

position in a PAC occupation when such employees—

(1) Complete at least 1 year of Schedule B service at the GS-7 level that meets the quality of experience requirement for the GS-9 position in which converted (less than full-time service is credited according to the relation it bears to the full-time workweek);

(4) Are converted without a break in service of one workday or more; and

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 907

(Navel Orange Reg. 659)

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 659 establishes the quantity of California-Arizona navel oranges that may be shipped to market during the period November 13 through November 19, 1987. Such action is needed to balance the supply of fresh navel oranges with the demand for such oranges during the period specified due to the marketing situation confronting the orange industry.

DATES: Regulation 659 (§ 907.959) is effective for the period November 13 through November 19, 1987.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2523-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 447-5697.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Order 907 (7 CFR Part 907), as amended, regulating the handling of navel oranges grown in Arizona and designated part of California. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended, hereinafter referred to as the Act.

This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1521-1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the

Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of the use of volume regulations on small entities as well as larger ones.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 123 handlers of California-Arizona navel oranges subject to regulation under the navel orange marketing order, and approximately 4,065 producers in California and Arizona. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual gross revenues for the last three years of less than \$100,000, and small agricultural service firms are defined as those whose gross annual receipts are less than \$3,500,000. The great majority of handlers and producers of California-Arizona navel oranges may be classified as small entities.

This action is consistent with the marketing policy for 1987-88 adopted by the Navel Orange Administrative Committee (Committee). The Committee met publicly on November 10, 1987, at Visalia, California, to consider the current and prospective conditions of supply and demand and recommended by an 8 to 2 vote, a quantity of navel oranges deemed advisable to be handled during the specified week. The Committee reports that the market is very good.

Based on consideration of supply and market conditions, and the evaluation of alternatives to the implementation of prorate regulations, the Administrator of the AMS has determined that this final rule will not have a significant economic impact on a substantial number of small entities.

Pursuant to 5 U.S.C. 553, it is further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and engage in further public procedure with respect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication in the *Federal Register* because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary

to effectuate the declared purposes of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. To effectuate the declared purposes of the Act, it is necessary to make this regulatory provision effective as specified, and handlers have been apprised of such provision and the effective time.

List of Subjects in 7 CFR Part 907

Agricultural Marketing Service
Marketing Agreements and Orders,
California, Arizona, Oranges (navel).

For the reasons set forth in the preamble, 7 CFR Part 907 is amended as follows:

PART 907—[AMENDED]

1. The authority citation for 7 CFR Part 907 continues to read as follows:

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

2. Section 907.959 is added to read as follows:

§ 907.959 Navel Orange Regulation 659.

The quantity of navel oranges grown in California and Arizona which may be handled during the period November 13, 1987, through November 19, 1987, are established as follows:

- (a) District 1: 1,397,669 cartons;
- (b) District 2: Unlimited cartons;
- (c) District 3: 105,000 cartons;
- (d) District 4: Unlimited cartons.

Dated: November 12, 1987.

Robert C. Keeney,

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

[FR Doc. 87-26480 Filed 11-13-87; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 910

(Lemon Reg. 587)

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 587 establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 290,000 cartons during the period November 15 through November 21, 1987. Such action is needed to balance the supply of fresh lemons with market demand for the period specified, due to the marketing situation confronting the lemon industry.

DATES: Regulation 587 (§ 910.887) is effective for the period November 15 through November 21, 1987.

FOR FURTHER INFORMATION CONTACT: Raymond C. Martin, Section Head, Volume Control Programs, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2523, South Building, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 447-5697.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory action to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

This regulation is issued under Marketing Order No. 910, as amended (7 CFR Part 910) regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act (the "Act", 7 U.S.C. 601-674), as amended. This action is based upon the recommendation and information submitted by the Lemon Administrative Committee and upon other available information. It is found that this action will tend to effectuate the declared policy of the Act.

This regulation is consistent with the marketing policy for 1987-88. The committee met publicly on November 10, 1987, in Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended, by an 11 to 1 vote, a quantity of lemons deemed advisable to be handled during the specified week. The committee reports that the market is good for large sized lemons, fair but improving for smaller sizes.

Pursuant to 5 U.S.C. 553, it is further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, and engage in further public procedure with respect to this action and that good

cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary, in order to effectuate the declared purposes of the Act, to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing Agreements and Orders, California, Arizona, Lemons.

For the reasons set forth in the preamble, 7 CFR Part 910 is amended as follows:

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

1. The authority citation for 7 CFR Part 910 continues to read as follows:

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

2. Section 910.887 is added to read as follows:

§ 910.887 Lemon Regulation 587.

The quantity of lemons grown in California and Arizona which may be handled during the period November 15 through November 21, 1987, is established at 290,000 cartons.

Dated: November 12, 1987.

Robert C. Keeney,
Deputy Director, Fruit and Vegetable
Division, Agricultural Marketing Service.
[FR Doc. 87-26479 Filed 11-13-87; 8:45 am]
BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Part 1942

Fire and Rescue Loans

AGENCY: Farmers Home Administration, Agriculture.

ACTION: Final rule.

SUMMARY: FmHA is revising the regulations for community facility loans by providing a separate regulation for community facility loans for fire or rescue type facilities. This action is necessary because loans for fire or rescue facilities receive high priority for available funds and have proven to be low risk loans that rarely become delinquent. They are usually small and

are often made to volunteer groups with limited time for, or experience with, administrative paperwork. Current application processing requirements and procedures, although necessary for other loan purposes, create an unnecessary burden and deterrent for applicants for fire and rescue loans. The intended effect of this action is to make obtaining a loan for fire and rescue facilities easier and faster.

EFFECTIVE DATE: November 16, 1987.

FOR FURTHER INFORMATION CONTACT: Wayne Stansbery, Loan Specialist, Community Facilities Division, Farmers Home Administration, U.S. Department of Agriculture, Room 6308, South Agriculture Building, Washington, DC 20250, telephone 202-382-1490.

SUPPLEMENTARY INFORMATION:

Classification

This action has been reviewed under USDA procedures established in Departmental Regulation 1512-1, which implements Executive Order 12291, and has been determined to be "non-major". This action is not likely to result in any of the following:

(a) An annual effect on the economy of \$100 million or more.

(b) A major increase in costs or prices for consumers, individual industries, Federal, State or local Government agencies, or geographic regions.

(c) 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.

Intergovernmental Review

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.423, "Community Facility Loans," and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. FmHA conducts intergovernmental consultation in the manner delineated in FmHA Instructions 1901-H and 1940-J.

Environmental Impact

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

Paperwork Burden

The Office of Management and Budget's (OMB) clearance has been obtained for the reporting and recordkeeping requirements which this rule places on the public. The OMB approval number is 0575-0120.

Background

Subpart A of Part 1942 is now the primary regulation for receiving and processing applications, and providing management assistance for loans for water and waste disposal facilities and community facilities. Community facilities include public safety, health care, and public service facilities varying widely in size and complexity. Historically, more than 35 percent of community facility loans approved have been for public safety, primarily fire and rescue facilities.

