List of Subjects in 7 CFR Part 908

Marketing agreements and orders, California, Arizona, Oranges, Valencia.

For the reasons set forth in the preamble, 7 CFR Part 908 is amended as follows:

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PARTS OF CALIFORNIA

Subpart—Rules and Regulations

1. The authority citation for 7 CFR Part 908 continues to read as follows:

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

2. Section 908.681 is added to read as follows: (The following section will not be published in the Code of Federal Regulations)

§ 908.681 Valencia Orange Regulation 381.

During the period beginning with May 22, 1987 through December 31, 1987, no handler shall handle any Valencia oranges which are of a size smaller than 2.32 inches in diameter, such diameter to be the largest measurement at a right angle to a straight line running from the stem to the blossom end of the fruit: *Provided,* That not to exceed 5 percent, by count, of the oranges in any container may measure smaller than 2.32 inches in diameter.

Dated: May 18, 1987.

Ronald L. Cioffi,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 87-11797 Filed 5-21-87; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Parts 959 and 980

Onions Grown in South Texas; Amendment No. 5 to Handling Regulation; Vegetable Import Regulations; Onions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule will permit handlers to pack onions in 40- or 50-pound cartons in addition to other previously authorized containers. In addition, the rule will allow handlers to designate onions three inches or larger in diameter as "Jumbo" or "Large." It will also provide a new size designation of "Extra Large" for onions having a diameter of 3–¾ inches and larger. It changes the termination date of inspection requirements from June 15 to May 31 to relieve restrictions on handlers in a small production area far from the primary production area, and will also shorten the period for inspection requirements on handlers in the primary production area. Finally, the rule changes the termination date of grade, size, inspection, and Sunday shipment requirements from June 1 to May 31. Conforming changes to the import regulation for onions are made to reflect applicable changes in the effective period of the domestic regulation. The rule is designed to lessen the regulatory requirements on handlers and to provide them with additional flexibility in their selection of shipping containers while assuring the condition and quality of onions in the marketplace during the 1987 and subsequent seasons.

EFFECTIVE DATE: The final rule becomes effective May 22, 1987.

FOR FURTHER INFORMATION CONTACT: James M. Scanlon, Acting Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, DC 20250–1400, (202) 475–3914.

SUPPLEMENTARY INFORMATION: This 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 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 Agricultural Marketing Agreement Act of 1937, as amended (the Act, 7 U.S.C. 601–674), and rules issued thereunder, are unique in that they are brought about through the group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

It is estimated that 40 handlers of onions will be subject to regulaton under the South Texas Onion Marketing Order during the course of the current season. In addition, there are about 160 producers of onions in South Texas. There are approximately 28 onion importers. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having average annual gross revenues for the last three years of less than $100,000 agricultural service firms, which include handlers and importers, are defined as those whose gross annual receipts are less that $3,500,000. The majority of producers, handlers, and importers may be classified as small entities.

Pursuant to the requirements set forth in the RFA, the Administrator of the Agricultural Marketing Service (AMS) has considered the impact of this rule on small entities. The regulatory action in this instance is a rule: (1) Allowing onions to be shipped in 40- or 50-pound cartons on a regular commercial basis not subject to the experimental/special purpose shipment safeguards currently applied to handlers utilizing such cartons; (2) allowing handlers to designate onions three inches or larger in diameter as "Jumbo" or "Large" (currently the designation for such onions is limited to "Jumbo"); (3) providing a new size designation of "Extra Large" for onions having a diameter of 3–¾ inches or larger; (4) changing the termination date of inspection requirements from June 15 to May 31 to relieve handlers in a small producing area from these requirements while also shortening the period for inspection requirements on handlers in the primary production area; (5) changing the termination date of grade, size, inspection, and Sunday shipment handling requirements applicable to all handlers in the production area so the requirements end on May 31 rather than June 1; and (6) changing both § 959.322(i) and § 980.117 to clarify that the South Texas handling requirements apply to imports during the March 10—May 31 period each season.

The primary production area for South Texas onions is the lower Rio Grande Valley. Onion production in the entire production area in 1986 was 4.2 million hundredweight with harvested acreage amounting to 12,000 acres. The percentage of the crop marketed fresh has not fallen below 92.6 percent since 1977.

Allowing onions to be shipped in 40- or 50-pound cartons on a regular commercial basis without regard to the experimental/special purpose shipment safeguards currently applied to handlers utilizing such cartons will reduce the regulatory burden on handlers desiring to ship onions in cartons. Moreover, the handling of gift packages of onions, not exceeding 25 pounds per package, individually addressed to the buyer and not for resale, and export shipments are exempt from the container requirements of the handling regulation. Special purpose shipments for charity, relief, canning, or freezing are exempt from the grade, size, container, and inspection requirements of the handling regulation if they are handled in accordance with the safeguards established in

§ 959.322(g). Moreover, regulation exemptions for experimental onion shipments can be authorized by the committee provided the shipments are made in accordance with safeguards established in § 959.322(g). Finally, any handler may handle, other than for resale, up to 110 pounds of onions per day without regard to the handling requirements.

The additional size designations "Large" and "Extra Large" will bring these designations into conformity with industry marketing terminology. Another action changes the termination date of inspection requirements from June 15 to May 31 to relieve an undue inspection cost in a minor production area. The area is the "Winter Garden" area of Texas which produces a very small part of the South Texas onion production each season and is located far from the primary production area inspection facilities. This date is also when the primary production area handlers usually complete their operations. Inspection requirements for these handlers also will be terminated on May 31 each season.

A final change is made to both § 959.322(i) and § 980.117 to clarify that the beginning of the effective regulation period for imports begins March 10, the same date as the beginning of the handling regulation for domestic onions grown in South Texas and ends May 31 of each season. This change provides importers with adequate notice as to when the South Texas requirements apply each year and allows them to plan accordingly.

It is the Department's view that the impact of the changes upon growers and handlers and importers will be favorable. The changes relieve restrictions and make clarifications. Thus they will not impose any additional costs.

This rule is issued under marketing agreement and Order No. 959, both as amended, regulating the handling of onions grown in designated counties in South Texas. The program is effective under the Act. Shipments of these onions are regulated under a handling regulation contained in § 959.322. Section 959.322 was amended and published in the **Federal Register** on March 5, 1986 (51 FR 7547). The South Texas Onion Committee, established under the order, is responsible for its local administration.

In October 1981 the committee recommended, and the Secretary approved, a handling regulation (47 FR 8551) which would continue in effect from marketing season to marketing season indefinitely unless modified, suspended or terminated by the Secretary upon recommendation submitted by the committee or other information available to the Secretary.

A proposed rule inviting comments on this action was published in the March 11, 1987, **Federal Register** (52 FR 7431). Interested persons were given until March 26, 1987, to file written comments. Subsequently the comment period was extended to April 15, 1987, to provide interested persons additional time to submit comments. This extension was published in the March 27, 1987, **Federal Register** (52 FR 9870). A total of 17 comments were received on the proposal. A majority of the comments pertained to the proposed requirement in § 959.322(c) that handlers pack three- to four-inch (Jumbo) Texas Grano 1015Y onions in cartons, the size specifications (diameter ranges) proposed for "Jumbo" and "Colossal" onions in § 959.322(b) (4) and (5), the proposed use of the term "Colossal" as a size designation, and a recommendation that the size designations and diameter ranges should apply to both white and yellow varieties of onions.

The proposed amendment to the handling regulations requiring Texas Grano 1015Y onions which are three-to four-inches in diameter to be packed in 40- and 50-pound cartons for the 1987 and subsequent seasons was recommended by the South Texas Onion Committee. According to the committee, this onion bruises more easily than other varieties of onions. The purpose of the requirement was to protect these onions from bruising during packaging and transportation and thereby assure their quality and condition in the marketplace. The goal was to provide consumers with reliable consistent quality to foster repeat purchases, reduce shrinkage, and improve the industry's economic returns.

Three of the commenters supported the mandatory use of cartons for the Jumbo Texas Grano 1015Y onion for the reasons stated in the proposal. Thirteen commenters opposed the mandatory use of containers at this time but 12 of them supported the discretionary use of 40- and 50-pound cartons for all onion varieties on a commercial basis. Some of these commenters indicated that the exclusive use of cartons as proposed was not in the best interest of growers at this time because the shipping season has already begun and handlers did not have adequate time to prepare for shipping onions in cartons.

The benefits of cartons were determined based on industry experience during the 1986 season, when carton shipments were authorized on a special purpose/experimental shipment basis. Many of the commenters believe that one season's experience in handling onions in cartons is insufficient to mandate a switch to handling the Texas Grano 1015Y exclusively in cartons. One commenter indicated that less than one percent of the total industry shipments were made in cartons last year and that such was not an adequate sample to show that cartons work better than mesh bags. These commenters also pointed out that some handlers are not equipped to properly handle onions in cartons and the mandatory carton requirement would result in added expenses in setting the necessary equipment required to handle the onions in cartons. Others indicated that mesh bags have been the traditional container in which onions have been handled and that there is a reluctance to switch to cartons for the short Texas Grano 1015Y season (approximately two months.

One commenter indicated that his firm helped pioneer the use of the carton last season in shipping Texas Grano 1015Y's and that they were very successful. However, this commenter also indicated that the use of the carton will never eliminate the use of the mesh bag, and there are certain types of users who will always need to use bags. In other words, allowing the handlers to pack all onions, regardless of variety, in 40- and 50-pound cartons and/or 50-pound mesh bags would allow each handler to decide which packing is better for his/her needs.

Two commenters indicated that onions in cartons would only be shipped in refrigerated containers and that once onions are refrigerated they must remain refrigerated or they will sweat. This sets up conditions for mold and decay and reduced shelf life and would be counterproductive to the anticipated quality improvements expected by the committee. Currently the majority of onions are shipped in open top trucks with no refrigeration, and many receivers have limited refrigeration space.

Success in using cartons can only be achieved through additional exprience in harvesting and packing more of these onions in cartons. The exclusive use of cartons for these onions should only be decided after the industry has acquired firsthand experience.

Based on the information presented in the comments and the background and supporting information submitted by the committee on the mandatory carton proposal, the Department has determined that additional experience is needed to determine whether mandatory use of cartons would be beneficial. The information submitted does not adequately justify the exclusive use of cartons. However, it does support a regulation which allows handlers to pack all varieties of onions in 40- and 50-pounds cartons free of the experimental/special purpose reporting and safeguard requirements applied last season on such shipments, in addition to the existing container requirements. Therefore, this rule will change paragraphs (c), (f), and (g) of § 959.322 accordingly.

In the proposal, "Jumbo" onions were defined in § 959.322(b)(4) as onions 3 to 4 inches in diameter, and "Colossal" onions were defined in § 959.322(b)(5) as onions 4 inches or larger in diameter. Several commenters pointed out that the size designation of "Colossal" could be confused with the onion variety of the same name and recommended that the term "Colossal" be changed to "Extra Large." These commenters also pointed out that it would be difficult to size onions in normal packing operations according to the proposed size specifications. To overcome this, commenters recommended that § 959.322(b)(4) be changed to "Jumbo" or "Large—3 inches or larger. In addition, many suggested that the proposed "Colossal" size designation be changed to "Extra Large" and that the size specification be changed to 3–3/4 inches or larger in diameter. These comments have substantial merit and have been incorporated in the final rule. In addition, some commenters, apparently believing that the proposal included a varietal distinction, suggested that the additional size designation apply to yellow varieties in addition to white varieties. The proposal did not make a varietal distinction and, therefore, this rule will apply to both yellow and white varieties.

None of the commenters opposed the amendment that will relieve handlers in a small volume production area from an inspection burden. Previously, the minimum grade and size requirements and the prohibition against Sunday packaging, loading, and handling onions terminated on June 1 of each season. The container and inspection requirements continue in effect until June 15, the end of the effective period of the handling regulation. This amendment will include the inspection requirements in the list of provisions that are terminated before June 15 in order to relieve the "Winter Garden" area of Texas, which usually begins shipping in early June, from such requirements. This change relieves an undue inspection cost in a minor production area. The area produces a very small part of the South Texas onion production each season and is located far from the primary production area inspection facilities. Few onions are shipped during the June 1 to June 15 period. This relaxation in requirements should not adversely affect the program's effectiveness.

None of the commenters opposed the amendment to change the June 1 termination date for grade, size, inspection, and Sunday shipment handling requirements to May 31 so that requirements cease at the final day of the month rather than the first day of the following month.

Section 8e of the Act provides that whenever a Federal marketing order is in effect for onions, the importation of onions shall be prohibited unless the onions meet the grade, size, quality, and maturity provisions of the order which as determined by the Secretary of Agriculture, regulates the commodity produced in the area with which the imported commodity is in direct competition. Accordingly, § 959.322(i) of the handling regulation contains provisions which apply to imports during the approximately mid-March through May period of each year. The import regulation appears in § 980.117. While the earlier change in the termination date of May 31 from June 1 for grade and size will not require a change to these provisions, a change is made to both § 959.322(i) and § 980.117 to clarify that the beginning of the effective period for imports begins March 10, the same date as the beginning of the handling regulation for domestic onions grown in South Texas and ends May 31 of each season (the ending date of the South Texas handling regulation).

Furthermore, section 8e provides that whenever two marketing orders regulating onions produced in different areas of the United States are concurrently in effect, the Secretary shall determine which of the areas produces onions in most direct competition with the imported onions. Currently, onions are regulated on a twelve-month basis each season (August 1 to July 31) under the Idaho-Eastern Oregon Order No. 958. The South Texas Order No. 959 has historically been the dominant shipper and has been found to be in most direct competition with imported onions during the period March 10 through June 1 each season. With the change in the termination date of the effective period for the South Texas onion handling regulation, it is found that South Texas Order No. 959 is the dominant shipper and is in most direct competition with imported onions during the revised period March 10 through May 31. Accordingly, the importation requirements for onion imports during the period June 1 through March 9 will be those found in Order No. 958. A change to § 980.117 is made which will make the above changes to the applicable effective periods for imports. In addition, § 980.116 *Onion Import Regulation* is removed from the regulations because it is obsolete. The effective period for that regulation ended on April 30, 1978. None of the commenters opposed the above changes in the import regulation and some specifically supported such changes.

Therefore, after consideration of all relevant matter presented, including that in the notice, the information and recommendation submitted by the committee, the comments received, and other information, it is hereby found and determined that the amendments, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

It is further found that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** (5 U.S.C. 553). The harvest and shipment of 1987 crop onions has already started. Hence, this action must be made effective promptly to be in effect during the 1987 shipping season. Moreover, the provisions in the final rule are substantially less restrictive than those contained in the proposal which was published in the **Federal Register** on March 11, 1987. Handlers have been using various cartons, subject to committee approval, and may now use the 40- and 50-pound cartons at their discretion. Therefore, handlers do not require any additional time for preparation. No useful purpose would be served by delaying the effective date of these actions.

List of Subjects

7 CFR Part 959

Marketing agreements and orders, Onions, Texas.

7 CFR Part 980

Marketing agreements and orders, Imports, Onions.

For the reasons set forth in the preamble, 7 CFR Parts 959 and 980 are amended as follows:

1. The authority citation for 7 CFR Parts 959 and 980 continues to read as follows:

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

PART 959—ONIONS GROWN IN SOUTH TEXAS

2. Section 959.322 (47 FR 8551, March 1, 1982; 48 FR 7427, February 22, 1983; 48

FR 25169, June 6, 1983; 49 FR 4931, February 9, 1984; and 51 FR 7547, March 5, 1986) is hereby further amended by revising the introductory text of § 959.322, by revising paragraph (b)(4), redesignating paragraph (b)(5) as paragraph (b)(6), and adding a new paragraph (b)(5); by revising the introductory text of paragraph (c), revising (c)(4), and by adding new paragraphs (c)(5) and (c)(6); by revising paragraph (d)(1); by revising paragraphs (f)(2) through (f)(5), and removing paragraph (f)(6); by revising the introductory text of paragraph (g) and revising paragraph (i) as follows:

§ 959.322 Handling regulation.

