(b) of NCUA's Regulations is amended to add the new number. The two preexisting control numbers for other collection requirements found in Part 748 remain in effect.

PART 795—[AMENDED]

1. The authority citation for 12 CFR Part 795 continues to read as follows:

Authority: 12 U.S.C. 1766(a)(11) and 5 U.S.C. 3507(f).

§ 795.1 [Amended]

2. Section 795.1 of the NCUA Regulations lists current OMB control numbers. The following should replace the current display for 12 CFR Part 748 found in § 795.1(b):

12 CFR part or section where identified and described	Current OMB control no
748	3133-0033, 3133-0034 and 3133-0094.

Dated: January 27, 1986.

Rosemary Brady,

Secretary of the Board.

[FR Doc. 86-2250 Filed 1-31-86; 8:45 am]

BILLING CODE 7535-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 24900; Amdt. No. 1313]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.