Applicants, borrowers, and other members of the public have indicated they feel it takes too long and is too difficult to obtain a community facility loan for fire and rescue facilities. Some of the most deserving potential applicants do not apply because of the processing time, paper work, and other requirements for obtaining a loan. FmHA has developed Subpart C to provide more simple procedures and requirements for use with loans for fire and rescue facilities. FmHA has had experience with fire and rescue loans over a period of ten years and the repayment record has been excellent. We believe this action will maximize the net benefit to society.

The more simplified procedures in Subpart C of Part 1942 include the following:

1. Allows applicants to bypass the preapplication process and file only one application form.
2. Allows more flexibility for District Offices to process applications without waiting for State Office review.
3. Provides more flexibility in security requirements.
4. Reduces appraisal requirements.
5. Allows use of simple cash flow budgets instead of detailed statements of income and expenses.
6. Encourages competitive negotiation for certain procurements.
7. Limits architectural/engineering requirements for certain facilities.
8. Allows District Offices to close loans to nonprofit corporations without OGC review.

Comments

This action was published as a proposed rule for public comment on October 3, 1986, in Volume 51, No. 192, of the *Federal Register*, beginning on

page 35359. Six responses were received, with each response containing several comments. All except one of the responses strongly supported the overall action.

One commenter objected to the requirement that applicant organizational documents be reviewed by the Regional Office of General Counsel (OGC) prior to obligation of funds. Another commenter felt that requirements for more participation in loan processing by the State Office and loan closing instructions by OGC should be maintained.

FmHA believes the applicants legal authority to incur the obligations of the proposed loan and operate the facility is a very important legal issue that should be considered early, through OGC review of organizational documents. However, the procedures for closing a loan to a nonprofit corporation are similar to closing other types of loans. District Office staffs and local attorneys should be able to handle the closings.

Required participation in loan processing by State Offices has been reduced to reduce the time required for reviews and for mailing documents back and forth between District and State Offices. State Offices are still required to monitor District Office activities. State Directors may limit the authority of District Directors, thereby increasing State Office participation, whenever it appears necessary.

Proposed loans not secured by taxes, to applicants that cannot show five years of successful financial history, requires National Office review if the loan would exceed \$250,000. One commenter suggested the threshold be raised to \$500,000. FmHA believes few such loan proposals will exceed \$250,000 and those that do should have additional review.

One commenter suggested changing the threshold in paragraphs §§ 1942.126(h)(2) and (h)(3). These paragraphs describe situations in which competitive negotiation is the preferred method of procurement. No change has been made in the statement of preference. However, competitive negotiation may be approved by FmHA for use anytime conditions are not appropriate for formal advertising.

Three commenters indicated confusion or concern about the requirements for engineering work on buildings procured through competitive negotiation. Section 1942.126 has been revised to clarify this issue. The major items revised or clarified are as follows. Final plans and specifications must be prepared by or under the supervision of an architect or engineer licensed in the State where the facility is to be located.

The plans and specifications may be provided by the contractor when negotiated procurement is used for construction costing not more than \$100,000. When the contractor provides the plans and specifications it will be considered a design/build contract. The contract may omit part of the facility and another architect/engineer will not necessarily be required unless a second contract, exceeding small purchase procedure limits, is needed to complete the facility.

One commenter thought the language in Guide 18, regarding conflict of interest, conflicts with allowing the contractor's engineer to prepare plans and specifications. FmHA believes that normally there will not be a conflict because the contract will be for both design and construction. However, a provision has been inserted to clarify that when Guide 18 is used in connection with a design/build contract the section on conflict of interest may be revised.

List of Subjects in 7 CFR Part 1942

Community development, Community facilities, Loan programs—Housing and community development, Loan security, Rural areas.

Accordingly, Part 1942, Chapter XVIII, Title 7, Code of Federal Regulations is amended as follows:

PART 1942—ASSOCIATIONS

1. The authority citation for Part 1942 is revised to read as follows:

Authority: 7 U.S.C. 1989; 16 U.S.C. 1005; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

2. Section 1942.1 is amended by revising paragraph (a) to read as follows:

§ 1942.1 General.

(a) This subpart outlines the policies and procedures for making and processing insured loans for community facilities except fire and rescue facilities. This subpart applies to community facility loans for firm and rescue facilities only as specifically provided for in Subpart C of this Part 1942. The Farmers Home Administration (FmHA) shall cooperate fully with State and local agencies in making loans to assure maximum support to the State strategy for rural development. FmHA State Directors and their staffs shall maintain coordination and liaison with State agency and substate planning districts. Funds allocated for use under this subpart are also for the use of Indian tribes within the State, regardless of whether State development strategies include Indian reservations within the

State's boundaries. Indians residing on such reservations must have equal opportunity to participate in the benefits of these programs as compared with other residents of the State. Federal statutes provide for extending FmHA financial programs without regard to race, color, religion, sex, national origin, marital status, age, or physical/mental handicap. The participants must possess the capacity to enter into legal contracts under State and local statutes.

3. Section 1942.17 is amended by removing paragraph (d)(1)(i)(B)(7) by redesignating paragraphs (d)(1)(i)(B)(2) through (8) as paragraphs (d)(1)(i)(B)(7) through (13) respectively, and by revising paragraphs (c)(2)(iii)(D)(2)(7) and (d)(1)(i)(C)(7) to read as follows:

§ 1942.17 Community facilities.

- (c) * * *
- (2) * * *
- (iii) * * *
- (d) * * *
- (2) * * *

(7) Public safety—10 points. [Examples include police services and fire, rescue and ambulance services as authorized by Subpart C of this Part 1942.]

- (d) * * *
- (1) * * *
- (i) * * *
- (C) * * *

(7) The purchase of major equipment, such as solid waste collection trucks and X-ray machines, which will in themselves provide an essential service to rural residents;

§ 1942.17 [Amended]

4. Section 1942.7 is amended by changing the reference in paragraph (d)(2)(iv) from "paragraph (d)(1)(i)(B)(5), (d)(1)(i)(B)(6) or (d)(1)(i)(B)(7)" to "paragraph (d)(1)(i)(B)(4), or (d)(1)(i)(B)(5)."

5. Subpart C is added to read as follows:

Subpart C—Fire and Rescue Loans

- Sec.
- 1942.101 General.
- 1942.102 Nondiscrimination.
- 1942.103 Definitions.
- 1942.104 Application processing.
- 1942.105 Environmental review.
- 1942.106 Intergovernmental review.
- 1942.107 Priorities.
- 1942.108 Application docket preparation and review.
- 1942.109–1942.110 [Reserved]
- 1942.111 Applicant eligibility.
- 1942.112 Eligible loan purposes.
- 1942.113 Rates and terms.