During the period beginning on the effective date of this rule and ending on June 15 for the 1987 season and during the period beginning March 10, and ending on June 15 each season, no handler shall package or load onions on Sunday, or handle any onions, except red varieties, unless they comply with paragraphs (a) through (d), or (e), or (f) of this section. However, the requirements of paragraphs (a), (b), (d), and the Sunday prohibition shall terminate at 11:59 p.m. on May 31 of each season.

* * * * *

(b) * * *

(4) "Jumbo" or "Large"—3 inches or larger in diameter; or

(5) "Extra Large"—3¾ inches or larger in diameter.

(6) Tolerances for size in the U.S. onion standards shall apply except that for "repacker" and "medium" sizes not more than 20 percent, by weight, of onions in any lot may be larger than the maximum diameter specified. Application of tolerances in the U.S. onion standards shall apply.

(c) *Container requirements.* Except as provided in paragraph (f) of this section, only the following containers shall be used:

* * * * *

(4) 40-pound cartons, with an average net weight in any lot of not more than 45 pounds per carton; or

(5) 50-pound cartons, with an average net weight in any lot of not more than 55 pounds per carton.

(6) These container requirements shall not be applicable to onions sold to Federal agencies or for export.

(d) *Inspection.* (1) No handler may handle any onions regulated hereunder, except pursuant to paragraphs (e), (f)(1), or (f)(3)(ii) of this section unless an inspection certificate has been issued by the Texas-Federal Inspection Service covering them and the certificate is valid at the time of shipment. City destinations shall be listed on inspection certificates and release forms.

* * * * *

(f) * * *

(1) * * *

(2) *Gift packages.* The handling to any person of gift packages of onions not exceeding 25 pounds per package, individually addressed to such person and not for resale, is exempt from the container requirements of paragraph (c) of this section, but shall conform to all assessment requirements of § 959.42 and inspection requirements of paragraph (d) of this section, if such onions were not previously handled by a first handler. All such onions shall meet the grade and size requirements of paragraphs (a) and (b) of this section.

(3) *Experimental shipments.* (i) Upon approval of the committee, onions may be shipped in bulk bins with inside dimensions of 47 inches x 37½ inches x 36 inches deep and having a volume of 63,450 cubic inches, or containers deemed similar by the committee. Each container shall have a new perforated polyethylene liner at least 2 mils in thickness. Also, onions may be shipped in 25- and 20-pound cartons, upon approval of the committee. Such experimental shipments shall be exempt from paragraph (c) of this section but shall be handled in accordance with the safeguard provisions of § 959.54 and paragraph (g) of this section. The committee shall be notified of carton size and furnished a container manifest, and shippers must furnish the committee with outturn reports on such shipments.

(ii) Upon approval by the committee, onions may be shipped for other experimental purposes exempt from regulations issued pursuant to §§ 959.42, 959.52, and 959.60, provided they are handled in accordance with the safeguard provisions of § 959.54 and paragraph (g) of this section.

(iii) Upon approval of the committee, onions may be shipped for testing in types and sizes of containers other than those specified in paragraphs (c) and (f)(2) of this section, provided that the handling of onions in such experimental containers shall be under the supervision of the committee.

(4) *Export shipments.* (i) Upon approval of the committee, the prohibition against packaging or loading onions on any Sunday may be modified or suspended to permit the handling of onions of export provided that such handling complies with the procedures and safeguards specified by the Committee.

(ii) Following approval, if the handler grades, packages, and ships onions for export on any Sunday, such handler shall on the first weekday following shipment, cease all grading, packaging, and shipping operations for the same length of time as the handler operated on Sunday. Upon completion of such shipments, the handler shall report thereon as prescribed by the committee.

(iii) Export shipments shall also be exempt from all container requirements of this section.

(5) *Onions failing to meet requirements.* Onions failing to meet the grade, size, and container requirements of this section, and not exempt under paragraphs (e) or (f) of this section, may be handled only pursuant to § 959.126. Such onions not handled in accordance with paragraph (g) of this section shall be mechanically mutilated at the packing shed rendering them unsuitable for fresh market.

(g) *Safeguards.* Each handler making shipments of onions for relief, charity, canning, freezing, or experimental purposes shall: * * *

* * * * *

(i) *Applicability to Imports.* During the period beginning on March 10 and ending May 31, of each year, * * *

* * * * *

PART 980—VEGETABLES; IMPORT REGULATIONS; ONIONS

§ 980.116 [Removed]

3. Section 980.116 is removed.

4. Section 980.117 Import Regulations; Onions (43 FR 5499, February 9, 1978; 52 FR 8872, March 20, 1987) is amended by revising paragraphs (a)(2) and (b)(1) and (2) to read as follows:

§ 980.117 Import regulations; onions.

(a) * * *

(2) Therefore, it is hereby determined that: Imports of onions during the June 1 through March 9 period are in most direct competition with the marketing of onions produced in designated counties of Idaho and Malheur County, Oregon, covered by Marketing Order No. 958, as amended (7 CFR Part 958), and during the March 10 through May 31 period the marketing of imported onions is in most direct competition with onions produced in designated counties in South Texas covered by Marketing Order No. 959, as amended (7 CFR Part 959).

(b) * * *

(1) During the period June 1 through March 9 of each marketing year, whenever onions grown in designated counties in Idaho and Malheur County, Oregon, are regulated under Marketing Order No. 958, imported onions shall comply with the grade, size, quality, and maturity requirements imposed under that order.

(2) During the period March 10 through May 31 of each marketing year, whenever onions grown in designated counties in South Texas are regulated under Marketing Order No. 959, imported onions shall comply with the grade, size, quality and maturity requirements imposed under that order.

* * * * *

Dated: May 18, 1987.

Ronald L. Cioffi,

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

[FR Doc. 87-11796 Filed 5-21-87; 8:45 am]

BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Parts 1804, 1822, 1924, 1933, 1944, and 1980

Revision and Redesignation; Planning and Performing Site Development Work

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) has revised and renumbered its regulation pertaining to planning and performing site development work. This final rule implements statutory changes, and proposed rule comments and recommendations concerning the review and approval of subdivision and scattered site locations and development. The intended effect is to provide procedures and guidelines for preparing site development plans that will be consistent with Federal laws, regulations and Executive Orders. Also, it directs FmHA's financial assistance towards orderly development of rural areas and provides a planning process which considers impacts on the environment and existing development to formulate actions that advance FmHA program goals and protect, enhance and restore environmental quality.

EFFECTIVE DATE: June 22, 1987.

FOR FURTHER INFORMATION CONTACT: James A. Weibel, Senior Loan Officer, Single Family Housing Processing Division, Farmers Home Administration, USDA, Room 5346, South Agriculture Building, Washington, DC 20250. Telephone (202) 382-1485.

SUPPLEMENTARY INFORMATION: 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 nonmajor, because there is no substantial change from practices under existing rules that would have an annual effect on the economy of $100 million or more. There is no major increase in cost or prices for consumers, individual industries, Federal, State or local governmental agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

A proposed rule was published in the **Federal Register** Vol. 50, No. 4, Monday, January 7, 1985, on pages 815-834. Interested persons were invited to submit written comments, suggestions, or data for consideration by the Agency in the development of the final rule. Comments were received from 23 respondents. The respondents were comprised of builders, consumer advocates, USDA Office of Inspector General, American Congress on Surveying and Mapping, National Association of Home Builders, Housing Assistance Council, Inc., National Housing Law Project, and numerous FmHA State and District Offices. The written and oral comments of all these respondents have been carefully considered and evaluated, and many of the recommendations adopted, either in whole or in part, in this final rule.

The respondents commented on 148 specific sections or paragraphs that involved 11 different areas within the proposed regulation. The frequency of those comments occurred most often within three areas: Section 1924.102 General Policy, paragraphs (a) Rural development, and (d) Reciprocity of subdivision acceptance among Federal agencies; § 1924.105 Definitions, paragraphs, (c) Community, and (n) Subdivision; § 1924.107 Location, paragraph (d)(1).

The following revisions made to the proposed regulation are attributable to the comments received: The reciprocity provision was relocated to the subdivision review § 1924.119; a definition was added for "partially completed" as it pertains to existing subdivisions; the subdivision review § 1924.119 was divided into three different categories—new and less than partially completed subdivisions, existing subdivisions partially or more completed, and reciprocity among Federal agencies; addition of the provision for an abbreviated review process for subdivisions that are partially or more completed; reduction in the percentage of lots located within an existing subdivision that must be improved with residential dwellings, also a provision was added to consider both residential and nonresidential sites within an existing subdivision; the scattered site definition was expanded to include existing residential buildings; addition of a location and feasibility review to the scattered site § 1924.117; clarification and specificity were added concerning the location of subdivisions near the periphery of nonrural areas; addition of an exception by the State Director of the Covenants, Conditions, and Restrictions (CC&R) requirement; provision for FmHA to be a co-obligee on a local entity bonding or similar assurance requirement; clarification of the qualifications for professionals certifying documentations; and deletion or reduction of many of the requirements in Exhibit B. Also, there are numerous editorial and minor changes made to the proposed regulation and exhibits.

The area which generated the most interest and number of comments was § 1924.107, paragraph (d)(1) requiring that subdivisions be located within, or as an integral part of an eligible rural community identified and listed by the State Director. Several unfavorable comments were received on the proposed identification and listing of eligible rural communities. One industry respondent commented on that section:

> * * * The paragraph is, in a sense, a contradiction. I agree that the subdivision must serve residents of communities within eligible rural areas, but the way the section is written, some communities within eligible rural areas would be excluded. The elimination of sites near the periphery of nonrural areas is vague, not specifically identifying such sites, and it should be noted that to identify such site would effectively be to move the boundary lines of eligible areas on the maps.
>
> I would suggest that it would be much fairer to the areas in question, and much more consistent with regard to the maps which now exist, to require that the market studies or demand studies on FmHA forms demonstrate demand from only within the eligible area, excluding data from the ineligible areas.

FmHA agrees with much of the concern raised about this section and has rewritten the language to clarify subdivision locations near the periphery of nonrural areas. Also, the requirement that the State Director identify and list eligible rural communities within a State Supplement has been deleted. The Agency further agrees with the comment that market or demand studies for subdivision location and size would be more consistent and fair. Therefore, that concept has been incorporated in the final rule. However, the Agency continues to believe subdivisions should be located within, or an integral part of a community to promote orderly development of rural areas which will best serve the interest of the borrower and the Government.

The National representative for the housing industry submitted a comment and suggestion that the Agency: "* * * eliminate the subdivision approval procedure. Local and state standards can be maintained, * * *"

There are some areas, such as, the State of California which have subdivision standards very similar to FmHA that do expedite the review and approval process.

In an effort to eliminate duplication of review and to encourage local entities to enforce satisfactory minimum standards for subdivision development this regulation contains a local entity designation provision. Under this procedure, FmHA will conduct an abbreviated review for any subdivision submittal from within the jurisdiction of a local entity designated by the State Director.

Agency experience has been that many rural areas served by our programs do not have adequate existing local or state standards and, in some areas, there are no standards whatsoever. Because of that deficiency FmHA developed subdivision regulations in 1973 to provide uniform and consistent guidance to eliminate the recurring problems in those areas without adequate standards. Since that time few rural areas have moved towards self regulation and subdivision standards which would allow FmHA to reduce or eliminate their standards.

Several general comments were received suggesting that the Agency deregulate. In response to those comments Exhibit B was revised deleting or reducing many of the requirements for residential block design, lot layout, street patterns and construction, hillside development, and grading and drainage design.

Finally, in the proposed regulation the number of lots necessary to be a subdivision was ten. This was an increase from the existing five lot requirement and was done in part to be consistent with the Department of Housing and Urban Development (HUD) definition of a subdivision. Since that time HUD has changed their requirements which are now different than FmHA's. In addition, Subpart G of Part 1940 of this chapter, "Environmental Program" requires an environmental assessment for financial assistance which involves at least five lots. Therefore, to be consistent with Subpart G of Part 1940 of this chapter, the subdivision definition was changed back to include development of five or more lots.

Also, Subpart A of Part 1924-A of this chapter was amended to conform with the requirements of this final rule.

This activity is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials (7 CFR Part 3015, Subpart V, 48 FR 29112, June 24, 1983). The FmHA programs and projects which are affected by this instruction and also subject to intergovernmental consultation are listed by the Catalog of Federal Domestic Assistance titles and numbers as follows:

Low Income Housing Loans (section 502 Rural Housing Loans)—10.410, Farm Labor Housing Loans and Grants—10.405, Rural Housing Site Loans (sections 523 and 524 Site Loans)—10.411, Rural Rental Housing Loans—10.415, Very Low Income Housing Repair Loans—10.417, and Rural Self-Help Housing Technical Assistance—10.420.

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

List of Subjects in Parts 1804, 1822, 1924, 1933, 1944, and 1980

Housing standards, Low and moderate income housing, Rural areas.

For reasons set out in the preamble, Chapter XVIII, Title 7 of the Code of Federal Regulations is amended as follows:

PART 1804—PLANNING AND PERFORMING DEVELOPMENT WORK [REMOVED AND RESERVED]

1. Part 1804 is removed and reserved.

PART 1822—RURAL HOUSING LOANS AND GRANTS

1a. 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 1822.267, paragraph (e), and § 1822.271 paragraph (b)(3)(v) are revised to read as follows:

§ 1822.267 Special conditions.

* * * * *

(e) *Development Policies.* Development will be planned and performed in accordance with Subparts A and C of Part 1924 of this chapter, and certain information in a guide entitled "Planning and Development Building Sites" available at all FmHA offices.

* * * * *

§ 1822.271 Processing applications.

* * * * *

(b) * * *

(3) * * *

(v) Proposed subdivisions will comply with the local codes and ordinances and also meet the requirements of Subpart C of Part 1924 of this chapter.

* * * * *

PART 1924—CONSTRUCTION AND REPAIR

3. The authority citation for Part 1924 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.

Subpart A—Planning and Performing Construction and Other Development

§ 1924.5 [Amended]

4. Section 1924.5, paragraph (d)(2) is amended by removing the words "§ 1804.74 of Subpart D of Part 1804 of this chapter (FmHA Instruction 424.5)." and inserting in their place, the words "Subpart C of Part 1924 of this chapter."

5. Section 1924.5, paragraph (e)(2) is amended by removing the words "should also be guided by the requirements of Subpart D of Part 1804 of this chapter (FmHA Instruction 424.5)." and inserting in their place, the words "must meet the requirements of Subpart C of Part 1924 of this chapter."

6. Section 1924.5, paragraph (e)(4) is amended by removing the words "be guided by Exhibit J of this subpart." and inserting in their place, the words "meet the requirements of Exhibit J of this subpart and Subpart C of Part 1924 of this chapter."

Exhibit I—Part 1924 [Amended]

7. Exhibit I, Sections 301-2 and 301-3 are amended by removing the words "Subpart D of Part 1804 of this chapter (FmHA Instruction 424.5)." and inserting in their place, the words "Subpart C of Part 1924 of this chapter."

Exhibit J—Part 1924 [Amended]

8. Exhibit J of Subpart A is amended by revising the definition for manufactured home subdivision in paragraph A III, and by revising

paragraphs A V B1, BIF, BIH, BIIA introductory text, BIIA6, BIIB4, BIIIA, CIII, and CIV.

Part A—Introduction

* * * * *

III. * * *

* * * * *

Manufactured Home Subdivisions. Five or more contiguous (developed or undeveloped) lots, or building sites that meet the requirements of Subpart C of Part 1924 of this chapter.

V. * * *

* * * * *

B. * * *

1. Subpart C of Part 1924 of this chapter, "Planning and Performing Development Work."

* * * * *

Part B— * * *

I. * * *

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F. The requirements for streets shall be those found in Subpart C of Part 1924 of this chapter.