- Sec.
- 1942.114 Security.
- 1942.115 Reasonable project costs.
- 1942.116 Economic feasibility requirements.
- 1942.117 General requirements.
- 1942.118 Other Federal, State, and local requirements.
- 1942.119 Professional services and borrower contracts.
- 1942.120–1942.121 [Reserved]
- 1942.122 Actions prior to loan closing and start of construction.
- 1942.123 Loan closing.
- 1942.124–1942.125 [Reserved]
- 1942.126 Planning, bidding, contracting, constructing, procuring.
- 1942.127 Project monitoring and fund delivery.
- 1942.128 Borrower accounting methods, management reports and audits.
- 1942.129 Borrower supervision and servicing.
- 1942.130–1942.131 [Reserved]
- 1942.132 Subsequent loans.
- 1942.133 Delegation and redelegation of authority.
- 1942.134 State supplements and guides.
- 1942.135–1942.149 [Reserved]
- 1942.150 OMB control number.

Subpart C—Fire and Rescue Loans

§ 1942.101 General.

This subpart provides the policies and procedures for making and processing insured community facility loans for facilities that will primarily provide fire or rescue services. Community facility loans for other types of facilities are covered in Subpart A of this Part 1942.

§ 1942.102 Nondiscrimination.

(a) Federal statutes provide for extending Farmers Home Administration (FmHA) financial programs without regard to race, color, religion, sex, national origin, marital status, age, or physical/mental handicap. The participants must possess the capacity to enter into legal contracts under State and local statutes.

(b) Indian tribes on Federal and State reservations and other Federally recognized Indian tribes are eligible to apply for and are encouraged to participate in this program. Such tribes might not be subject to State and local laws or jurisdiction. However, any requirements of this subpart that affect applicant eligibility, the adequacy of FmHA's security or the adequacy of service to users of the facility and all other requirements of this subpart must be met.

§ 1942.103 Definitions.

For the purpose of this subpart:

(a) *Construction* means the act of building or putting together a facility that is a part of or physically attached to real estate. This does not include procurement of major equipment even though the equipment may be custom built to meet the owner's requirements.

(b) *Owner* means an applicant or borrower.

(c) *Regional Attorney* or OGC means the head of a Regional Office of General Counsel (OGC).

§ 1942.104 Application processing.

(a) *General.* Prospective applicants should request assistance by filing Form AD-624, "Application for Federal Assistance (for Construction Programs)," with the County or District FmHA Office. When practical, District Directors should meet with prospective applicants before an application is filed to discuss eligibility and FmHA requirements and processing procedures. Throughout loan processing FmHA should confer with applicant officials as needed to ensure that applicant officials understand the current status of the processing of their application, what steps and determinations are necessary and what is required from them. FmHA should assist the applicant as needed and generally try to develop and maintain a cooperative working relationship with the applicant.

(b) *County Office.* The County Office may handle initial inquiries and provide basic information about the program, application forms, and assistance in completing applications. Applications filed in the County Office should be forwarded immediately to the District Office. The applicant should be informed that further processing will be handled by the District Office. When an application is received, the County Office must establish and maintain an information folder.

(c) *District Office.* If the application is filed in the District Office, the District Director must send a copy to the County Supervisor to set up the information file. The District Director must supply information on fire and rescue loan activity within the County Office service area to the County Supervisor at key points throughout the loan making process. As a minimum, the District Director should provide appropriate copies or notice to the County Office when the following actions occur:

- (1) Project summary is completed.
 - (2) Letter of conditions is issued.
 - (3) Applicant declines to execute Form FmHA 442-46, "Letter of Intent to Meet Conditions."
 - (4) Applicant is notified of loan approval.
 - (5) A loan is properly closed.
 - (6) A construction contract is awarded.
 - (7) A final inspection is completed.
- (d) *Unfavorable decision.* If at any time prior to loan approval it is decided

that favorable action will not be taken on an application, the District Director will notify the applicant in writing of the reasons why the request was not favorably considered. The notification to the applicant will state that a review of this decision by FmHA may be requested by the applicant in accordance with Subpart B of Part 1900 of this chapter. The following statement will also be made on all notifications of adverse action.

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, DC 20580.

§ 1942.105 Environmental review.

FmHA must conduct and document an environmental review for each proposed project in accordance with Subpart G of Part 1940 of this chapter. The review should be completed as soon as possible after receipt of an application. The loan approving official must determine an adequate environmental review has been completed before requesting an obligation of funds.

§ 1942.106 Intergovernmental review.

(a) Loans under this subpart are subject to intergovernmental review in accordance with Subpart H of Part 1901 and Subpart J of Part 1940 of this chapter.

(b) State intergovernmental review agencies that have selected community facility loans as a program they want to review may not be interested in reviewing proposed loans for fire and rescue facilities. In such cases, the State Director should obtain a letter from the State single point of contact exempting fire and rescue loans from A-95 and intergovernmental consultation review. A copy of the letter should be placed in the case file for each fire and rescue facility application in lieu of completing the intergovernmental review process.

(c) When an application is filed and adverse comments are not expected, the District Director should proceed with application processing pending intergovernmental review. The loan should not be obligated until any required review process has been completed.

(d) Funds allocated for use under this subpart are also for the use of eligible Indian tribes within the State, regardless

of whether State development strategies include Indian reservations. Eligible Indian tribes must have equal opportunity to participate in the program as compared with other residents of the State.

§ 1942.107 Priorities.

(a) Eligible applications must be selected for processing in accordance with § 1942.17(c) of Subpart A of this Part 1942.

(b) The District Director must score each eligible application in accordance with § 1942.17(c)(2)(iii) of Subpart A of this Part 1942. The District Director must then notify the State Director of the score, proposed loan amount, and other pertinent data. The State Director should determine as soon as possible if the project has sufficient priority for further processing and notify the District Director. Normally, this consultation should be handled by telephone and documented in the running record.

(c) Applicants who appear eligible but do not have the priority necessary for further consideration at this time should be notified that funds are not available, requested to advise whether they wish to have their application maintained for future consideration and given the following notice:

You are advised against incurring obligations which would limit the range of alternatives to be considered, or which cannot be fulfilled without FmHA funds until the funds are actually made available. Therefore, you should refrain from such actions as initiating engineering and legal work, taking actions which would have an adverse effect on the environment, taking options on land rights, developing detailed plans and specifications, or inviting construction bids until notified by Farmers Home Administration (FmHA) to proceed.

§ 1942.108 Application docket preparation and review.

(a) *Guides.* Application dockets should be developed in accordance with § 1942.2(c) of Subpart A of this Part 1942.

(b) *Project summary.* The District Director should complete the project summary using Form FmHA 442-43, "Project Summary-Community Facilities (Other Than Utility-Type Projects)." Comments by the State Architect/Engineer and program chief may be omitted unless the District Director or State Director requests their review. Form FmHA 442-14, "Association Project Fund Analysis," and a budget or cash flow projection should be completed and attached.

(c) *Budgets.* All applicants must complete Form FmHA 442-7, "Operating Budget," except as provided in this paragraph. Applicants with annual incomes not exceeding \$100,000 may,

with concurrence of the District Director, use Form FmHA 1942-52, "Cash Flow Projection," instead of Form FmHA 442-7. Projections should be provided for the current year and each year thereafter until the facility is expected to have been in operation for a full year and a full annual installment paid on the loan.