* * * * *

H. Utilities for each manufactured home site, rental housing project or subdivision shall be designed and installed in accordance with Subpart C of Part 1924 of this chapter; and the State health authority having jurisdiction, and all local laws and regulations requiring approval prior to construction.

* * * * *

II. * * *

A. *General.* Scattered sites and subdivision developments will be planned and constructed in accordance with specific requirements of this subpart, Subpart C of Part 1924, and Subpart G of Part 1940 of this chapter, and the applicable FmHA/MPS or Model Building Codes acceptable to FmHA. Manufactured homes for development in a manufactured home community shall:

* * * * *

6. Have a manufactured home site, site improvements, and all other features of the mortgaged property not addressed by the Federal Manufactured Home Construction and Safety Standards, meet or exceed applicable requirements of this subpart and Subpart C of Part 1924 of this chapter, the FmHA adopted MPS except paragraph 31–2.2 or a Model Building Code acceptable to FmHA:

* * * * *

B. * * *

4. *Lot Size.* The size of manufactured home lots (scattered sites and subdivision) shall be determined by § 1944.11(e) of Subpart A of Part 1944 and Subpart C of Part 1924 of this chapter.

* * * * *

III. * * *

A. *General.* Manufactured housing rental developments shall be planned and constructed in accordance with requirements of Subpart C of Part 1924; this subpart; Subpart C of Part 1940, the FmHA/MPS; and the requirements of Subpart E of Part 1944 of this chapter.

* * * * *

Part C— * * *

* * * * *

III. *Subdivisions.* Subpart C of Part 1924 of this chapter will be used in preparing and providing supporting documents.

IV. *Rental Housing Projects.* Subpart C of Part 1924 of this chapter will be used in preparing and providing supporting documents.

* * * * *

Subpart C is added and reads as follows:

Subpart C—Planning and Performing Site Development Work

Subpart C—Planning and Performing Site Development Work

§ 1924.101 Purpose.

This subpart establishes the basic Farmers Home Administration (FmHA) policies for planning and performing site development work. It also provides the procedures and guidelines for preparing site development plans consistent with Federal laws, regulations and Executive Orders.

§ 1924.102 General policy.

(a) *Rural development.* This subpart provides for the orderly location and development of building sites and related facilities in rural areas. It is designed to:

(1) Establish standards for building-site design which will encourage and lead to the development of economically stable communities, and the creation of attractive, healthy, and permanent living environments.

(2) Provide for the consideration of energy-efficient land use practices in planning development. Such planning will include an evaluation of proven methods that will reduce the energy needed to install site improvements and to maintain the site and improvements.

(3) Encourage improvements planned for the site to be the most cost-effective of the practicable alternatives. Encourage utilities and services utilized to be reliable, efficient and available at reasonable costs.

(4) Provide for a planning process that will consider impacts on the environment and existing development in order to formulate actions that both advance FmHA program goals and protect, enhance, and restore environmental quality.

(5) Assure that all planned development will be integrated into the existing transportation systems to prevent traffic hazards and establish safe, convenient access to community services and facilities and provide for the efficient movement of individuals and goods.

(6) Assure that the proposed development by the applicant or developer will comply with the standards prescribed by this subpart.

(b) *Development related costs.*—(1) *Applicant.* The applicant is responsible for all costs associated with planning, technical services, and actual construction that have taken place before loan and/or grant closing. These costs may be included in the FmHA loan/grant as authorized by FmHA regulations.

(2) *Developer.* The developer is responsible for payment of all costs associated with development under this subpart.

(c) *Local regulations.* (1) The proposed development must comply with all applicable planning ordinances, codes, and regulations of the local, regional, or State planning agencies having jurisdiction.

(2) In addition to, or in the absence of local, regional or State regulations, the proposed development must meet the requirements of this subpart.

(3) In those areas where the FmHA State Director determines a local entity has site development design standards equal to or exceeding those of this

subpart and has proven capability to enforce those standards, the submittal requirements will be abbreviated under this subpart. This will eliminate duplication of local reviews and associated costs and time delays. (See § 1924.120 of of this subpart.)

§ 1924.103 Scope.

This subpart is to be used by FmHA personnel when the proposed development includes planning and performing site development work for Rural Housing (RH) loans for individuals. It also provides supplemental requirements for Rural Rental Housing (RRH) loans, Rural Cooperative Housing (RCH) loans, Farm Labor Housing (LH) loans and grants, and Rural Housing Site (RHS) loans. In addition, FmHA will consult with appropriate Federal, State, and local agencies, other organizations, and individuals to implement the provisions of this subpart.

§ 1924.104 [Reserved]

§ 1924.105 Definitions.

For the purposes of this subpart, the following definitions apply:

(a) *Applicant.* Any person, partnership, limited partnership, trust, consumer cooperative, corporation, public body or association that has filed a preapplication, or in the case of FmHA programs that do not require a preapplication, an official application with FmHA in anticipation of receiving or utilizing FmHA financial assistance.

(b) *Community.* A community includes cities, towns, boroughs, villages, and unincorporated places which have the characteristics of incorporated areas with support services such as shopping, post office, schools, central sewer and water facilities, police and fire protection etc., and are easily identifiable as established concentrations of inhabited dwellings and private and public buildings.

(c) *Contiguous.* Sharing a boundary, adjoining or adjacent. A lot or subdivision is considered to be continguous to other lots or subdivisions if it is adjoining, touching or adjacent. Lots or building sites which are in close proximity, but separated by streets, roads, driveways, or other open spaces are considered contiguous.

(d) *Construction or development.* Construction or development is the act of building structures and installing site improvements. Development may also refer to a site, a group of sites, a subdivision, rural rental housing, or some other group of dwelling units.

(e) *County Supervisor.* FmHA County Supervisor or Area Loan Specialist or their authorized representative, such as Assistant County Supervisor or Assistant Area Loan Specialist.

(f) *Developer.* Any person, partnership, public body or corporation which intends to develop a site(s) which will be acceptable for FmHA financing.

(g) *District Director.* FmHA District Director or his/her authorized representative, such as Assistant District Director or Area Loan Specialist.

(h) *Local entity.* Any city, town, village, county, borough, or parish which has legal authority to develop and enforce site development design standards.

(i) *Scattered site.* An individual single family dwelling site, with or without an existing residential building which may be located as an isolated site, or one of up to four contiguous sites in open country or a site within a subdivision or community.

(j) *Street surfaces.* Streets may be hard or all weather surfaced.

(1) *Hard surface.* A street with a portland cement concrete, asphalitic concrete, or bituminous wearing surface. Other hard surfaces may be used when acceptable to the local public body and suitable for use with local climate, soil, gradient, and volume and character of traffic as determined by the State Director.

(2) *All-weather.* A street that can be used year-round with a minimum of maintenance, such as the use of a grader and minor application of surface material. Surface material must be suitable for use with local climate, soil, gradient, and volume and character of traffic as determined by the State Director.

(k) *Subdivision.* Five or more contiguous (developed or undeveloped) lots, or building sites. Subdivisions may be new or existing.

(1) *New Subdivision.* Any planned division or contiguous development of land into lots or building sites. This applies to original subdividing and resubdividing, or the expansion of an existing subdivision.

(2) *Existing Subdivision.* Developed contiguous lots or building sites (with or without improvements).

(i) Partially or more completed—as it pertains to a subdivision means that:

(A) The local government has accepted the subdivision plan, its principal developments and right-of-ways;

(B) The construction of the streets, water and sewage systems and utilities are at the point which precludes any major changes; and

(C) Provisions are in place for continuous maintenance of the streets and water and sewage systems.

(ii) Less than partially completed—as it pertains to a subdivision means: the planning, construction and development of the subdivision does not meet the requirements of paragraph (k)(2)(i) of this section.

§ 1924.106 Planning development.

Planning is an evaluation of specific development for specific land uses. Planning must take into consideration topography, soils, climate, adjacent land use, environmental impacts, energy efficiency, local economy, aesthetic and cultural values, public and private services, housing and social conditions and a degree of flexibility to accommodate changing demands. Although all planning is the responsibility of the applicant or developer, close coordination must occur with local planning officials and with the respective FmHA office.

(a) *FmHA advice and assistance.* Applicants and developers shall be encouraged to seek the advice and assistance of FmHA before significant expenditures are made. Actions taken which are not in accordance with this subpart may jeopardize the possibility of receiving future financial (or other) assistance from FmHA. When receiving an inquiry about site development, the County Supervisor or District Director will:

(1) Discuss the requirements of FmHA with respect to compliance with local, regional, and State regulations; construction practices; energy efficiency; and, as applicable, those requirements with respect to nondiscrimination; market analysis; good house planning; and location.

(i) Requests for subdivision location and feasibility reviews for the development of new subdivisions must be in accordance with Subpart J of part 1940 of this chapter, (available in any FmHA Office.) "Intergovernmental Review of Farmers Home Administration Programs and Activities."

(ii) Whenever appropriate, applicants or developers must submit their proposals to the State Single Point of Contact for review and consideration prior to submittal to FmHA. The name of the Point of Contact is available from the FmHA State Office.

(2) Provide Form FmHA 1940-20, "Request for Environmental Information," and explain the requirements for compliance with Subpart G of Part 1940 of this chapter, as well as the limitations on applicants

during the application review process as prescribed in § 1940.309 of Subpart G of Part 1940 of this chapter.

(3) Provide information regarding publications, site planning, engineering data, environmental data, soils data, and other technical advice and assistance which are available through local, State, and Federal agencies, planning commissions, and private institutions and organizations.

(4) Provide the following assistance for proposals to develop a new subdivision or for approval of an existing subdivision:

(i) Explain to the applicant or developer the need to complete Form FmHA 1924–20, "Request for Subdivision Location and Feasibility Analysis," to obtain FmHA assistance. Also, provide and explain Form FmHA 400–4, "Assurance Agreement," Form FmHA 400–1, "Equal Opportunity Agreement," and HUD Form 935.2, "Affirmative Fair Housing Marketing Plans," and

(ii) Provide this subpart including Exhibits A and B to the applicant or developer.

(iii) Explain to the applicant or developer it is their responsibility to comply with the Interstate Land Sales Full Disclosure Act. (15 U.S.C. 1701 *et seq.*)

(5) For multiple family housing projects, provide Exhibit C of this subpart to the applicant or developer.

(b) *Technical services.* (1) Professional assistance is available from the Soil Conservation Service (SCS) and the Cooperative Extension Service.

(2) An applicant or developer proposing a new subdivision, completing or expanding an existing subdivision, or proposing a multiple family housing project which requires architectural services under § 1924.13(a) of Subpart A of this part, must contract for the technical services of an architect, engineer, land surveyor, landscape architect, or site planner, as appropriate, to provide complete planning, drawings, and specifications. Such services may be provided by the applicant's or developer's "in house" staff subject to FmHA concurrence. Technical services must be performed by professionals who are qualified and authorized to provide such services in the State in which the project would be developed. All technical services must be provided in accordance with the requirements of professional registration or licensing boards. For payments for technical services, follow § 1924.102(b) of this subpart.

(3) For developments not specifically required to have technical services under paragraph (b)(2) of this section, such services may be required by the State Director when construction of streets or installation of utilities is involved.

(4) At completion of all construction or completion of a phase or phases of the total project, the person or persons providing technical services under this section must notify the FmHA County or District Office in writing that all work has been completed in substantial conformance with the approved plans and specifications.

(c) *Drawings, specifications, contract documents, and other documentations.* Adequate drawings and specifications must be provided by the applicant or developer to fully describe the work. Required drawings and specifications are described in Exhibits A and C and supplemented by Exhibit B of this subpart. Contract documents must be prepared under § 1924.6 or, in the case of more complex construction, § 1924.13 of Subpart A of this part.

(1) Exhibit A of this subpart should be used as a guide by the applicant or developer in preparing a proposal, and in providing supporting documents for a site development of 5 or more sites.

(2) Exhibit A will also be used by FmHA County Supervisors, District Directors and State Directors in checking subdivision submissions.

(3) Other documents listed as additional supplemental information may be included in the proposals to illustrate and further clarify difficult areas of development and to help reduce possible misunderstandings.

(4) Exhibit C of this subpart should be used as a guide by the applicant or developer in preparing a proposal and supporting documents for multiple family housing projects which require architectural services.

§ 1924.107 Location.

Site selection is the most important phase of development. It is imperative that the applicant or developer conduct preliminary site investigations before purchasing the land. These investigations should be conducted with an understanding of FmHA policies regarding site selection. Stated in this subpart and in Subpart G of Part 1940 of this chapter are several key site selection criteria. (See § 1940.304 for a summary of pertinent locational requirements.) For example, FmHA will not fund any proposal which will convert floodplains, wetlands, important farmlands, prime forestlands or prime rangelands unless there is no practicable alternative to such conversion. Developments adversely affecting properties listed or eligible for listing on the National Register of Historic Places are to be avoided. No development will be approved within a Coastal Barrier Resource System and development on those portions of barrier islands not within the System is to be avoided. A site will not be selected for the purpose of excluding any group of individuals because of their race, color, national origin, sex, age, religion or handicap. In order to be eligible for FmHA participation:

(a) The proposal must be coordinated with the planning agency having jurisdiction.

(b) The site must be located in an eligible area as defined in the program regulations under which the development is being funded.

(c) The proposal must comply with the applicable environmental laws, Executive Orders, and Subpart G of Part 1940 of this chapter.

(d) The proposal must comply with the following, when the applicant or developer intends to develop a subdivision:

(1) The subdivision must be located within, or as an intergral part of, rural community and have access to all essential services available to the general population within the community.

(2) The subdivision must serve residents of eligible rural communities. Subdivisions proposed near the periphery or nonrural areas that are not part of, or associated with eligible rural communities will not be approved.

(3) The subdivision location must provide a desirable, safe, functional, and attractive living environment for the residents and be convenient to services such as shopping, schools, churches, employment opportunities, recreation and communications.

(4) The subdivision must be located and planned to ensure long-term market demand and acceptability. The size and location of the subdivision will be based primarily upon the need and demand from permanent residents of the area the subdivision will serve.

(5) For subdivisions of more than 25 new residential housing sites applicants or developers shall make a complete market analysis showing the need and demand for sites and housing within the community and surrounding trade area in which the subdivision will be located. The information needed in the market analysis includes:

(i) Identification of the specific boundaries of the market area analyzed.

(ii) Estimate of the number of housing sites currently available.

(iii) Average size and cost of available housing sites.

(iv) Estimate of the number of existing housing stock, also an indication of the quality, size, and age of the structures.

(v) Estimate of the number of houses currently on the market for sale and average number of days on the market before selling.

(vi) Complete documentation and supporting material outlining how the market analysis was conducted and how the estimated amounts used were obtained.

(vii) Any other physical, economic, or sociological factors which may affect the size or location of the subdivision.

(e) A scattered site must be planned and developed under this subpart, Subpart A of Part 1944, and Subpart G of Part 1940, with particular emphasis on location as specified in § 1940.304. Random development of sites in open country is not an acceptable alternative to orderly growth within established communities. A scattered site must comply with all of the following:

(1) The site: (i) May be a separate lot or one of up to four contiguous lots which may be develped or undeveloped, which is not contiguous to a subdivision. Strategic placement of a lot(s) such as across the street, across an intersection, or separated only by minor open spaces from other lots is not to be used to circumvent this subpart, or

(ii) May be a lot within an existing subdivision where 60 percent or more of all the residential lots have existing single family dwellings. In this instance, an existing subdivision should generally conform with the requirements for subdivisions in § 1924.115 of this subpart; however, complete conformance is not mandatory. Building site(s) within subdivisions previously rejected by FmHA may be considered for financial assistance provided the conditions for which the subdivision was rejected have been removed or the conditions no longer apply for subdivision eligibility, or

(iii) May be a site located within a subdivision which has HUD or VA acceptance that meets the requirements of § 1924.119(c) of this subpart.

(2) The site must be located to provide a desirable, safe, functional, convenient, and attractive living environment for the residents.