(d) *Letter of conditions.* The District Director should prepare and issue a letter of conditions in accordance with § 1942.5 (a)(1) and (c) of Subpart A of this Part 1942.

(e) *Organizational review.* As early in the application process as practical the District Director should obtain copies of organization documents from each applicant and forward them through the State Office to the Regional Attorney for review and comments. The Regional Attorney's comments should be received and considered before obligation of funds.

(f) *National Office review.* Applications that require National Office review will be submitted in accordance with § 1942.5(b) of Subpart A of this Part 1942.

(g) *State Office review.* The State Office must monitor fire and rescue loan making and servicing and provide guidance, assistance, and training as necessary to ensure the activities are accomplished in an orderly manner consistent with FmHA regulations. The District Director should request advice and assistance from the State Office as needed. The State Director may require all or part of a specific application docket to be submitted to the State Office for review at any time. The State Director may determine one or more District Office staffs do not have adequate training and expertise to routinely complete application dockets without State Office review. In such cases, the State Director should establish guidelines by memorandum or by State supplement to this subpart for the necessary State Office reviews.

(h) *Loan approval and fund obligation.* Loans must be approved and obligated in accordance with § 1942.5(d) of Subpart A of this Part 1942 and Subpart A of Part 1901 of this chapter.

§§ 1942.109-1942.110 [Reserved]

§§ 1942.111 Applicant eligibility.

(a) *General.* Loans under this subpart are subject to the provisions of § 1942.17 (b) of Subpart A of this Part 1942.

(b) *Credit elsewhere determinations.* The District Director must determine whether financing from commercial sources at reasonable rates and terms is available. If credit elsewhere is

indicated, the District Director should inform the applicant and recommend the applicant apply to commercial sources for financing. To provide a basis for referral of only those applicants who may be able to finance projects through commercial sources District Directors should maintain liaison with representatives of lenders in the district. The State Director should keep District Directors informed regarding lenders outside the district that might make loans in the district. District Directors should maintain criteria for determining applications that should be referred to commercial lenders and maintain a list of lender representatives interested in receiving such referrals.

(c) *Public use.* Loans under this subpart are subject to the provisions of § 1942.17(e) of Subpart A of this Part 1942.

§ 1942.112 Eligible loan purposes.

(a) Funds may be used:

(1) To construct, enlarge, extend or otherwise improve essential community facilities primarily providing fire or rescue services primarily to rural residents. "Otherwise improve" includes but is not limited to the following:

(i) The purchase of major equipment, such as fire trucks and ambulances, which will, in themselves, provide an essential service to rural residents.

(ii) The purchase of existing facilities when it is necessary either to improve or to prevent a loss of service.

(2) To pay the following expenses, but only when such expenses are a necessary part of a loan to finance facilities authorized in paragraph (a)(1) of this section:

(i) Reasonable fees and costs such as legal, engineering, architectural, fiscal advisory, recording, environmental impact analyses, archaeological surveys and possible salvage or other mitigation measures, planning, establishing or acquiring rights.

(ii) Interest on loans until the facility is self-supporting but not for more than 3 years unless a longer period is approved by the National Office; interest on loans secured by general obligation bonds until tax revenues are available for payment, but not for more than 2 years unless a longer period is approved by the National Office; and interest on interim financing, including interest charges on interim financing from sources other than FmHA.

(iii) Costs of acquiring interest in land, rights such as water rights, leases, permits, rights-of-way, and other evidence of land or water control necessary for development of the facility.

(iv) Purchasing or renting equipment necessary to install, maintain, extend, protect, operate, or utilize facilities.

(v) Initial operating expenses for a period ordinarily not exceeding 1 year when the borrower is unable to pay such expenses.

(vi) Refinancing debts incurred by, or on behalf of, a community when all of the following conditions exist:

(A) The debts being refinanced are a secondary part of the total loan;

(B) The debts are incurred for the facility or service being financed or any part thereof; and

(C) Arrangements cannot be made with the creditors to extend or modify the terms of the debts so that a sound basis will exist for making a loan.

(3) To pay obligations for construction or procurement incurred before loan approval. Construction work or procurement actions should not be started and obligations for such work or materials should not be incurred before the loan is approved. However, if there are compelling reasons for proceeding with construction or procurement before loan approval, applicants may request FmHA approval to pay such obligations. Such requests may be approved if FmHA determines that:

(i) Compelling reasons exist for incurring obligations before loan approval; and

(ii) The obligations will be incurred for authorized loan purposes; and

(iii) Contract documents have been approved by FmHA; and

(iv) All environmental requirements applicable to FmHA and the applicant have been met; and

(v) The applicant has the legal authority to incur the obligations at the time proposed, and payment of the debts will remove any basis for any mechanic, material or other liens that may attach to the security property. FmHA may authorize payment of such obligations at the time of loan closing. FmHA's authorization to pay such obligations, however, is on the condition that it is not committed to make the loan; it assumes no responsibility for any obligations incurred by the applicant; and the applicant must subsequently meet all loan approval requirements. The applicant's request and FmHA authorization for paying such obligations shall be in writing. If construction or procurement is started without FmHA approval, post approval in accordance with this section may be considered.

(b) Funds may not be used to finance:

(1) Facilities which are not modest in size, design, and cost.

(2) Loan finder's fees.

(3) Projects located within the Coastal Barriers Resource system that do not qualify for an exception as defined in section 6 of the Coastal Barriers Resource Act, Pub. L. 97-348.

§ 1942.113 Rates and terms.

Rates and terms for loans under this subpart are as set out in § 1942.17(f) of Subpart A of this Part 1942.

§ 1942.114 Security.

Specific requirements for security for each loan will be included in the letter of conditions. Loans must be secured by the best security position practicable, in a manner which will adequately protect the interest of FmHA during the repayment period of the loan, and in accordance with the following:

(a) Security must include one of the following:

(1) A pledge of revenue and a lien on all real estate and major equipment purchased or developed with the FmHA loan; or

(2) General obligation bonds or bonds pledging other taxes.

(b) Additional security may be required as determined necessary by the loan approval official. In determining the need for additional security the loan approval official should carefully consider:

(1) The estimated market value of real estate and equipment security.

(2) The adequacy and dependability of the applicant's revenues, based on the applicant's financial records, the project financial feasibility report, and the project budgets.

(3) The degree of community commitment to the project, as evidenced by items such as active broad based membership, aggressive leadership, broad based fund drives, or contributions by local public bodies.

(c) Additional security may include, but is not limited to, the following:

(1) Liens on additional real estate or equipments.

(2) A pledge of revenues from additional sources.

(3) An assignment of assured income in accordance with § 1942.17(g)(3)(iii)(A)(1) of Subpart A of this Part 1942.

(d) Review and approval or concurrence in the State Office is required if the security will not include a pledge of taxes and the applicant cannot provide evidence of the financially successful operation of a similar facility for the 5 years immediately prior to loan application.

(e) Review and concurrence in the National Office is required if the security will not include a pledge of

taxes, the applicant cannot provide evidence of the financially successful operation of a similar facility for the 5 years immediately prior to loan application, and the amount of the loan will exceed \$250,000.

(f) Loans under this subpart are subject to the provisions of § 1942.17(g)(1) of Subpart A of this Part 1942, regarding security for projects utilizing joint financing.

§ 1942.115 Reasonable project costs.

Applicants are responsible for determining that prices paid for property rights, construction, equipment, and other project development are reasonable and fair. FmHA may require an appraisal by an independent appraiser or FmHA employee.

§ 1942.116 Economic feasibility requirements.

All projects financed under this section must be based on taxes, assessments, revenues, fees, or other satisfactory sources of revenues in an amount sufficient to provide for facility operation and maintenance, a reasonable reserve, and debt payment. An overall review of the applicant's financial status, including a review of all assets and liabilities, will be a part of the docket review process by the FmHA staff and approval official. All applicants will be expected to provide a financial feasibility report. These financial feasibility reports will normally be:

(a) Included as part of the preliminary engineer/architectural report using Guide 6 to Subpart A of this Part 1942 (available in any FmHA Office), or

(b) Prepared by the applicant using Form FmHA 1942-54, "Applicant's Feasibility Report."

§ 1942.117 General requirements.

(a) *Reserve requirements.* Loans under this subpart are subject to the provisions of § 1942.17 (i) of Subpart A of this Part 1942.

(b) *Membership authorization.* The membership of organizations other than public bodies must authorize the project and its financing except the District Director may, with the concurrence of the State Director (with advice of OGC as needed), accept the loan resolution without such membership authorization when State statutes and the organization charter and bylaws do not require such authorization.

(c) *Insurance and bonding.* Loans under this subpart are subject to the provisions of § 1942.17(j)(3) of Subpart A of this Part 1942.

(d) *Acquisition of land and rights.* Loans under this subpart are subject to

the provisions of § 1942.17(j)(4) of Subpart A of this Part 1942.

(e) *Lease agreements.* Loans under this subpart are subject to the provisions of § 1942.17(j)(5) of Subpart A of this Part 1942.

(f) *Notes and bonds.* Loans under this subpart are subject to the provisions of § 1942.17(j)(6) and § 1942.19 of Subpart A of this Part 1942.

(g) *Public Information.* Loans under this subpart are subject to the provisions of § 1942.17 (j)(9) of Subpart A of this Part 1942.

(h) *Joint funding.* Loans under this subpart are subject to the provisions of § 1942.2 (e) and § 1942.17 (j)(11) of Subpart A of this Part 1942.

§ 1942.118 Other Federal, State, and local requirements.

(a) Loans under this subpart are subject to the provisions of § 1942.17 (k) of Subpart A of this Part 1942.

(b) An initial compliance review should be completed under Subpart E of Part 1901 of this chapter.

§ 1942.119 Professional services and borrower contracts.

(a) Loans under this subpart are subject to the provisions of § 1942.17 (l) of Subpart A of this Part 1942.

(b) The District Director will, with assistance as necessary by the State Director and OGC, concur in agreements between borrowers and third parties such as contracts for professional and technical services. The State Director may require State Office review of such documents in accordance with § 1942.108 (g) of this subpart. State Directors are expected to work closely with representatives of engineering and architectural societies, bar associations, commercial lenders, accountant associations, and others in developing standard forms of agreements, where needed, and other matters to expedite application processing, minimize referrals to OGC, and resolve problems which may arise. Standard forms should be reviewed by and approved by OGC.

§§ 1942.120-1942.121 [Reserved]

§ 1942.122 Actions prior to loan closing and start of construction.

(a) *Excess FmHA loan funds.* Loans under this subpart are subject to the provisions of § 1942.17 (n)(1) of Subpart A of this Part 1942.

(b) *Loan resolutions.* Loans under this subpart are subject to the provisions of § 1942.17 (n)(2) of Subpart A of this Part 1942.

(c) *Interim financing.* Loans under this subpart are subject to the provisions of § 1942.17 (n)(3) of Subpart A of this Part 1942.

(d) *Applicant contribution.* Loans under this subpart are subject to the provisions of § 1942.17 (n)(5) of Subpart A of this Part 1942 this chapter.

(e) *Evidence of and disbursement of other funds.* Loans under this subpart are subject to the provisions of § 1942.17 (n)(6) of Subpart A of this Part 1942.

(f) *Assurance agreement.* All applicants must execute Form FmHA 400-4, "Assurance Agreement," at or before loan closing.

§ 1942.123 Loan closing.

(a) *Ordering loan checks.* Checks will not be ordered until:

(1) Form FmHA 440-57, "Acknowledgement of Obligated Funds/Check Request," has been received from the Finance Office.

(2) The applicant has complied with approval conditions and any closing instructions, except for those actions which are to be completed on the date of loan closing or subsequent thereto.

(3) The applicant is ready to start construction or funds are needed to pay interim financing obligations.

(b) *Public bodies and Indian tribes.* (1) After loan approval the completed docket will be reviewed by the State Director. The information required by OGC will be transmitted to OGC with a request for closing instructions. Upon receipt of the closing instructions from OGC, the State Director will forward them along with any appropriate instructions to the District Director. Upon receipt of closing instructions, the District Director will discuss with the applicant and its architect or engineer, attorney, and other appropriate representatives, the requirements contained therein and any actions necessary to proceed with closing.

(2) Loans will be closed in accordance with the closing instructions issued by OGC and § 1942.19 of Subpart A of this Part 1942.

(c) *Organizations other than public bodies and Indian tribes.* District Directors are authorized to close loans to organizations other than public bodies and Indian tribes without closing instructions from OGC. State Directors, in consultation with OGC, should develop standard closing procedures and forms as needed. Assistance with loan closing and a certification regarding the validity of the note and mortgage or other debt instruments should be provided by the applicant's attorney. Appropriate title opinion or title insurance is required as provided in § 1942.17 (j)(4)(i)(B) of Subpart A of this Part 1942.

(d) *Authority to execute, file, and record legal instruments.* District Office

employees are authorized to execute and file or record any legal instruments necessary to obtain or preserve security for loans. This includes, as appropriate, mortgages and other lien instruments, as well as affidavits, acknowledgements, and other certificates.

(e) *Mortgages.* Unless otherwise required by State law or unless an exception is approved by the State Director with advice of the OGC, only one mortgage will be taken even though the indebtedness is to be evidenced by more than one instrument. The real estate or chattel mortgages or security instruments will be delivered to the recording office for recordation or filing, as appropriate. A copy of such instruments will be delivered to the borrower. The original instrument, if returnable after recording or filing, will be retained in the borrower's case folder.

(f) *Notes and bonds.* When the debt instrument is a note or single instrument bond fully registered as to principal and interest a conformed copy will be sent to the Finance Office immediately after loan closing and the original instrument will be stored in the District Office. When other types of bonds are used, the original bond(s) will be forwarded to the Finance Office immediately after loan closing.

(g) *Disposition of title evidence.* All title evidence other than the opinion of title and mortgage title insurance policy, will be returned to the borrower when the loan has been closed.