(3) The site must be located to insure long-term market demand and acceptability.

§ 1924.108 Utilities.

Adequate, economic, safe, energy efficient, dependable utilities with sufficient easements for installation and maintenance are required.

(a) *Water and wastewater disposal systems.* (1) All developed sites shall be served by centrally owned and operated water and wastewater disposal systems unless such systems are determined by FmHA to be economically or environmentally unfeasible and the alternate solution developed and documented by the applicant's or developer's technical consultant is determined economically and environmentally acceptable and consistent with the intent of this subpart.

(2) All central systems, whether they are public, community or private, shall meet the design requirements of the State Department of Health or other comparable reviewing and regulatory authority. The regulatory authority will verify in writing that the water and wastewater systems comply with, or have an approved plan to bring the systems into compliance with the current provisions of the Safe Drinking Water Act and the Clean Water Act, respectively.

(3) Developments which are not presently served by a central system, but which are scheduled for tie-in to the central system within 2 years should have all lines installed during the initial construction. Such developments must have an approved interim water supply or wastewater disposal system installed capable of satisfactory service until the scheduled tie-in occurs.

(4) In addition to written assurance of compliance with State and local requirements, there must be assurance of continuous service at reasonable rates for central water and wastewater disposal systems. Public ownership is preferred whenever possible. In cases where interim facilities are installed pending extension or construction of permanent public services, the developer must assume responsibility for the operation of the interim facility or establish an acceptable entity for its operation. If a system is not or will not be publicly owned and operated it must comply with one of the following:

(i) Be an organization that meets the ownership and operating requirements for a water or wastewater disposal system that FmHA could finance under Subpart A of Part 1942 of this chapter or be dedicated to and accepted by such an organization.

(ii) Be an organization or individual that meets other acceptable methods of ownership and operation as outlined in HUD Handbook 4075.12, "Ownership and Organization of Central Water and Sewerage Systems." FmHA should be assured that it has the right, in its sole discretion, to enforce the obligation of the operator of water and/or sewerage systems to provide satisfactory continuous service at reasonable rates. The advice and assistance of the Regional Attorney should be obtained in preparing any necessary agreement wtih the organization or individual supplying water and/or sewerage systems.

(iii) Be adequately controlled as to rates and services by a public body (Unit of Government or public services commission).

(5) When central systems are not available, the approving official will thoroughly evaluate the proposed individual systems for economic and environmental feasibility. Information and guidance for site evaluation and design of individual water and wastewater systems is contained in EPA publications "Manual of Individual Water Supply Systems", and "Design Manual, Onsite Wastewater Treatment and Disposal Systems", respectively. For new or the expansion of existing subdivisions of more than 25 residential building sites, National Office concurrence is required before the State Director may approve the use of individual systems. A request for concurrence must contain written recommendations from the State Director and the technical staff in addition to the full documentation listed in paragraph (a) of this section. The State Director's evaluation must consider at least the following items:

(i) Statements from local health and regulatory authorities indicating specifically why connection to or installation of a central system is not feasible at this location.

(ii) A thorough State Office technical staff review of the proposal to use individual systems to determine whether central systems might be feasible considering the market for homes over a two- or three-year period at the proposed location. Generally, more lots of higher values will result when central systems are provided. This review will include an economic feasibility analysis which considers the differences in number of lots, value of lots, inititial construction costs, and operating costs of central systems versus individual systems. The analysis must take into account the possible uses of all land under the developer's control in the immediate area. Where comparable costs are found, central systems should be requried and appraisal allowances made to reflect the appropriate value of lots so served.

(iii) Information prepared by the local, county or State health authority and the County Supervisor, with written opinions of the Technical Staff of the State Office indicating whether individual systems are feasible on all the building sites in question. Supporting factual data should include evidence that clearly shows that individual systems will perform satisfactorily for a reasonable period of time with reasonable maintenance cost. Reasonable time and reasonable cost can be equated with the cost and expected life of a central system if one were available. An individual wastewater disposal system that requires cleaning or repairs every few months cannot be considered as giving satisfactory service or an individual water system that requires extensive treatment equipment to provide an acceptable safe, potable water supply cannot be considered as within reasonable cost. All documentation, calculations and written opinions substantiating the decision shall remain in the subdivision file.

(iv) Supporting information for the proposed individual water systems covering the following points:

(A) Documentation of how individual water supplies can be developed with satisfactory water production at a reasonable cost. In areas where difficulty is anticipated in developing an acceptable water supply and FmHA is providing financial assistance for site development, contingency funds must be included in the original loan estimate. Contingency funds may be necessary for items such as drilling to a greater depth than is common to other wells in the area, providing additional storage to supplement a limited source of water, or providing treatment to soften or correct some other quality defect. It is a good practice to confirm that an acceptable water supply is available early in the site development process. In extreme cases, the water supply should be developed before any other construction is started.

(B) Documentation that the quality of the supply must meet the chemical, physical and becteriological standards of the health authority having jurisdiction. The maximum contaminant levels of U.S. EPA shall apply. Individual water systems must be tested for quantity and bacteriological quality. Where problems are anticipated with chemical quality partial chemical tests may be required. Those tests would be limited to analysis for the defects common to the area such as iron and manganese, hardness, nitrates, pH, turbidity, color, or other undesirable elements. Polluted or contaminated water supplies are unacceptable.

(v) Supporting information for individual wastewater disposal systems with subsurface discharge as reported by a soil scientist, geologist, soils engineer, or other person recognized by the State regulatory authority. This data should include the following:

(A) Assurance of nonpollution of ground water. State Health authorities must be consulted to ensure that installation of individual wastewater systems will not pollute ground water sources or create other health hazards.

(B) Description of exploratory pit observations.

(C) Determination of soil types and description. The assistance of the SCS should be obtained for soil type determination and a copy of their recommendations included in the documentation.

(D) Description of ground water elevations showing seasonal variations.

(E) Records of percolation tests. Guidance for performing these tests is included in the EPA design manual, "Onsite Wastewater Treatment and Disposal Systems."

(F) Confirmation of space allowances. An accurate drawing to indicate that there is adequate space available on the site to satisfactorily locate the individual water and/or wastewater disposal systems, likewise, documented assurance of compliance with all local requirements. Structures served by wastewater disposal systems with subsurface discharge require larger sites than those structures served by another type system.

(vi) Supporting information for individual wastewater disposal systems with surface discharge covering the following points:

(A) Effluent standards issued by the appropriate regulatory agency that controls the discharge of the proposed individual systems.

(B) Assurance from the health authority having jurisdiction that the individual systems being proposed will not pollute the environment in excess of the limitation described in paragraph (a)(5)(vi)(A) of this section.

(C) Program of maintenance, parts and service available to the system-owner for upkeep of the system.

(b) *Electric service.* The power supplier will be consulted by the applicant or developer to assure that there is adequate service available to meet the needs of the proposed development.

(1) Within subdivisions, lines must be placed underground where required by local regulatory authorities and, in other cases, where economically feasible.

(2) Where lines are installed above ground, they should be located in rear lot easements, wherever practicable. In all cases, the poles, guy wires, braces, transformers, etc., will be located so as not to unnecessarily detract from the appearance of the property.

(c) *Gas service.* Gas distribution facilities if provided will be installed according to local requirements where adequate and dependable gas service is available.

(d) *Telephone service.* Telephone service will be available at all dwelling units and other structures as applicable. Facilities will be located in accordance with paragraphs (b)(1) and (b)(2) of this section.

(e) *Outdoor lighting.* Outdoor lighting will be provided when required by local authorities or when necessary to provide adequate safety, and provisions have been made to assure permanent operation and maintenance of the facilities.

(f) *Other utilities.* Other utilities, if available, will be installed according to local requirements.

§ 1924.109 Grading and drainage.

(a) Soil and geologic conditions must be suitable for the type of construction proposed. In questionable or unsurveyed areas, the applicant or developer will provide an engineering report with supporting data sufficient to identify all pertinent subsurface conditions which could adversely affect the structure and show proposed solutions.

(b) The applicant or developer must seek the advice of SCS regarding identification of soils and its characteristics that may cause problems in grading and drainage. Where soil and drainage difficulties are identified, SCS recommendations will be considered during preparation of the development plan.

(c) Grading must conform to all State and local regulations and, where applicable, a grading certificate shall be obtained and established procedures followed.

(d) Site grading will promote drainage of surface water away from buildings and foundations, minimize earth settlement and erosion, and assure that drainage from adjacent properties onto the site or from the site to adjacent properties does not create a health hazard or other undesirable conditions.

(e) Sites requiring extensive earthwork, cuts and fills of 4 feet or more, shall be designed by a duly licensed or registered engineer. Where topography requires fills of extensive earthwork that must support structures and building foundations, these must be controlled fills designed, supervised and tested by a qualified soils engineer.

(f) All slopes must be protected from erosion by planting or other means. Slopes may require temporary cover if exposed for long periods during construction.

(g) The design of storm water systems must consider convenience and property protection both at the individual site level and the drainage basin level. Storm water systems should be compatible with the natural features of the site.

(h) In areas with inadequate natural and/or manmade drainage systems, permanent and/or temporary storm water storage shall be an integral part of the overall development plan. Design of these facilities shall consider safety, appearance and economical maintenance operations.

§ 1924.110 Performing development.

All development will be arranged and completed by the applicant or developer according to applicable local, State or Federal regulations including applicable health and safety standards pertaining to building construction or development, and requirements of this subpart.

(a) The FmHA will not become a party to any construction or development contract. The applicant or developer will contract only with competent contractors. Contractors will provide the required bonding and insurance acceptable to FmHA and the applicant or developer under § 1924.6 of Subpart A of this part.

(b) The work will be performed in accordance with drawings and specifications approved by FmHA.

(c) Written assurance of completion from the responsible public authority will be required when local, city, county, State or other public authority codes, regulations and ordinances require inspections prior to final acceptance. Written assurance of completion and notification of completion from the person(s) providing technical services under § 1924.106(c) of this subpart is required prior to final acceptance by the FmHA.

§§ 1924.111–1924.113 [Reserved]

§ 1924.114 Multiple family housing.

Multiple housing developments will be planned and constructed under the appropriate requirements of this subpart, Subpart A of this part, and the requirements of the applicable program regulations.

§ 1924.115 New and less than partially completed subdivisions.

New and less than partially completed subdivisions must be planned and developed under the requirements of this subpart. The development of housing sites must also comply with the following:

(a) *Streets.* (1) Streets must conform to master street plans, design standards, and construction specifications of the local entity or State and the requirements of this subpart. Developments with more than 25 dwelling units must have two accesses available, unless after considering the safety and convenience aspects of the proposal an exception is granted by the State Director.

(2) Streets must be dedicated to and accepted by a public body which shall be responsible for continuous maintenance, except in multiple family housing projects where streets within the development may not be able to be publicly owned and maintained. Variations of this requirement shall not be authorized by the State Director without prior approval of the National Office.

(3) Hard-surfaced streets are mandatory. However, the State Director may make an exception to this requirement when *all* of the following conditions exist:

(i) They are not required by local ordinance and codes.

(ii) The property or subdivision is not adjacent to streets that are or soon will be hard-surfaced.

(iii) The street has an all-weather surface approved by and maintained by a public body.

(iv) The local authority to whom the street is to be dedicated does not have available the required equipment necessary for maintenance and will not accept dedication and be responsible for maintenance of hard-surfaced streets notwithstanding the fact that the hard surfacing would be provided initially by the applicant or developer in accordance with standard local requirements and practices.

(v) Other lending institutions and agencies active in the area will make housing loans or insure mortgages in the subdivision when it is provided only with all-weather streets.

(4) Any deviation from the requirements indicated in paragraph (a)(3) of this section will require an exception from the National Office. The request to the National Office must include documentation as to how many of the requirements of paragraph (a)(3) of this section are met and the following additional information:

(i) Map indicating location of subdivision or project site in relation to other subdivisions and the community with types of surfacing present on the access streets or roads to the proposed subdivision or project.

(ii) Complete street layout plan.

(iii) Street cross-sections with other necessary details.

(iv) Topographic maps.

(v) Drainage plans.

(iv) All specifications for proposed street construction.

(vii) Other pertinent information.

(5) Streets must have curbs or curbs and gutters for pavement edging to prevent ravelling of the wearing surface and shifting of the pavement base. The State Director may grant an exception to this requirement if adequate shoulders are provided.

(6) Preferably, dwelling units should be occupied after street hard surfacing is completed; however, occupancy may occur after the pavement base is in place and property cured. In cases of delays due to unsuitable weather conditions or when hard surfacing is not done by the developer but by the local public body, an all-weather street acceptable to the local public body shall be provided prior to occupancy.

(i) When the developer is responsible for providing street surfacing, a performance and payment bond, escrow agreement, irrevocable letter of credit, or similar assurance acceptable to the State Director must be provided by the developer to assure that the required street work will be completed within 1 year from the date dwelling construction is started. This assurance will remain in effect until the streets are accepted by the entity responsible for continuous maintenance. The State Director shall establish a policy for handling these matters according to local regulatory practice or requirements. Any such assurance will specifically name the United States of America acting through FmHA as an obligee in order to give FmHA the ability to enforce the assurance or collection of the bond if the streets are not properly surfaced. If a local entity requires similar assurance that a developer complete street or road surfacing as discussed in this paragraph, and if the local entity requires that it be named obligee, then the requirements of this paragraph may be satisfied by naming FmHA as a co-obligee to such assurance.

(ii) Where local public bodies provide final surfacing, the subgrade and base shall be prepared according to the specifications of the local body. Written assurance must be obtained from the public body that suitable hard surface will be provided within a reasonable period usually not more than one year.

(b) *Lot layout.* (1) All lots shall be surveyed and platted. Permanent markers shall be placed at all lot corners.

(2) Lots shall meet all requirements of State and local entities and the FmHA.

(3) Lot arrangement should provide for the most effective use of building sites. Street lengths and utility runs should be minimized.

(4) Lot layout should encourage orientation of the dwelling units for solar access.

(5) Unacceptable lots. Any review of the proposed development will include all the proposed lots. Those lots determined unacceptable because of unsuitable soils, exposure to noise, flooding, etc., shall be combined with acceptable lots, redesigned to eliminate the unacceptable conditions through the use of barriers or building orientation, or made a part of a common area to be dedicated to and maintained by a public body or homeowners association in order to prevent development financed elsewhere from adversely affecting the housing financed by FmHA.

(c) *Covenants, conditions and restrictions.* Covenants, conditions and restrictions (CC&R's) shall be developed to preserve the character, value and amenities of the residential community and to avoid or mitigate potential environmental impacts unless, an exception is granted by the State Director after considering the suitability of local ordinances, zoning, and other land use controls.

(1) CC&R's shall be recorded in the public land records and specifically referenced in each deed.

(2) It is the intent that through the CC&R's the:

(i) Developers will be assured the purchasers will use the land in conformance with the planned objectives for the community, and

(ii) Purchasers are assured the developer will proceed to use the land as planned and that other purchasers will use and maintain the land as planned to prevent changes in the character of the neighborhood that would adversely impact values or create a nuisance.

(3) The CC&R's recommended in HUD Data Sheet 40 should be considered as a starting point for developing CC&R's for a specific development. Due to the unique quality and character of each development the CC&R's should be submitted to FmHA for comment prior to recording.

(4) In order to permit the use of dwellings with passive or active solar systems, consideration should be given to including a covenant to protect the solar rights of the individual property owners.

§ 1924.116 Existing subdivisions partially or more completed.

Existing subdivisions partially or more completed must comply with § 1924.107 of this subpart and all other requirements in this section to be acceptable for FmHA financing except as provided in § 1924.119(c) for existing subdivisions which have been and still are accepted by HUD or VA. Subject to § 1944.10(g) of Subpart A of Part 1944 of this chapter, those subdivisions approved under prior FmHA regulations that do not meet the general policy of § 1944.102 of this subpart and the requirements of this section are acceptable for further development only for a period of two years after the effective date of this regulation. All subdivision plats recorded or subdivisions developed after the effective date of this regulation must be processed under § 1924.115 of this subpart unless an exception is granted by the State Director on the basis that the subdivision was not previously submitted for review for reasons other than circumventing the requirements of this subpart. Those granted exceptions will meet the requirements of development in § 1924.115 (a) and (b) of this subpart with only the following modifications:

(a) *Utilities.* (1) Written verification must be obtained from the appropriate regulatory agency that any existing central water or waste-water disposal system is operating in compliance with all State and local regulations and has sufficient capacity to serve the proposed development. If a system is not publicly owned and operated it must comply with § 1924.108(a)(4) of this subpart.

(2) If individual water or wastewater disposal systems have been in use and it is not feasible to convert to central systems, determine the following and process according to § 1924.108(a)(5) of this subpart.

(i) The residents of the subdivision will not be forced to install central systems within a year or two.

(ii) Verify that the existing individual systems are operable and giving satisfactory service at a reasonable maintenance cost. The local regulatory authority should assist in making this determination.

(3) Other utilities such as electricity, telephone, gas, outdoor lighting that were previously installed should be providing reliable, efficient service.

(b) *Streets.* If the streets within the existing neighborhood are soon to be paved and the local authorities will assess such costs to the homeowners, the applicant or developer shall inform FmHA and prospective purchasers of these intentions. Sites must be served by streets as provided in § 1924.115(a) of this subpart.

(c) *Lot layout.* Lots must continue to be developed according to the size and design of the existing development except where the prior design has proven uneconomical, unfeasible or unmarketable.

(d) *Covenants, conditions and restrictions.* Existing CC&R's must be carefully reviewed to ensure they generally conform to those required for subdivisions. It may be necessary to request assistance from the Office of General Counsel to complete the review. Any unacceptable language within the CC&R's must be modified as requested by FmHA before sites in the subdivision are acceptable.

§ 1924.117 Scattered site.

Scattered sites (developed or undeveloped) will be evaluated by the loan approval official to determine that the location and market are acceptable. A scattered site must be planned and developed under the applicable requirements of this subpart, Subpart A of this part, Subpart A of Part 1944, Subpart G of Part 1940, Subpart B of Part 1806 (FmHA Instruction 426.2) and State and local regulations.

(a) *Location and feasibility reviews.* All requests for FmHA financing for the development or purchase of scattered site(s) will be submitted to the County Supervisor and processed in accordance with this section.

(1) The County Supervisor will review the proposal and site(s) to determine if the scattered site(s) conforms with the applicable requirements of this subpart.

(2) When the District Director's review of a scattered site within a subdivision is required, the District Director will review the subdivision and site to determine acceptability. Site and subdivision acceptability will be documented in the county office operational subdivision file.

(b) *Utilities.* All essential utilities will be provided. If central water or wastewater disposal services are not available, individual systems must be feasible and supporting factual data should include evidence that clearly shows the system(s) will perform satisfactorily for a reasonable period of time at a reasonable maintenance cost (see § 1924.108, paragraphs (a)(5)(iv), (a)(5)(v), and (a)(5)(vi) for suggested evidence that should be required). Onsite water or wastewater disposal systems must pass required tests. Also, there must be no evidence of well or wastewater treatment system failures on other sites nearby which may adversely affect the subject site.

(c) *Streets or roads.* All scattered sites shall be contiguous to and have direct access from a(n):

(1) Hard surfaced or all-weather street or road which has been dedicated to and accepted by a public body which is responsible for continuous maintenance, (unless an exception is granted by the National Office), or

(2) Extended driveway which connects with a hard surface or all weather street or road that meets the requirements of paragraph (c)(1) of this section, and:

(i) The driveway has an all-weather or hard surface.

(ii) The driveway does not potentially serve more than two individual dwellings, and

(iii) The property includes title to or an easement to the driveway and it is included in the security for the loan. An extended driveway will normally not exceed three hundred (300) feet in length or be used to circumvent the development of publicly-owned streets or roads.

§ 1924.118 Modification of requirements and recommendations in this subpart.

Higher standards than outlined in this subpart may be required. The site development requirements of this subpart have been adopted as minimum standards. State or local authorities or the FmHA, however, many find it necessary to require standards above those in this subpart when the public health, safety or welfare would be better served by more stringent standards. Some examples of considerations for justification for higher standards are:

(a) The site cannot be served adequately and economically with such public and central facilities and services as are normally required. For example, if the local minimum lot size of 10,000 square feet does not provide an adequate absorption field area for individual subsurface wastewater disposal systems according to professional analysis of percolation tests and soil types on a particular site, the State Director may raise the minimum requirement to that which will be safe and sanitary.

(b) Land proposed for building sites may not be safely used because of danger from flood or other inundation or as a result of natural conditions which are a menace to health, safety or public welfare. For example, where the local public body does not, in the opinion of FmHA, have adequate drainage requirements, the State Director may require more rigid specific drainage standards than requested locally or than provided in this subpart. Another example would be that in certain cases the street drainage system must be tied in with irrigation or storm drainage systems to provide storm drainage in a controlled manner.

§ 1924.119 Subdivision reviews.

The review of subdivisions is divided into three subsections: New and less than partially completed, existing partially or more completed, and reciprocity of acceptance among Federal agencies. The applicable review subsection will be followed to determine subdivision acceptability. The inoffice processing times in this section are guidelines for timely processing of properly prepared submissions, and are not intended to delay the handling of reviews or discourage proper reviews of complex submissions. Unresponsive submittals will cause delays. Requests for exceptions must be forwarded to the approving officials as soon as possible after the need is identified and the documentation is assembled.

(a) *New and less than partially completed subdivisions.*—(1) *Location and feasibility submission.* When Form FmHA 1924–20 with attachments is received from an applicant or developer:

(i) The County Supervisor will:

(A) Handle inquiries and provide basic information about subdivisions processing.

(B) In those cases subject to intergovernmental review, assure that the requirements of Subpart J of Part 1940 of this chapter have been met.

(C) Immediately forward any submission to the District Director for review and advise the applicant or developer of the limitations on their actions that apply during the application review process, pursuant to § 1940.309 (e) of Subpart G of Part 1940 of this chapter, and that further processing will be handled by the District Office. The County Supervisor must include comments and recommendations in the remarks section of Form FmHA 1924–20 or on attached separate sheets.

(ii) Upon receiving a location and feasibility submission, the District Director must:

(A) In those cases subject to intergovernmental review, assure that the requirements of Subpart J of Part 1940 of this chapter have been met.

(B) Discuss with the applicant or developer Form FmHA 1924–20 and required documents to determine the completeness of the submission and the possible need for further information.

(C) Make a field visit or accompany the applicant or developer to the proposed site to review the feasibility of the location and to become familiar with the natural and fixed features influencing the site.

(D) If the proposal is within his/her approving authority under § 1924.121 of this subpart, make a comprehensive study to assure compliance with all local, regional and State regulations, codes, ordinances, plans for future development and compliance with this subpart. It may be necessary to contact the State Office Architect, Engineer or Environmental Coordinator during this review.

(E) When possible, the review should be completed within 30 days and a written analysis including recommendations or conditions provided the applicant or developer with a copy mailed to the County Supervisor.

(F) If beyond his/her approving authority, forward to the State Director with written comments and recommendations as soon as possible.

(iii) When the State Director's review of the location and feasibility submission is required, the State Director will:

(A) Make a comprehensive study to assure compliance with all local, regional and State regulations, codes, ordinances, plans for future development and compliance with this subpart. In making this study, the State Director will use the services of State Office personnel including the Architect, Engineer, and the State Environmental Coordinator as well as ensure that the personnel required by Subpart G of Part 1940 of this chapter undertake and complete the proper environmental review for the submittal.

(B) Provide a written analysis and guidance for further processing to the District Director with a copy to the County Supervisor.

(C) Whenever possible, complete this review within 30 days.

(iv) If the submission requires National Office review, the applicant or developer should be informed. In most cases, the State Director can expect a response within 45 days of the date of a routine request for review.

(2) *Preliminary submission.* When it has been determined by FmHA that the project is feasible and the location conforms with the intent of the funding program, the applicant or developer will submit the required additional information as pursuant to Exhibit A II of this Subpart.

(i) Upon receiving a preliminary submission, the District Director will:

(A) Review the comments concerning this development which were made at the time of location and feasibility analysis and verify conformance with any conditions imposed during the initial review.

(B) Review the drawings and specifications item by item with the applicant or developer to avoid any misunderstandings as to intent, extent, kind and quality of work to be performed and materials to be used. The District Director may find it necessary to contact the State Office technical staff in order to complete this review.

(C) Offer suggestions to the applicant or developer, when appropriate, as to how the design, drawings and specifications may be altered to improve the facilities and better serve the needs of the public. For revisions that require technical determinations, the applicant or builder-developer may be requested to obtain additional technical assistance.

(D) Act as outlined in paragraphs (a)(1)(ii)(D), (a)(1)(ii)(E), and (a)(1)(ii)(F) of this section.

(ii) When the State Director's review of the preliminary submission is required, the State Director must consider all recommendations made on the location and feasibility submission and act as outlined in paragraphs (a)(1)(iii)(A), (a)(1)(iii)(B), and (a)(1)(iii)(C) of this section.

(3) *Final submission.* (i) Upon receiving a final submission, the District Director will:

(A) Review the submission to determine the completeness of the drawings and specifications.

(B) Determine that approvals have been received for local, regional and State authorities having jurisdiction.

(C) Determine compliance with FmHA regulations, and

(D) Act as outlined in paragraphs (a)(1)(ii)(D), (a)(1)(ii)(E), and (a)(1)(ii)(F) of this section.

(ii) After approval, one copy of the final submission and evaluation will be forwarded to the County Supervisor. One copy should be placed in the District file. All additional copies, as appropriate, will be returned to the applicant or developer after the final review and a determination has been reached.

(iii) When the State Director's review of the final submission is required, the State Director must consider all previous recommendations and act as outlined in paragraphs (a)(1)(iii)(A), and (a)(1)(iii)(B), and (a)(1)(iii)(C) of this section.

(4) *Notification letters for subdivision review.* (i) The District Director will notify the applicant or developer in writing concerning the status of the proposal at the completion of each of the processing review stages. This notification will consist of either:

(A) A letter of acceptance suggesting that the applicant or developer continue with preparation of the materials for further submission to FmHA (See Guide Letter No. 1924-2) available in any FmHA office, or

(B) A letter explaining why the proposal is unacceptable. Possible reasons for rejecting the proposal may include, but are not limited to a proposed site location that would result in:

(*1*) The unnecessary conversion of important farmland, prime forestlands, prime rangelands, floodplains, or wetlands,

(*2*) The destruction of a property listed or eligible for listing on the National Register of Historic Places, and

(*3*) The isolation of housing and its residents from necessary services and utilities (See Guide Letter No. 1924.2), or

(C) Letter of approval (See Guide Letter No. 1924.4).

(ii) Before proceeding to the next submittal level, the applicant or developer must modify the proposal in accordance with FmHA recommendations, or provide acceptable alternatives.

(b) *Existing subdivisions, partially or more completed.* The review of existing subdivisions that are partially or more complete will follow the two-step process outlined below:

(1) *Location and feasibility submission.* The applicant or developer will submit FmHA Form 1924-20 and all information listed in Exhibit A, Section I of this subpart to the County Supervisor. The submittal will be processed in accordance with the procedure in § 1924.119(a)(1)(i) of this subpart.

(2) *Final submissions.* The applicant or developer will submit to the District Director all information listed in Exhibit A, Sections II and III of this subpart. The approval official may waive the requirements to submit any of the documentation listed in Exhibit A, Sections II and III, if such information is not available and is not necessary to verify that the subdivision conforms with the FmHA requirements in this subpart. The submittal will be processed in accordance with the procedure in § 1924.119(a)(3).

(c) *Reciprocity of subdivision acceptance among Federal agencies.* Subdivisions which the Department of Housing and Urban Development (HUD) or the Veterans Administration (VA) have determined acceptable will be processed under this section. The letter of subdivision acceptance used by those agencies are: HUD form 92258 and VA form FL 26-603A. HUD has two procedures for determining subdivision acceptance. Developer Certification (DC) and Local Area Certification (LAC). The DC procedure requires that the development meet HUD subdivision standards. In both cases, the developer certifies to HUD the development meets the applicable standards and any conditional requirements that were necessary for acceptance.

(1) Upon receiving a request for subdivision reciprocity acceptance for a subdivision which HUD or VA has determined acceptable:

(i) The County Supervisor or District Director will obtain from the applicant or developer a copy of the letter of acceptance (HUD form 92258 or VA form FL 26-603A). If HUD or VA issued a conditional acceptance or LAC certification, evidence must be included that those conditions have been satisfied. This informaiton along with appropriate comments will be forwarded to the State Director.

(ii) The State Director or a member of the State staff will immediately contact the issuing agency to determine if the letter of acceptance or LAC is still in effect, to verify any conditional requirements have been met, and to the extent practical, discuss and address any local problems pertaining to that subdivision. In the case of a Planned Unit Development (PUD), review of the Home Owners Association documents and covenants would be required. Responsibility for monitoring and completing subdivision improvements will remain with the agency issuing the approval.

(iii) When the State Director has determined that the subdivision is accepted by the issuing agency, the State Director will notify the County Supervisor or District Director the subdivision is acceptable and individual sites within that subdivision may be considered for financing. Each site must be considered individually and meet the conditions applicable to scattered sites under § 1924.117 of this subpart, Subpart A of this part, Subpart A of Part 1944, and Subpart B of Part 1806 (FmHA Instruction 426.6). Conditional commitments issued for sites within such a subdivision will contain a list of the specific improvements that must be completed under the issuing agency's requirements.

(iv) If a HUD or VA accepted subdivision contains uncompleted road(s) or street(s) that serve the site to be developed or financed, no financing will be approved until (A) the uncompleted streets or roads are completed or (B) FmHA is named as an obligee on a performance and payment bond, a completion bond, escrow agreement, irrevocable letter of credit, or similar assurance acceptable to the State Director that the roads and streets will be completed within one year from the date the financing is approved. If the streets or roads within the subdivision are all-weather surfaced which are satisfactory under § 1924.117(e), then a loan may be approved on the individual site without obtaining the bonding or other assurances required in (B) of the preceding sentence provided that for valuation purposes the site is valued based on the road surfaces then existing in the subdivision. Any bonds obtained under this subpart may name FmHA as an additional obligee on an existing bond favor of HUD or VA if the bond is otherwise satisfactory. Surety companies executing Bonds must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State where the subdivision is located.

(2) Upon request the state Director will provide evidence to HUD or VA of FmHA subdivision acceptance.

§ 1924.120 Local entity designation.

To eliminate duplication of review and to encourage local entities to adopt and enforce satisfactory minimum standards for subdivision development, FmHA will practice an abbreviated subdivision review procedure for any submittal from within the jurisdiction of a local entity designated by the State Director under this paragraph.

(a) *Determination.* A local entity with site development design standards equal to or exceeding those in this subpart and with the proven capability to enforce those standards shall be considered for designation. The State Director's determination for possible designation will be based on the successful completion of one or more developments under the jurisdiction of the local entity. The State Director will notify the local entity in writing of a favorable determination and indicate such to the appropriate District and county offices. This designation will be withdrawn immediately upon the local entity taking action to reduce its design standards or failing to enforce the standards. It should be clearly understood that FmHA reserves the right to make all decisions with regard to the eligibility of a proposed development for financing.

(b) *Subdivision reviews.* All site developments will be processed as outlined in § 1924.119(a)(1) of this subpart. This initial phase contains many items that cannot be delegated by FmHA. When FmHA determines the Subdivision Location and Feasibility Analysis submission is acceptable and a National Office waiver is not required, the applicant or developer will not be required to submit any additional documents for FmHA review until the development is complete. Upon completion of all development work, the local entity will provide FmHA written confirmation that the development was completed in accordance with approved drawings and specifications and is in compliance with their site design standards. If a local entity approved subdivision contains uncompleted road(s) or street(s) bonding or escrow funds must be provided in accordance with § 1924.115(a)(6).