(h) *Multiple advances.* When temporary paper, such as bond anticipation notes or interim receipts, is used to conform with the multiple advance requirement, the original temporary paper will be forwarded to the Finance Office after each advance is made to the borrower. The borrower's case number will be entered in the upper right-hand corner of such paper by the District Office. The permanent debt instrument(s) should be forwarded to the Finance Office as soon as possible after the last advance is made, except that for notes and single instrument bonds fully registered as to principal and interest the original will be retained in the District Office and a copy will be forwarded to the Finance Office. The following actions will be taken prior to issuance of the permanent instruments:

(1) The Finance Office will be notified of the anticipated date for the retirement of the interim instruments and the issuance of permanent instruments of debt.

(2) The Finance Office will prepare a statement of account including accrued interest through the proposed date of

retirement and also show the daily interest accrual. The statement of account and the interim financing instruments will be forwarded to the District Director.

(3) The District Director will collect interest through the actual date of the retirement and obtain the permanent instrument(s) of debt in exchange for the interim financing instruments. The permanent instruments and the cash collection will be forwarded to the Finance Office immediately, except that for notes and single instrument bonds fully registered as to principal and interest the original will be retained in the District Office and a copy will be forwarded to the Finance Office. In developing the permanent instruments, the sequence of preference set out § 1942.19(e) of Subpart A of this Part 1942 will be followed.

(i) *Bond registration record.* Form FmHA 442-28, "Bond Registration Book," may be used as a guide to assist borrowers in the preparation of a bond registration book in those cases where a registration book is required and a book is not provided in connection with the printing of the bonds.

(j) *Loan checks.* Whenever a loan check is received, lost, or destroyed, the District Director will take the appropriate actions outlined in FmHA Instruction 102.1 (available in any FmHA office). Checks which cannot be delivered within a reasonable amount of time (no more than 20 calendar days) will be handled in accordance with FmHA Instruction 102.1 (available in any FmHA office.)

(k) *Safeguarding bond shipments.* FmHA personnel will follow the procedures for safeguarding mailings and deliveries of bonds and coupons outlined in FmHA Instruction 2018-E (available in any FmHA office), whenever they mail or deliver these items.

(l) *Review of loan closing.* When the loan has been closed, the District Director will submit the completed loan closing documents and a statement showing what was done in closing the loan to the State Director. The State Director will review the documents and the District Director's statement to determine whether the transaction was closed properly. For loans to public bodies or Indian tribes the State Director will forward all documents, along with a statement that all administrative requirements have been met, to the Regional Attorney. The Regional Attorney will review the submitted material to determine whether all legal requirements have been met. The Regional Attorney should review FmHA standard forms only for

proper execution, unless the State Director brings attention to specific questions. Facility development should not be held up pending receipt of the Regional Attorney opinion. When the review of the State Director has been completed, and for public bodies and Indian tribes the Regional Attorney's opinion has been received, the State Director must advise the District Director of any deficiencies that must be corrected and return all material that was submitted for review.

(m) *Loan cancellation.* Loans under this subpart are subject to the provisions of § 1942.12 of Subpart A of this Part 1942.

§§ 1942.124—1942.125 [Reserved]

§ 1942.126 Planning, bidding, contracting, constructing, procuring.

(a) *General.* This section provides procedures and requirements for planning, bidding, contracting, constructing and procuring facilities financed under this subpart. These procedures do not relieve the owner of contractual obligations that arise from procurement of services.

(b) *Technical services.* Owners are responsible for providing the engineering or architectural services necessary for planning, designing, bidding, contracting, inspecting and constructing their facilities. Services may be provided by the owner's "in-house" engineer or architect or through contract, subject to FmHA concurrence. Architects and engineers must be licensed in the State where the facility is to be located.

(1) *Preliminary reports.* A preliminary architectural or engineering report conforming with customary professional standards is required for all construction, except that FmHA may waive the requirement for a preliminary architectural/engineering report or accept a brief report if the cost of the construction does not exceed \$100,000. Guide 6 to Subpart A of this Part 1942 (available in any FmHA office) may be used.

(2) *Final reports.* Detailed final plans and specifications are required for all construction and must receive FmHA concurrence. When negotiated procurement is used for construction costing not more than \$100,000 the final plans and specifications may be provided by the contractor who submits the successful proposal. The plans and specifications must be prepared by or under the supervision of an architect or engineer who is licensed in the State where the facility is to be located and should include all materials and work to

be provided under the contract. Some work and material may be omitted from the contract provided the owner furnishes detailed cost estimates for whatever is needed to fully complete the facility and will complete the facility in accordance with paragraph (e) of this section and the small purchase procedures set out in § 1942.18(k)(1) of Subpart A of this Part 1942. In such cases, FmHA may determine that it is not necessary to require the applicant to hire a consulting architect/engineer; however, if a second contract that does not qualify for small purchase procedures is needed to complete the facility, the owner must provide for an architect/engineer to design the entire facility. When the contractor provides the plans and specifications, the contract will be considered a design/build procurement method under § 1942.18(1) of Subpart A of this Part 1942.

(3) *Major equipment.* An architect/engineer is not required for major equipment if FmHA determines the owner has the ability to develop an adequate request for proposal and evaluate the proposals received or can obtain adequate assistance from other sources, such as State or Federal agencies or trade associations.

(c) *Design policies.* Facilities financed by FmHA must be designed and constructed in accordance with sound engineering and architectural practices, and must meet the requirements of Federal, State and local agencies. All facilities intended for or accessible to the public or in which physically handicapped persons may be employed or reside must be developed in compliance with the Architectural Barriers Act of 1968 (Pub. L. 90-480) as implemented by the General Services Administration regulations 41 CFR 101-19.6 and section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112) as implemented by 7 CFR Parts 15 and 15b.

(d) *Construction contracts.* Contract documents must be sufficiently descriptive and legally binding to accomplish the work as economically and expeditiously as possible.

(1) *Standard construction contract documents.* When standard construction contract documents available from FmHA are used, or when the amount of the contract does not exceed \$100,000, it will normally not be necessary for the Regional Attorney to perform a detailed legal review. If construction contract documents used are not in the format of guide forms approved by FmHA, and the contract amount exceeds \$100,000, the Regional Attorney must review the documents before their use.

(2) *Contract review and approval.* The owner's attorney will review executed contract documents, including performance and payment bonds, and certify that they are adequate, legal and binding, and that the persons executing the documents have been authorized to do so. The contract documents, bid bonds, and bid tabulation sheets will be forwarded to FmHA for approval prior to awarding. All contracts will contain a provision that they are not in full force and effect until they have been approved by FmHA. The FmHA District Director is responsible for approving construction contracts with advice and guidance of the State Director and Regional Attorney when necessary.

(3) *Separate contracts.* Arrangements which split responsibility of contractors (separate contracts for labor and material, extensive subcontracting and multiplicity of small contracts on the same job) should be avoided whenever it is practical to do so. Contracts may be awarded to suppliers or manufacturers for furnishing and installing certain items which have been designed by the manufacturer and delivered to the job site in a finished or semifinished state such as prefabricated buildings. Contracts may also be awarded for material delivered to the job site and installed by a patented process or method.