§ 1924.121 Approval authority.

The State Director is responsible for implementing the authorities in this subpart. Tables 1 and 2 of this section summarize scattered site and subdivision review and approval authority of the County Office, District Office, State Office, and the National Office.

(a) *Subdivision approval or acceptance authority.* Subdivision approval or acceptance will be in accordance with Table 1 of this section.

(b) *Scattered site approval authority.* Scattered site approval will be in accordance with Table 2 of this section.

(c) *Redelegation of authority.* The State Director may redelegate review and approval authority to appropriate FmHA State Office employees under the following conditions:

(1) The employees have had sufficient training and have demonstrated the capability to perform the required actions, and

(2) A procedure is established to ensure the necessary input from the State Office Engineer/Architect/Environmental Coordinator, and

(3) Any redelegation must be in writing in accordance with FmHA Instruction 2006–F (available in any FmHA office).

SUBDIVISION APPROVAL OR ACCEPTANCE AUTHORITY

No. of sites [1]	County supervisor	District director	State director	National office
#Sites:				
5–25	No—Forward to District Director with recommendations.	Yes—If central water and sewer [2]. If individual water and/or wastewater systems are proposed, or unusual conditions exist forward to State Director.	Yes—Additional assistance may be requested.	Provide special assistance.
More than 25	No—Forward to District Director with recommendations.	No—Forward to State Director with recommendations.	Yes—Unless National Office concurrence or waiver is required.	Yes—All proposals where authority has not been delegated to State Director or when special assistance is requested.
5 or more HUD or VA accepted.	No—Forward to District Director with comments..	No—Forward to State Director with comments.	Yes—See § 1924.119(e)...	Provide special assistance.

NOTES:

[1] Strategic placement of lots, groupings and subdivisions will not be used to impair or circumvent these approval authorities. The approval authority for a phased project shall be determined by the size of the total proposal. Likewise, when only a portion of the site owned by the applicant is to be used, the approval authority shall be based on the total development capacity of the site.

[2] The District Director is responsible for obtaining the necessary technical assistance from the State Office Architect/Engineer in processing the proposal.

SCATTERED SITES APPROVAL AUTHORITY

Location [1]	County supervisor	District director	State director	National office
Open Country and Communities 1-4 Contiguous	Yes	Yes	Yes	
Subdivisions 60% or more filled out within or part of a community	Yes	Yes	Yes	
Subdivisions 60% or more filled out which are not within or part of a community.	Yes [2]	Yes	Yes	
FmHA accepted HUD or VA approved subdivisions	Yes	Yes	Yes	

[1] NOTES: It is the policy of the agency to encourage new FmHA financed development to take place within or in close association with existing communities and to have access to all services available within the community.

[2] Scattered sites within unapproved subdivisions, which are 60 percent or more filled out located outside communities, must be reviewed by the District Director prior to approval by the County Supervisor (See §1924.117(a)(2)).

§ 1924.122 Exception authority.

The Administrator may in individual cases, make an exception to any requirement or provision of this subpart which is not inconsistent with the authorizing statute if the Administrator determines that application of the requirement or provision would adversely affect the Government's interest. The Administrator will exercise this authority only at the request of the State Director and recommendation of the appropriate program Assistant Administrator. Requests for exceptions must be in writing by the State Director and supported with documentation to explain the adverse effect on the Government's interest, proposed alternative courses of action, and show how the adverse effect will be eliminated or minimized if the exception is granted.

§ 1924.123 State supplements and exhibits.

State Directors will obtain and issue National Office clearance for all State supplements and exhibits. These will be in accordance with FmHA Instruction 2006–B (available in any FmHA office).

(a) *State supplements.* State Directors may supplement this subpart only to meet State and local laws and regulations and to provide for orderly processing of submittals.

(b) *State exhibits.* State Directors may develop exhibits for use by applicants or developers if the exhibits to this subpart are not adequate for use in the State. Those exhibits may be developed to further explain the items needed within the various submittals; organization of those items; and coordination of this subpart with the requirements of the FmHA program(s) providing the financial assistance.

§ 1924.124 Exhibits.

State Directors may requisition additional copies of the exhibits to this subpart from the Finance Office for use by FmHA offices in assisting applicants and developers with site development.

§§ 1924.125–1924.149 [Reserved]

§ 1924.150 OMB control number.

The collection of information requirements in this regulation was approved by the Office of Management and Budget and assigned OMB control number 0575–0099.

Exhibit A—Checklist of Visual Exhibits and Documentation for Subdivisions

U.S. Department of Agriculture

Farmers Home Administration

This Exhibit lists visual exhibits and documentation necessary for FmHA to properly evaluate proposed development. Intermediate consultation by the applicant or developer with the FmHA County, District or State Offices should be as frequent as necessary to reduce chances of misunderstandings and limit the amount of nonproductive time and expense for all parties concerned.

I—*Location and Feasibility Exhibits:* The applicant or developer will submit the following information to the District Director to determine feasibility of the project and general conformance with FmHA policy:

A—*Form 1924–20, "Request for Subdivision Location and Feasibility Review."* The applicant or developer should fully complete the form and attach any information in addition to that listed herein that is essential in creating a clear understanding of the proposed development. This form is available at any FmHA office.

B—*Form 1940–20, "Request for Environmental Information."* Portions of the form must be completed when the submission contains more than 4 dwelling units and the entire form must be completed when the submission contains more than 25 dwelling units. The form and guidance concerning assembly of the information is available at any FmHA office.

C—*Form—400–1, "Equal Opportunity Agreement," and Form 400–4, "Assurance Agreement" (When applicable).*

D—*Location Map.* A general site location map of the area indicating the adjacent land uses and zoning, the present and future access roads to the site as well as the proximity to shopping, schools, churches, and major transportation facilities with note of traffic volumes. If a satisfactory map of the locality is not available, a clear and preferably scaled rough sketch map that provides the required information will be sufficient.

E—*Property Survey Map.* A current survey (where 1-inch represents no more than 100-feet) of the project site showing the boundaries as well as all existing known features specifically including utilities, easements, access roads, floodplains, drainageways, rock outcroppings and wooded areas or specimen trees. If a current survey does not exist, the most accurate document which is available will be submitted.

F—*Soils Map and Report.* A complete soils map and report, including "site specific" interpretations and recommendations, from the local or county representative of the U.S. Department of Agriculture, Soil Conservation Service (SCS) Office will be included with the location and feasibility submission. A determination of whether or not any lands described in USDA Regulation No. 9500–3 are impacted by the proposed development should also be included. The local SCS office may provide recommendations for the development of suitable drainage and landscaping plans later in the planning process.

G—*Market Survey.* Applicants or developers should conduct a market survey showing the need and demand for sites and housing within the community and surrounding trade area. Subdivision development of more than 25 new residential sites must have a complete market analysis completed in accordance with § 1924.107(d)(4).

H—*Request for Exceptions*. Any need for State or National Office exception(s) should be identified at this stage in the processing. Appropriate exception(s) should be requested and obtained prior to the preliminary submission.

I—*Other*. Optional information the applicant or developer of the project may wish to present such as:

1. Engineering report relative to the feasibility of central utilities by extension or creation of same onsite.

2. Dwelling drawings and specifications.

3. Site development information.

II—*Preliminary Submission Exhibits:* After it is determined by FmHA that the project is feasible and the location conforms with the intent of the funding program, the applicant or developer will submit the following information to the District Director in addition to those materials submitted previously:

A—*Property Survey*. A survey (were 1 inch represents no more than 100 feet) of the property and each individual lot showing the exact boundaries and corners of the property accompanied by a written description of said boundaries. Also, locations of predominant features such as utilities, easements, access points, floodplains, drainageways, rock outcroppings and wooded areas or specimen trees affecting the proposed development must be included. This document shall bear the seal of a professional licensed to provide surveying services in the State in which the subdivision would be located. This survey could be a part of item D below of this paragraph.

B—*Topographic Map*. An accurate topographic map showing existing and proposed contours with a scale compatible with the size of the project. The site shall be shown at a reasonable scale, usually 1″=100′ with 5-foot contour intervals. Where the site is unusually level or steep, the contour intervals may be varied accordingly.

C—*Preliminary Subdivision Plan*. A line drawing, to scale, showing proposed street locations with profiles and widths, lot layouts, major drainageways, and other development planned. Preliminary sections and details shall be provided for the street construction, curbs and gutters, drainageways, and other physical improvements.

D—*Preliminary Dwelling Drawings and Specifications*. If the applicant or developer intends to construct the dwelling units, preliminary floor plans and specifications, elevations and sample site plans showing the placement of the unit on the individual lots should be submitted.

E—*Statement of Planning and Zoning Compliance*. A statement must be submitted which sets forth local, county and State approvals as applicable. If change of zoning or variance is required, the status of the variance or change of zoning shall be documented.

F—*Technical Service Contracts*. Executed contracts for the professional services of a site planner, architect, landscape architect, engineer, or soil engineer will be submitted as appropriate for the planning of the proposed development.

G—*Utility Approvals*. Statements of approval and feasibility for utility systems as follows:

1. Verification of adequate capacity and approval to tie in with local existing water, wastewater disposal, electric, telephone, and other utility systems as appropriate.

2. Tentative approval of local or State health authority for individual waste disposal systems when it is clear a central system is unfeasible at that time. Use §1924.108 (a)(5) of this subpart when preparing information required.

H—*Facility Acceptance*. Evidence that the appropriate public body will accept and maintain streets, common areas, street lighting, side walks, and drainageways, when such facilities are to be dedicated to a public body.

I—*Preliminary Specifications*. Outline specifications describing all the proposed materials to be used and how they are to be applied. These are only the materials used in the land development and construction of the streets, drainage, and utility work.

J—*Conditions, Covenants and Restrictions*. A copy of the convenants prior to recording. Use HUD–FHA Date Sheet 40 as a guide for developments of single family detached dwellings. For those proposals including Planned Unit Developments (PUD) or homeowners' associations, the applicant or developer should contact the District Director for guidance.

K—*Incremental Slopes Plan*. If areas of common slope are not identified elsewhere in adequate detail, this information should be provided in a separate plan.

L—*Preliminary Grading Plan*. This plan will indicate degree of work required to provide positive drainage of all building sites and control measures to be taken to eliminate soil erosion. Dwelling locations may be shown if they can be predetermined.

M—*Plat*. A copy of the subdivision plat prior to recording.

III—*Final Submission Exhibits:* All decisions regarding the conceptual design of the proposed project should be made prior to this submission. This effort is mainly to demonstrate that those agreed upon concepts have been transformed into construction documents and the necessary approvals have been granted. All items requiring revision or more detailed information as determined by the review of the preliminary submission will be resolved before the applicant or developer prepares the final submission. All documents shall be executed in a prefessional manner and shall carry the appropriate designation attesting to the professional qualifications of the architect, engineer, land surveyor or planner. All documents will be accurately drawn at an appropriate scale. The submittal should include 3 copies of each item. Exhibits will include those items in paragraphs I–A, B, C, E and II–A previously submitted and at least the following additional items.

A—*Drawings and Specifications*. These documents will be complete, and suitable for construction. They will be identical to those approved by the regulatory authorities having jurisdiction over the project and include all the following.

1. Site plan showing the location of streets, alleys, easements, water supply and wastewater disposal systems, drainage structures, lot lines, etc. Include recreational and the special purpose or common areas.

2. Grading plan with any special instructions and appropriate cross-sections for street construction, curbs and gutters, retaining walls, sidewalks, etc.

3. Drainage plan showing all improvements designed to control on-site and off-site storm water including swales, culverts, retention basins, catch basins, drainage piping, manholes, and associated details necessary for construction.

4. Utility plans and related details for installation of water supply and wastewater disposal systems, natural gas lines, district heating lines, telephone and electric services, street lighting, as applicable, indicating associated permanent and construction easements.

5. Landscaping plan detailing the existing trees to be preserved and the methods by which this and the proper development of common areas and protective screens will be accomplished.

6. Complete specifications for all proposed development.

B—*Individual Lot Plans*. A typical dwelling site plan for each site involving a characteristic situation will be included. Drawings should normally be at a scale of 1″ = 20′ or 1/16″ = 1′0″. These typical plans should illustrate mixing of homes and varying setbacks.

Dwelling location for all lots are not mandatory; however, they may be shown on Item III A 1. in lieu of individual plot plans if dwelling locations can be determined and the plan scale is 1" =40' or larger. Individual site plans will be required as part of the individual applications before the development of a lot begins.

C—*Written Approvals.* Written statements will be included which verify the regulatory authorities having jurisdiction over the development have granted the necessary approvals. These approvals shall include at least the following:

1. Local, regional or State planning authority.
2. All utilities including water supply, liquid and solid waste disposal, electric, telephone, etc.
3. Common areas and similar facilities dedicated to and accepted by the public body which shall have the responsibility for continuous maintenance, or if National Office approval has been obtained, deeded to a properly organized home owners' association.
4. Streets dedicated to and accepted by the public body which shall have the responsibility for continuous maintenance, except for those cases waived by the State Director or the National Office.

D. *Recorded Subdivision Plat.*

E. *Recorded Covenants.*

F. *Surety.* If applicable, evidence that the sponsor will provide bonding or escrow funds in accordance with § 1924.115 (a)(6)(i).

G. *Affirmative Fair Housing Marketing Plan.* Housing and Urban Development (HUD) Form, 935.2 will be completed and signed by the applicant or developer prior to submission. The plan will be reviewed for adequacy by the District Director and signed by the appropriate approving official. This plan will remain in effect until the last lot or site to be developed has sold.

H. *Other.* Pertinent items that may be required in any particular situation such as homeowner association documents, special environmental clearances, etc.

Exhibit B—Site Development Design Requirements

This Exhibit prescribes site development requirements to be used in developing residential sites in all housing programs. These requirements cover only those areas which involve health and safety concerns. They are not intended to cover all aspects of site development. Applicants and developers are expected to follow local practice, as a minimum, in all areas of site development not addressed in this Exhibit. When State, local, or other requirements are applicable in addition to FmHA's requirements, the most stringent requirement shall apply.

Proper integration of the natural features of a site with the manmade improvements is one of the most critical aspects of residential development. Poor site planning in large scale subdivisions, rental projects and individual sites, has resulted in a loss of valuable private and public natural resources and caused economic burdens and conditions unsuitable for healthy and pleasant living. Proper site design can preserve desirable natural features of the site, minimize expenses for streets and utilities, and provide a safe and pleasant living environment.

Table of Contents

I. Streets

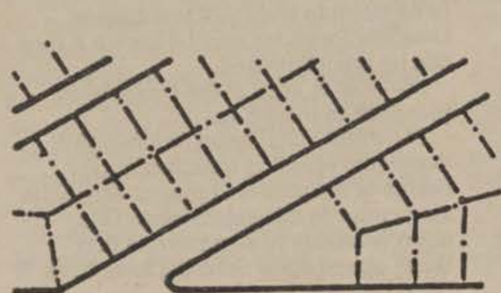
A. *Types*—1. *Collector streets.* Collector streets are feeder streets which carry traffic from local streets to the major system of arterial streets and highways. They include the principal entrance streets of residential developments and streets for circulation within such developments.

2. *Local streets.* Local streets are minor streets used primarily for access to abutting properties. These include drives serving multi-family housing units.

B. *Design Features*—1. *Emergency Access.* Access for fire equipment and other emergency vehicles shall be within 100 feet of main building entrances.

2. *Cul-de-sacs.* Cul-de-sac streets shall have a turn-around with an outside roadway diameter of at least 80 feet, and a right-of-way diameter of at least 100 feet.

3. *Intersection Angle.* Streets shall be laid out to intersect as nearly as possible at right angles and no street shall intersect any other street at an angle less than 75 degrees. Curb radii shall be a minimum of 20 feet for street intersections.



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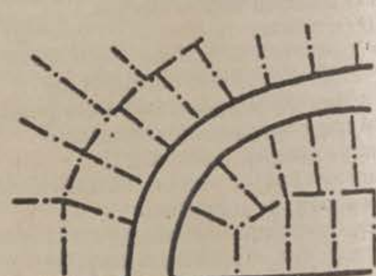

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4. *Intersection Sight Distance.* Adequate distances must be maintained at intersections. Vehicles must be visible when within 75 feet of the centerlines of uncontrolled intersecting streets.

C. *Street Geometry—1. Definitions.* The definitions in Sections I.C.1.a and I.C.1.b. apply to the requirements in Section I.C.2.

a. *Terrain Classifications.*

(1) Ordinary—Slope less than 8%.

(2) Rolling—Slope range of 8% to 15%.

(3) Hilly—Slope greater than 15%.

b. *Development Density* (Number of Lots). (land Area minus Undeveloped Areas greater than Average Lot Size)

(1) Low—Less than 2 lots per acre.

(2) Medium—2 to 6.0 lots per acre.

(3) High-More than six lots per acre.

2. *Design Requirements.* Collector streets and local streets shall comply with the requirements in Tables 1 and 2 unless an exception is granted by the State Director. These requirements may need modification in localities having winter icing conditions.

TABLE 1.—PAVEMENT WIDTHS (FEET)

Street type	On-street parallel parking	Development density		
		Low	Medium	High
Collector	Prohibited	26	32	36
Collector	No Restrictions	36	36	40
Local	Prohibited	18	18	20
Local	Partial, One Side [1]	18	20	26
Local	Partial, One Side [1]	22	26	32
Local	Total, One Side [2]	22	26	26
Local	Total, Both Sides [2]	26	32	36

(1) At least one parking space per dwelling is provided off-street.
(2) No parking spaces are provided off-street.

TABLE 2.—STREET DESIGN (FEET)

	Terrain		
	Ordinary	Rolling	Hilly
(1) *Collector street:*			
(a) Minimum centerline radius of curvature	300	225	150
(b) Minimum sight distance	250	200	150
(c) Minimum right-of-way width	60	60	60
(2) *Local Street:*			
(a) Minimum centerline radius of curvature	200	150	100
(b) Minimum sight distance	200	150	100
(c) Minimum right-of-way width [1]	50	50	50

(1) For cul-de-sac streets, the minimum right-of-way width is 40 feet.

D. *Construction.* Street configuration and wearing surfaces must provide safe and economical access to all building sites. The design and construction of the street shall be appropriate for all anticipated traffic, climatic and soil conditions. Streets shall meet or exceed all local, county, and State requirements.

II. Walks and Steps

A. *Walks.* Where walks are provided, they shall be located to assure a minimum vertical clearance of 7 feet from all permanent or temporary obstructions. Walks shall have a slip resistant surface.

B. *Exterior Steps Not Contiguous to Dwelling or Building.—1. Flight.* a. Single steps or flights of steps exceeding a vertical height of 12 feet shall not be accepted.

b. Steps shall be set back from an intersecting walk or drive a minimum of 1 foot at a retaining wall and 2 feet at slopes.

2. *Risers and Treads.* a. Risers shall be a maximum of 6 inches, a minimum of 3 inches and uniform throughout the flight.

b. Treads shall be a minimum of 12 inches and uniform throughout the flight.

c. Treads shall have a slip resistant surface.

d. Treads shall be pitched appropriately to ensure drainage.

3. *Landings.* a. Minimum length shall equal 3 feet or walk width whichever is greater.

b. A change in direction in a flight of stairs shall be accomplished only at a landing or by a winder which has a tread width at a point 18 inches from the converging end, equal to the full straight stair tread width.

4. *Handrails.* Stairways having a flight rise exceeding 30 inches shall have a 36 inch high handrail located on one side for stairs 5 feet or less in width and on both sides of stairways over 5 feet wide.

III. Grading

A. *Compaction*—All fill for street or home construction shall have compaction of not less than 95 percent maximum density, as determined by proctor or other accepted testing methods. Maximum thickness of compaction layers shall be 6 inches except where compaction equipment of demonstrated capability is used under the direction of a qualified soils engineer. Earth fill used to support a building foundation shall be a controlled fill which is designed, supervised, and tested by a qualified soils engineer in accordance with good practice.

B. *Gradients.* Grading design shall be arranged to assure safe and convenient all-weather pedestrian and vehicular access to residential buildings and to all other necessary site facilities. Site grading shall be designed to establish building floor elevations and ground surface grades which allow drainage of surface water away from buildings and adjacent sites. Grading design shall conform with Tables 3 and 4.

TABLE 3.—ACCESS AND PARKING GRADIENTS [1]

[In percent]

	Minimum		Maximum	
	Center line	Crown or cross slope	Center line	Crown or cross slope
Streets	0.5	1.0	14.0	5.0
Street Intersections	0.5	1.0	[2]5.0	5.0
Driveways ([3])	.05	1.0	14.0	5.0

TABLE 3.—ACCESS AND PARKING GRADIENTS [1]—Continued

[In percent]

	Minimum		Maximum	
	Cener line	Crown or cross slope	Center line	Crown or cross slope
Sidewalks ([4]):				
Concrete		0.5		
Bituminous		1.0		
Building Entrances & Short Walks	1.0		12.0	5.0
Main Walks	0.5		10.0	5.0
Adjoining Steps			2.0	
Landings		1.0		
Stepped Ramp Treads	1.0		2.0	5.0
Parking		0.5	5.0	5.0

[1] Approximate Equivalents .5% = 1/16"ft., 1.0 = 1/8"ft., 2.0% = 1/4"ft., 5.0% = 5/8"ft., 10.0% = 1 1/4"ft., 12.0% = 1 1/2"ft., 21% = 2 5/8"ft.

[2] Grades approaching intersections shall not exceed 5 percent for a distance of not less than 100 feet from the centerline of the intersection.

[3] Vertical transitions shall percent contact of car undercarriage of bumper with driveway surface.

[4] Five percent maximum for major use by elderly tenants.

TABLE 4.—SLOPE GRADIENTS [1]

[In percent]

	Minimum	Maximum
Slope Away From Foundations:		
Pervious Surfaces	[2] 5.0	[3] 21.0
Impervious Surfaces	[2] 1.0	21.0
Previous Surfaces:		
Ground Frost Area	2.0	
Non-Ground Forst Areas	[4] 1.0	
Impervious Surfaces	0.5	
Slopes to be maintained by Machine		[3] 33.0

[1] See Table 3, footnote (1).

[2] Minimum length of 10 feet or as limited by property lines.

[3] Minimum length of 4 feet.

[4] The minimum is 2.0% if the annual precipitation is more than 50 inches.

IV. Drainage

1. *General—1. Collection and Disposal.* Surface and subsurface drainage systems shall be provided, as appropriate, for collection and disposal of storm drainage and subsurface water. These systems shall provide for the safety and convenience of occupants. They shall protect dwellings, other improvements and useable lot areas from water damage, flooding, and erosion.

2. *Concentrated Flow.* Where storm drainage flow is concentrated, permanently maintained facilities shall be provided to prevent significant erosion and other damage or flooding on site or on adjacent properties.

B. *Drainage Design and Flood Hazard Exposure—1. Storm Frequency.* Drainage facilities shall be designed for a 10 year storm frequency of 24-hour duration. Full potential development of all contributing areas shall be used as a basis for this determination.

2. *Street Drainage.* Streets shall be useable during runoff equivalent to a 10-year return frequency. Where drainage outfall is inadequate to prevent runoff equivalent to a 10-year return frequency from ponding over 6 inches deep, streets shall be made passable for local commonly used emergency vehicles during runoff equivalent to a 25-year return frequency except where an alternative access street not subject to such ponding is available.

3. *Foundation Drainage.* Appropriate crawl space and foundation drainage shall be provided for the removal of subsurface moisture.

C. *Primary Storm Sewer—1. Pipe Size.* Pipe size for the primary storm sewer (any storm sewer or inlet lateral located in a street or other public right-of-way) shall have an inside diameter based on design analysis but not less than 15 inches. Where anticipated runoff from the five-year return frequency rainfall will not fill a 15 inch pipe, a primary storm sewer system usually is unnecessary.

2. *Minimum Gradient.* Minimum gradient shall be selected to provide for self-scouring of the conduit under low-flow conditions and for removal of sediments foreseeable from the drainage area.

3. *Easements.* Easements for storm sewers shall be a minimum of 10 feet in width.

D. *Drainage Swals and Gutters—1. Design.* Paved gutters shall have a minimum grade of 0.5 percent. Paved gutters and unpaved drainage swales shall have adequate depth and width to accommodate the maximum foreseeable runoff without overflow. Swales and gutters shall be seeded, sodded, sprigged or paved as appropriate to minimize potential erosion. Side slopes shall be no steeper than 2:1.

2. *Easements.* Surface channels shall have an easement which is at least the width of the channel plus 10 feet.

E. *Downspouts—1. Outfall.* Where downspouts are provided, they shall either be connected to an available storm sewer, provided with suitable splash blocks, or empty at acceptable locations onto paved areas so that water drains away from buildings. Downspouts shall not connect to sanitary sewers.

2. *Piped Drainage.* Piped roof drainage from buildings shall be connected to available storm sewers or empty at locations where no erosion or other damage will be caused.

F. *Storm Inlets and Catch Basins—1. Openings.* Where inlets are accessible to small children, openings shall have one dimension limited to 6 inch access. Inlet openings in paved areas shall be designed to avoid entrapment or impedence of bicycles, baby carriages, etc.

2. *Access.* Access for cleaning shall be provided to all inlet boxes and catch basins.

G. *Drywells*—Drywells for the disposal of water from foundation drains, crawl spaces, and other small quantity sources shall be permissible where the bottom of drywells project into strata of undistributed porous soil at a level where the bottom of the drywell will be above the ground water table at its highest seasonal elevation.

V. Water Supply Systems

A. *Individual Water Systems—1. General.* a. In this subpart, an individual water system is a system which serves fewer customers or connections than the lower threshold for community systems stated in the Safe Drinking Water Act.

b. The system for an individual household should be capable of delivering a sustained flow of 5 gpm. A system supplying water to multiple household shall be designed by a Professional Engineer and have sufficient capacity to serve estimated demand. A test of at least 4 hours duration shall be conducted to determine the yield and maximum drawdown for all wells developed as part of an individual water system. This test may be waived by the State Office based on the hydrologic and geologic conditions in the area.

c. Water that requires continual or repetitive treatment to be safe bacterially is not acceptable.

d. After installation, the system should be disinfected in accordance with the recommendations of the health authority. In the absence of a health authority, system cleaning and disinfection should conform with the current EPA Manual of Individual Water Supply Systems.

e. Any method for individual water supply contained herein which is not permitted by the local health authority having jurisdiction shall not be used.

2. *Well Location*—a. A well located within the foundation walls of a dwelling is not acceptable except in arctic and sub-arctic regions.

b. Water which comes from soil formation which may be polluted or contaminated or is fissured or creviced or which is less than 20 feet below the natural ground surface (subject to the requirements of the local health authority) is not acceptable.

c. Individual water supply systems are not acceptable for individual lots in areas where chemical soil poisoning is practiced if the overburden of soil between the ground surface and the water bearing strata is coarse-grained sand, gravel, or porous rock, or is creviced in a manner which will permit the recharge water to carry the toxicants into the zone of saturation.

d. Table 5 shall be used in establishing the minimum acceptable distances between wells and sources of pollution located on either the same or adjoining lots. These distances may be increased by either the health authority having jurisdiction or the FmHA State Director.

TABLE 5.—DISTANCE FROM SOURCE OF POLLUTION

Source of pollution	Minimum horizontal distance (feet)
Property Line	10
Septic Tank	50
Absorption field	[1]100
Seepage pit	[1]100
Absorption Bed	[1]100
Sewer Lines w/Permanent Watertight Joints	10
Other Sewer Lines	50
Chemically Poisoned Soil	[1]100
Dry Well	50
Other	([2])—

NOTES:

[1] The horizontal distance between the sewage absorption system and the well, or the chemically poisoned soil and the well, may be reduced to 50 feet only where the ground surface is effectively separated from the water bearing formation by an extensive, continuous impervious strata of clay, hard-pan, or rock. The well shall be constructed so as to prevent the entrance of surface water and contaminants.

[2] Other sources of pollution could be fuel oil or gasoline storage tanks, farm yards or chemical storage tanks, etc. The well should be separated from these sources of pollution a distance recommended by the local health authority.

3. *Well Construction*—a. The well shall be constructed to allow the pump to be easily placed and to function properly.

b. All drilled wells shall be provided with a sound, durable and watertight casing capable of sustaining the loads imposed. The casing shall extend from a point several feet below the water level at drawdown or from an impervious strata above the water level, to 12 inches above either the ground surface or the pump room floor. The casing shall be sealed at the upper opening.

c. Bored wells shall be lined with concrete, vitrified clay, or equivalent materials.

d. The space between the casing or liner and the wall of the well hole shall be sealed with cement grout.

e. The well casing shall not be used to convey water except under positive pressure. A separate drop pipe shall be used for suction line.

f. When sand or silt is encountered in the water-bearing formation, the well shall either be gravel packed, or a removable strainer or screen shall be installed.

g. The surface of the ground above and around the well shall be graded to drain surface water away from the well.

h. Openings in the casing, cap, or concrete cover for the entrance of pipes, pump or manholes, shall be made watertight.

i. If a breather is provided, it shall extend above the highest level to which surface water may rise. The breather shall be watertight, and the open end shall be screened and positioned to prevent entry of dust, insects and foregin objects.

4. *Pumps and Equipment*—a. Pumps shall be capable of delivering the volume of water required herein under normal operating pressures within the living unit. Well pump capacity shall not exceed the output of the well.

b. Pumps and equipment shall be mounted to be free of objectionable noises, vibrations, flooding, pollution, and freezing.

c. Suction lines shall terminate below maximum drawdown of the water level in the well.

d. Horizontal segments of suction line shall be placed below the frost line in a sealed casing pipe or in at least 4 inches of concrete. The distance from suction line to sources of pollution shall be not less than shown in Table 5.

5. *Storage Tanks*—a. A system for an individual household shall include a pressure tank having a minimum capacity of 42 gallons. However, prepressured tanks and other pressurizing devices are acceptable provided that delivery between pump cycles equals or exceeds that of a 42 gallon tank. Storage capacity on a system for multiple households must be sufficient to meet estimated peak demands.

b. Tanks shall be equipped with a clean-out plug at the lowest point, and if pressurized, a suitable pressure relief value.

c. When additional storage is necessary because the well yield will not meet the system peak demands, all nonpressurized intermediate tanks shall be designed and installed in a manner that will prevent the pollution or degradation of the water supply.

B. *Community Water Systems*—1. *Definition*. In this subpart, a community water system is a system which meets the definition in the Safe Drinking Water Act.

2. *Design*. A community water system shall be designed by a qualified, professional engineer licensed in the state in which the water system will be located. Community water systems shall comply with all Federal and State laws.

VI. Wastewater Disposal Systems

Each dwelling shall be provided with a water-carried system adequate to dispose of domestic wastes in a manner which will not create a nuisance, contaminate any existing or prospective water source or water supply, or in any way endanger the public health.

A. *Individual Wastewater Disposal Systems*—1. *General*. a. In this subpart, an individual wastewater disposal system is a sewage disposal system which serves only 1 dwelling unit.

b. When service from an acceptable public or community system is not available or feasible, and ground water and soil conditions are acceptable, an individual system may be used.

c. Each individual wastewater disposal system shall consist of a house sewer, a pretreatment unit (e.g. septic tank, individual package treatment plant), and acceptable absorption system (subsurface absorption field, seepage pit(s), or subsurface absorption bed). The system shall be designed to receive all sanitary sewage (bathrooms, kitchen and laundry) from the dwelling, but not footing or roof drainage. It shall be designed so that gases generated anywhere in the system can easily flow back to the building sewer stack.