(e) *Performing construction.* Owners are encouraged to accomplish construction through contracts with recognized contractors. Owners may accomplish construction by using their own personnel and equipment provided the owners possess the necessary skills, abilities and resources to perform the work and provided a licensed engineer or architect prepares design drawings and specifications and inspection is provided in accordance with paragraph (1)(3) of this section.

(f) *Owner's contractual responsibility.* Loans under this subpart are subject to the provisions of § 1942.18(i) of Subpart A of this Part 1942.

(g) *Owner's Procurement regulations.* Loans under this subpart are subject to the provisions of § 1942.18(j) of Subpart A of this Part 1942.

(h) *Procurement methods.* Unless the FmHA National Office gives prior written approval of another method, procurement must be made by one of the following methods:

(1) Small purchase procedures as provided in § 1942.18(k)(1) of Subpart A of this Part 1942.

(2) Competitive sealed bids as provided in § 1942.18(k)(2) of Subpart A of this Part 1942. Competitive sealed bids is the preferred procurement method of construction projects, except

for buildings costing \$100,000 or less when the owner desires to use a "preengineered" or "packaged" building.

(3) Competitive negotiation as provided in § 1942.18(k)(3) of Subpart A of this Part 1942. Competitive negotiation is the preferred procurement method of buildings not exceeding \$100,000 in cost when the owner desires to use a "pre-engineered" or "packaged" building and for major equipment.

(4) Noncompetitive negotiation as provided in § 1942.18(k)(4) of Subpart A of this Part 1942.

(i) *Contracting methods.* Loans under this subpart are subject to the provisions of § 1942.18(1) of Subpart A of this Part 1942.

(j) *Contracts awarded prior to preapplications.* Loans under this subpart are subject to the provisions of § 1942.18(m) of Subpart A of this Part 1942.

(k) *Construction Contract provisions.* Construction contracts for loans under this subpart are subject to the provisions of § 1942.18(n) of Subpart A of this Part 1942. Construction contracts for loans under this subpart are also subject to the provisions of § 1901.205 of Subpart E of Part 1901 of this chapter, regarding nondiscrimination in construction, except that guides 18 and 17 or 19 to Subpart A of this Part 1942 of this chapter will normally be used instead of Form FmHA 1924-5, "Invitation for Bid (Construction Contract)," and Form FmHA 1924-6, "Construction Contract." When Guide 18 is used with a design/build type contract, section 4, "Conflict of Interest," may need revision.

(l) *Construction contract administration.* Owners shall be responsible for maintaining a contract administration system to monitor the contractors' performance and compliance with the terms, conditions, and specifications of the contracts.

(1) *Preconstruction conference.* Prior to beginning construction the owner will schedule a preconstruction conference where FmHA will review the planned development with the owner, its architect or engineer, project inspector, attorney, contractor(s), and other interested parties. The conference will thoroughly cover applicable items included in Form FmHA 1924-16, "Record of Preconstruction Conference," and the discussions and agreements will be documented. Form FmHA 1924-16 may be used for this purpose.

(2) *Monitoring reports.* Each owner will be required to monitor and provide reports to FmHA on actual performance during construction for each project financed, or to be financed, in whole or

in part with FmHA funds. The reports are to include:

(i) A comparison of actual accomplishments with the construction schedule established for the period. The partial payment estimate may be used for this purpose.

(ii) A narrative statement giving full explanation of the following:

(A) Reasons why established goals were not met.

(B) Analysis and explanation of cost overruns or high unit costs and how payment is to be made for the same.

(iii) If events occur between reports which have significant impact upon the project, the owner will notify FmHA as soon as any of the following conditions are known:

(A) Problems, delays, or adverse conditions which will materially affect the ability to attain program objectives or prevent the meeting of project work units by established time periods. This disclosure shall be accompanied by a statement of the action taken, or contemplated, and any Federal assistance needed to resolve the situation.

(B) Favorable developments or events which enable meeting time schedules and goals sooner than anticipated or producing more work units than originally projected or which will result in cost underruns or lower unit costs than originally planned and which may result in less FmHA assistance.

(3) *Inspection.* The borrower must provide for inspection of all construction. When the borrower enters into an agreement for technical services with an engineer/architect, the agreement should provide for general engineering/architectural inspection of the construction work. When no such agreement exists, or FmHA or the borrower determines the inspection services of the engineer/architect may not be sufficient, the owner must provide a project inspector. Prior to the preconstruction conference, the borrower must submit a résumé of qualifications of the project inspector to FmHA for acceptance in writing. The project inspector will be responsible for making inspections necessary to protect the borrower's interest and for providing written inspection reports to the borrower with copies to the FmHA District Director. Guide 11 of Subpart A of this Part 1942 (available in any FmHA office) may be used as a guide format for inspection reports. For new buildings, additions to existing buildings, and rehabilitation at the following stages of construction and at other stages of construction as determined by the District Director and

the borrower. Inspections by FmHA are solely for its benefit as lender.

(i) An initial inspection should be made just prior to or during the placement of concrete footings or monolithic footings and floor slabs. At this point, foundation excavations are complete, forms or trenches and steel are ready for concrete placement and the subsurface installation is roughed in. If the building design does not include concrete footings the initial inspection should be made just after or during the placement of poles or other foundation materials.

(ii) An inspection should be made when the building is enclosed, structural members are still exposed, roughing in for heating, plumbing and electrical work is in place and visible, and wall insulation and vapor barriers are installed.

(iii) A final inspection should be made when all development of the structure has been completed and the structure is ready for its intended use.

(4) *Prefinal inspections.* A prefinal inspection will be made by the owner, project inspector, owner's architect or engineer, representatives of other agencies involved, and the District Director. The inspection results will be recorded on Form FmHA 1924-12, "Inspection Report," and a copy provided to all interested parties, including the FmHA State Director.

(5) *Final inspection.* A final inspection will be made by FmHA before final payment is made.

(6) *Changes in development plans.* (i) Changes in development plans may be approved by FmHA when requested by owners, provided:

(A) Funds are available to cover any additional costs; and

(B) The change is for an authorized loan purpose; and

(C) It will not adversely affect the soundness of the facility operation or FmHA's security; and

(D) The change is within the scope of the contract; and

(E) Any applicable requirements of Subpart G of Part 1940 of this chapter have been met.

(ii) Changes will be recorded on Form FmHA 1924-7, "Contract Change Order," or other similar forms may be used with the prior approval of the District Director. Regardless of the form, change orders must be approved by the FmHA District Director.

(iii) Changes should be accomplished only after FmHA approval on all changes which affect the work and shall be authorized only by means of contract change order. The change order will include items such as:

(A) Any changes in labor and material and their respective cost.

(B) Changes in facility design.

(C) Any decrease or increase in quantities based on final measurements that are different from those shown in the bidding schedule.

(D) Any increase or decrease in the time to complete the project.