2. *Percolation Tests*—a. Percolation tests are required unless a waiver is granted by the National Office. Waivers may be granted on a statewide or local

basis in cases where an onsite evaluation of soils would be performed by a qualified soil technician, soil scientist, or engineer. Requests for waivers must describe the qualifications of the person evaluating the soils and discuss the criteria to be used in designing the absorption system.

b. In uniform soils one percolation test shall be made within each area proposed for an absorption system. If significant soil variations are encountered or expected, additional tests shall be made for each variation.

c. Percolation tests shall be conducted in accordance with good practice. Guidance for performing these tests is included in the EPA design manual, "Onsite Wastewater Treatment and Disposal Systems."

3. *Subsurface Absorption System*—a. Where percolation rates, soil characteristics and site conditions are acceptable, an absorption system may be installed in an area which is well drained, has an acceptable slope,and is acceptable for excavation.

b. Soils with percolation rates less than 1 minute per inch may be used if the soil is replaced with a layer of loamy or fine sand at least 2 feet thick. (Refer to the EPA Design Manual, "Onsite Wastewater Treatment and Disposal System").

c. soils with percolation rates greater than 60 minutes per inch are not acceptable for subsurface wastewater disposal systems.

B. *Community Wastewater Disposal Systems*—1. *Definition.* In this subpart, a community wastewater disposal system is any wastewater disposal system which serves more than 1 dwelling unit.

2. *Design.* A community wastewater disposal system shall be designed by a qualified, professional engineer licensed in the state in which the system will be located.

Exhibit C—Checklist of Visual Exhibits and Documentation for RRH, RCH, and LH Proposals

U.S. Department of Agriculture

Farmers Home Administration

This Exhibit lists visual exhibits and documentation necessary for FmHA to properly evaluate proposed development. Intermediate consultation by the applicant, builder-developer and others hereafter referred to as the sponsor with the FmHA District or State Offices should be as frequent as necessary to reduce chances of misunderstandings and limit the amount of non-productive time and expense for all parties concerned.

I—*Preapplication Submission Documents:* The sponsor will submit the following information to the District Director to determine feasibility of the project and general conformance with FmHA policy:

A—*Form 1940-20, "Request for Environmental Information."* Portions of the form must be completed when the submission contains more than 4 dwelling units and the entire form must be completed when the submission contains more than 25 dwelling units. The form and guidance concerning assembly of the information is available at any FmHA office.

B—*Location Map.* A general site location map of the area indicating the adjacent land zoning and uses, the present and future access roads to the site as well as the proximity to shopping, schools, churches, and major transportation facilities with note of traffic volumes. If a satisfactory map of the locality is not available, a clear and preferably scaled rough sketch map that provides the required information will be sufficient.

C—*Property Survey Map.* A current survey map of the project site showing the boundaries as well as all existing known features specifically including utilities, easements, access roads, floodplains, drainageways, rock outcroppings and wooded areas or specimen trees. If a current survey does not exist, the most accurate document which is available will be submitted.

D—*Soils Map and Report.* A complete soils map and report, including "site specific" interpretations and recommendations, from the local or county representative of the U.S. Department of Agriculture, Soil Conservation Service (SCS) Office will be included with the location and feasibility submission. A determination of whether or not any lands described in USDA Regulation 9500-3 are impacted by the proposed development should also be included. The local SCS office may provide recommendations for the development of suitable drainage and landscaping plans later in the planning process.

E—*Market Survey.* A market survey will be submitted in accordance with the requirements of the respective loan program as indicated in Part 1944, Subparts D and E and Part 1822, Subpart F (FmHA Instruction 444.7) of this chapter.

F—*Request for Exceptions.* Any need for State or National Office exception(s) should be identified at this stage in the processing. Appropriate exception(s) should be requested and obtained before proceeding to the preliminary submission.

G—*Other.* The applicant will need to submit any additional information that may be needed as indicated in Subpart D or Exhibit A-6 of Subpart E of Part 1944 of this chapter. This may include but is not limited to:

1. Schematic design drawings showing the proposed plot plan, typical unit plans, and elevations. If available, the proposed preliminary drawings and specifications may be submitted. This would be of assistance if it is determined that the loan must receive National Office authorization.

2. Type of construction.

3. The total number of living units and the number of each type of living unit proposed.

4. Type of utilities such as water, sewer, gas, and electricity and whether each is public, community, or individually owned.

II—*Application Submission Documents:* After it is determined by FmHA that the project is feasible and the location conforms with the intent of the funding program, the sponsor will submit the following information to the District Director in addition to those materials submitted previously.

A—*Property Survey.* A survey (where 1 inch represents no more than 100 feet) of the property lot showing the exact boundaries and corners of the property accompanied by a written description of said boundaries. Also, locations of predominant features such as utilities, easements, access points, floodplains, drainageways, rock outcroppings and wooded areas or specimen trees affecting the proposed development must be included. This document shall bear the seal of a professional licensed to provide surveying services in the State in which the project will be located. This survey could be a part of item D below.

B—*Topographic Map.* An accurate topographic map showing existing and proposed contours with a scale compatible with the size of the project. The site shall be shown at a reasonable scale with 5-foot contour intervals. Where the site is unusually level or steep, the contour intervals may be varied accordingly.

C—*Preliminary Site Plan.* A line drawing, to scale, showing proposed street locations with profiles and widths, lot layouts, major drainageways, and other development planned. Preliminary sections and details shall be provided for the street construction, curbs and gutters, drainageways, and other physical improvements.

D—*Preliminary Dwelling Drawings and Specifications.* Drawings of the dwelling units, preliminary floor plans and specifications, elevations and sample site plans showing the placement of the individual buildings should be submitted.

E—*Statement of Planning and Zoning Compliance.* Local, county and State approvals as applicable. If change of zoning or variance is required, the status of the variance or change of zoning shall be documented.

F—*Technical Service Contracts.* Executed contracts for the professional services of an architect, engineer, land surveyor, landscape architect, site planner and/or soil engineer will be submitted as appropriate for the planning of the proposed development.

G—*Utility Approvals.* Statements of approval and feasibility for utility systems as follows:

1. Verification of adequate capacity and approval to tie-in with local existing water, wastewater disposal, electric, telephone, and other utility systems, as appropriate.

2. Tentative approval of local or State health authority for individual water and/or wastewater disposal systems when it is clear that central systems are unfeasible at this time. Use § 1924.108(a)(5) of this subpart when preparing information required.

H—*Facility Acceptance.* Evidence that the appropriate public body is willing to accept and maintain streets, common areas, lighting, fire hydrants, sidewalks, drainageways, and utilities, as appropriate, when dedicated to said body.

I—*Preliminary Specifications.* Outline specifications describing all the proposed materials to be used and how they are to be applied. These are only the materials used in the land development and construction of the streets, drainage, and utility work.

J—*Incremental Slopes Plan.* If areas of common slope are not identified elsewhere in adequate detail, this information should be provided in a separate plan.

K—*Preliminary Grading Plan.* This plan will indicate degree of work required to provide positive drainage of all building sites and control measures to be taken to eliminate soil erosion. Dwelling locations may be shown if they can be predetermined.

L—*Other.* The applicant will need to submit any additional information that may be needed as indicated in the respective loan program regulations as indicated in Part 1944, Subparts D and E and Part 1822 Subpart F this chapter (FmHA Instruction 444.7). This may include but, not be limited to:

1. A detailed trade-item cost breakdown of the project for such items as land and right-of-way, building construction, equipment, utility connections, architectural/engineering and legal fees, and both on- and off-site improvements. The cost breakdown also should show separately the items not included in the loan, such as furnishings and equipment. This trade-item cost breakdown should be updated just prior to loan approval.

2. Information on the method of construction, on the proposed contractor if a construction contract is to be negotiated and on the architectural, engineering, and legal services to be provided.

3. For all projects containing over four units the applicant will submit an Affirmative Fair Housing Marketing Plan for approval by FmHA in accordance with § 1901.203 of Subpart E to Part 1901 of this chapter. The Affirmative Fair Housing Marketing Plan must be prepared in a complete, meaningful, responsive and detailed manner.

4. A description and justification of any related facilities (including but not limited to workshops, community buildings, recreation center, central cooking and dining facilities, or other similar facilities to meet essential needs) to be financed wholly or in part with loan funds.

III—*Technical Documents Necessary for the Obligation of Funds.* All decisions regarding the conceptual design of the proposed project should be made prior to this submission. This effort is mainly to demonstrate that those agreed upon concepts have been transformed into construction documents and the necessary approvals have been granted. All items requiring revision or more detailed information as determined by the review of the preliminary submission will be resolved before the sponsor prepares the final submission. All documents shall be executed in a professional manner and shall carry the appropriate designation attesting to the professional qualifications of the architect, engineer, land surveyor or site planner. All documents will be accurately drawn at an appropriate scale.

PART 1933—LOAN AND GRANT PROGRAM (GROUP)

9. The authority citation for Part 1933 is revised to read as follows:

Authority: 42 U.S.C. 1480; 7 CFR 2.73; 7 CFR 2.70.

Subpart I—Self-Help Technical Assistance Grants

10. Section 1933.412 is revised to read as follows:

§ 1933.412 Planning and performing development work.

The development work will be planned and completed in accordance with Subparts A and C of Part 1924 of this chapter.

PART 1944—HOUSING

11. The authority citation for Part 1944 continues to read as follows:

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

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

12. Section 1944.11, paragraph (b) is revised to read as follows:

§ 1944.11 Property requirements.

* * * * *

(b) The property must be contiguous to and have direct access from a street, road, or driveway that meets the applicable requirements of § 1924.115 (New or less than partially completed subdivisions), § 1924.116 (Existing subdivisions partially or more completed), and § 1924.117 (Scattered Site) of Subpart C of Part 1924 of this chapter. For properties having access from a driveway, the maintenance cost for the driveway must be considered when determining the applicant's repayment ability.

* * * * *

§ 1944.24 [Amended]

13. Section 1944.24, paragraph (b) is amended by removing the words "Subpart D of Part 1804 of this chapter (FmHA Instruction 424.5)." and inserting in their place the words "Subpart C of Part 1924 of this chapter."

14. Section 1944.45, paragraph (f)(3)(ii) is revised to read as follows:

§ 1944.45 Conditional commitments.

* * * * *

(f) * * *

(3) * * *

(ii) Determine whether the dwelling and site meet the requirements of this subpart and Subparts A and C of Part 1924 of this chapter and will comply with all local codes and ordinances.

* * * * *

Subpart D—Farm Labor Housing Loan and Grant Policies, Procedures, and Authorizations

§ 1944.164 [Amended]

15. In § 1944.164, paragraphs (j)(2)(i) and (j)(2)(ii) are amended by removing the words "Subpart D of Part 1804 of this chapter (FmHA Instruction 424.5)." and

inserting in their place the words "Subpart C of Part 1924 of this chapter."

Exhibit A–3 to Part 1944 [Amended]

16. Exhibit A–3 to Subpart D, Paragraph II a.1. is amended by removing the words "Subpart D of Part 1804 of this chapter (FmHA Instruction 424.5)." and inserting in their place the words "Subpart C of Part 1924 of this chapter."

Subpart E—Rural Rental Housing Loan Policies, Procedures, and Authorizations

§ 1944.212 [Amended]

17. Section 1944.212, paragraph (p)(3) is amended by removing the words "Subpart A of Part 1924 and Subpart D of Part 1804 of this chapter (FmHA Instruction 424.5)." and inserting in their place, the words "Subparts A and C of Part 1924 of this chapter."

§ 1944.222 [Amended]

18. Section 1944.222, paragraphs (c)(1) and the introductory text of paragraph (d)(1) are amended by removing the words "Subpart A of Part 1924 and Subpart D of Part 1804 of this chapter (FmHA Instruction 424.5)." and inserting in their place, the words "Subparts A and C of Part 1924 of this chapter."

Subpart J—Section 504 Rural Housing Loan and Grants

19. In § 1944.456 the introductory text of paragraph (a) is revised to read as follows:

§ 1944.456 Loan and grant purposes.

* * * * *

(a) Installation and/or repair of sanitary water and waste disposal systems, together with related plumbing and fixtures, which will meet local health department requirements. Water supply and sewage disposal systems should be determined acceptable in accordance with Subparts A and C of Part 1924 of this chapter. The requirements of Subparts A and C of Part 1924 of this chapter may be waived by the State Director provided:

* * * * *

PART 1980—GENERAL

20. The authority citation for Part 1980 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 D—Rural Housing Program Loans

§ 1980.307 [Amended]

21. Section 1980.307, paragraph (d)(1) and § 1980.307 *administrative;* paragraph A are amended by removing the words "Subpart D of Part 1804 of this chapter (FmHA Instruction 424.5)." and inserting in their place, the words "Subpart C of Part 1924 of this chapter."

22. Section 1980.327(b)(1) is revised to read as follows:

§ 1980.327 Acquisition, construction, and development.

* * * * *

(b) * * *

(1) Subpart C of Part 1924 of this chapter is used as a guide for planning and performing development work.

* * * * *

Dated: March 6, 1987.

Vance L. Clark,

Administrator, Farmers Home Administration.

[FR Doc. 87–11530 Filed 5–21–87; 8:45 am]

BILLING CODE 3410-07-M

Food Safety and Inspection Service

9 CFR Part 318

[Docket No. 86–028F]

Silicon Dioxide as a Processing Aid in the Dispersion of Tocopherol in Pump Curing Solutions

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is amending the Federal meat inspection regulations to permit the use of silicon dioxide as a processing aid in dry bacon curing premixes for tocopherol dispersion in pump curing solutions. The Food and Drug Administration (FDA) has determined this substance to be generally recognized as safe (GRAS) at levels of up to 4.0 percent in a premixed curing base to disperse tocopherol in the pump cure solution for bacon. FSIS has determined that it is now appropriate to add silicon dioxide as a processing aid to the list of acceptable ingredients in the Federal meat inspection regulations.

EFFECTIVE DATE: June 22, 1987.

FOR FURTHER INFORMATION CONTACT: Ashland Clemons, Acting Director, Standards and Labeling Division, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–6042.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Agency has made a determination that this final rule is not a major rule under Executive Order 12291. It will not result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The final rule provides for the use of silicon dioxide as a processing aid at a level of up to 4.0 percent in dry tocopherol containing bacon curing premixes. The current Federal meat inspection regulations do not provide for the use of silicon dioxide in bacon. Industry may benefit from this action through the ability to use a processing aid which helps to achieve greater and more uniform dispersion of tocopherol in pump cured bacon. Consumers may benefit from this action since nitrosamine formation in bacon is reduced when tocopherol is used and is more evenly dispersed throughout the bacon pump cure solution.

Effect on Small Entities

The Administrator has determined that this rule will not have a significant economic impact upon a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rulemaking imposes no new requirement on industry; rather, it permits the meat industry to use a processing aid in bacon curing premixes to assist in the dispersion of tocopherol in pump cure solutions. Use of this processing aid substance is voluntary.

Background

FSIS was petitioned by Diamond Crystal Salt Company to amend the Federal meat inspection regulations to allow the use of silicon dioxide as a processing aid in dry curing premixes containing tocopherol. The request was a followup to the final rule on alpha-tocopherol published in the **Federal Register** July 5, 1985 (50 FR 27573).

The dry bacon curing premixes consist of salt, tocopherol, silicon dioxide, and lecithin. Silicon dioxide acts as a dispersant for dry mixes. It improves the flow properties and increases the rate of dispersion by keeping particles separated and permitting water to wet them individually versus forming lumps. This is necessary since alpha-tocopherol is a water-insoluble substance. At a level of 4.0 percent of the dry curing base, silicon dioxide provides optimum dispersability to attain a near 100 percent dispersion of tocopherol in