(iv) All changes shall be recorded on chronologically numbered contract change orders as they occur. Change orders will not be included in payment estimates until approved by all parties.

§ 1942.127 Project monitoring and fund delivery.

(a) *Coordination of funding sources.* When a project is jointly financed, the District Director will reach any needed agreement or understanding with the representatives of the other source of funds on distribution of responsibilities for handling various aspects of the project. These responsibilities will include supervision of construction, inspections and determination of compliance with appropriate regulations concerning equal employment opportunities, wage rates, nondiscrimination in making services or benefits available, and environmental compliance. If any problems develop which cannot be resolved locally, complete information should be sent to the State Office for advice.

(b) *Multiple advances.* Loans under this subpart are subject to the provisions of § 1942.17 (p)(2) of Subpart A of this Part 1942.

(c) *Use and accountability of funds.* Loans under this subpart are subject to the provisions of § 1942.17 (p)(3) of Subpart A of this Part 1942.

(d) *Development inspections.* Loans under this subpart are subject to the provisions of § 1942.17(p)(4) of Subpart A of this Part 1942.

(e) *Payment for project costs.* Each payment for project costs must be approved by the borrower's governing body.

(1) *Construction.* Payment for construction must be for amounts shown on payment estimate forms. From FmHA 1924-18, "Partial Payment Estimate," may be used for this purpose or other similar forms may be used with the prior approval of the District Director. However, the District Director cannot require more reporting burden than is required by Form FmHA 1924-18. Advances for contract retainage will not be made until such retainage is due and payable under the terms of the contract. The review and acceptance of project cost, including construction partial payment estimates, by FmHA does not

attest to the correctness of the amounts, the quantities shown, or that the work has been performed under the terms of agreements or contracts.

(2) *Major equipment.* Payment for major equipment should generally coincide with delivery of the usable equipment, along with any necessary title or certifications, to the borrower. Borrowers may not use FmHA loan funds to make deposits on equipment not ready for delivery. If a borrower purchases a truck chassis from one supplier and another supplier will complete the development of a fire or rescue vehicle, FmHA may release funds to pay for the chassis when title to the chassis is transferred to the borrower.

(f) *Use of remaining funds.* Loans under this subpart are subject to the provisions of § 1942.17 (p)(6) of Subpart A of this Part 1942.

§ 1942.128 Borrower accounting methods, management reports and audits.

(a) Loans under this subpart are subject to the provisions of § 1942.17(q) of Subpart A of this Part 1942 except as provided in this section.

(b) Borrowers with annual incomes not exceeding \$100,000 may, with concurrence of the District Director, use Form FmHA 1942-53, "Cash Flow Report," instead of page one of schedule one and schedule two of Form FmHA 442-2, "Statement of Budget, Income, and Equity." When used for budgeting, the cash statement should be projected for the upcoming fiscal year. When used for quarterly or annual reports, the cash flow report should include current year projections and actual data for the prior year, the quarter just ended, and the current year to date.

§ 1942.129 Borrower supervision and servicing.

Loans under this subpart are subject to the provisions of § 1942.17(r) of Subpart A of this Part 1942 and Subpart E of Part 1951 of this chapter.

§§ 1942.130-1942.131 [Reserved]

§ 1942.132 Subsequent loans.

Subsequent loans will be processed under this subpart.

§ 1942.133 Delegation and redelegation of authority.

Loan approval authority is in Subpart A of Part 1901 of this chapter. State Directors may delegate approval authority to District Directors to approve fire and rescue loans regardless of whether authority to approve other community facility loans is delegated. Except for loan approval authority, District Directors may redelegate their duties to qualified staff members.

§ 1942.134 State supplements and guides.

State Directors will obtain National Office clearance for all State supplements and guides under FmHA Instruction 2006-B, (available in any FmHA Office).

(a) *State supplements.* State Directors may supplement this subpart to meet State and local laws and regulations and to provide for orderly application processing and efficient service to applicants. State supplements shall not contain any requirements pertaining to bids, contract awards, and materials more restrictive than those in this subpart.

(b) *State guides.* State Directors may develop guides for use by applicants if the guides to this subpart and Subpart A of Part 1942 this are not adequate. State Directors may prepare guides for items needed for the application; items necessary for the docket; and items required prior to loan closing or construction starts.

§§ 1942.135-1942.149 [Reserved]

§ 1942.150-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 0575-0120.

Dated: March 31, 1987.

Vance L. Clark,
Administrator, Farmers Home
Administration.

[FR Doc. 87-26395 Filed 11-13-87; 8:45 am]

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FARM CREDIT ADMINISTRATION

12 CFR Parts 614 and 624

Farm Credit System Regulatory Accounting Practices—Temporary Regulations; Loan Policies and Operations—Loss-Sharing Agreements

AGENCY: Farm Credit Administration.

ACTION: Final rule.

SUMMARY: The Farm Credit Administration (FCA), by the FCA Board, adopts amendments to the regulations implementing the provisions of the Farm Credit Act Amendments of 1986 (1986 Amendments) (Pub. L. 99-509) relating to the use of regulatory accounting practices (RAP) by Farm Credit System (System) institutions and to a regulation relating to, among other things, the reversal of previously accrued financial assistance under System loss-sharing agreements. The

1986 Amendments authorize System institutions during the period July 1, 1986 through December 31, 1988, to defer certain specified expenses for regulatory purposes. As those expenses are incurred, they are capitalized and amortized over 20 years rather than expensed. Deferring expenses in the manner authorized by the 1986 Amendments is not in accordance with generally accepted accounting principles (GAAP). Regulations implementing RAP and the regulation prohibiting reversal of financial assistance were adopted in final effective December 24, 1986, with a request for comments. The amendments adopted by the FCA Board reflect consideration of all public comments made on these regulations.

EFFECTIVE DATE: The amendments shall become effective upon the expiration of 30 days after this publication during which either or both Houses of Congress are in session. Notice of effective date will be published.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION: On December 24, 1986, the FCA published a Final Rule with Request for Comment (51 FR 46597) relating to use of RAP and reversal of accrued financial assistance and amended the RAP regulations on January 26, 1987 (52 FR 2670). The public was given until February 24, 1987, to submit comments on these regulations. A public hearing on the regulations was held at the FCA offices in McLean, Virginia, on February 27, 1987 (52 FR 2672, January 26, 1987). The FCA Board responded to one matter raised by the comments relating to use of RAP by Federal land bank associations (FLBA) and adopted an amendment to the RAP regulations at its special meeting on April 17, 1987 (52 FR 13423, April 23, 1987).

Due to the financial condition of certain System institutions, the FCA Board at its special meeting on September 22, 1987 (52 FR 35349, September 18, 1987), amended the RAP regulations (52 FR 37131, October 5, 1987), to prohibit a System institution from retiring stock or participation certificates in accordance with RAP when the net worth of such institution reaches zero in accordance with GAAP and/or, in the case of a System bank, when that bank is unable to meet the collateral requirements to support issuance of consolidated or Systemwide securities in the national money markets. The FCA Board adopted the