in subsection (a)(6) of the FOIA (i.e., 10 working days from receipt of initial requests and 20 working days from receipt of appeals from initial denial, plus permissible extension of these time limits) will begin only after the Authority, the General Counsel or the Panel has received fee payments described above.

(h) Requests for copies of transcripts of hearings should be made to the official hearing reporter. However, a person may request a copy of a transcript of a hearing from the Authority, the Panel or the General Counsel, as appropriate. In such instances, the Authority, the General Counsel or the Panel, as appropriate, may, by agreement with the person making the request, make arrangements with commercial firms for required services to be charged directly to the requester.

(i) Payment of fees shall be made by check or money order payable to the U.S. Treasury.

Jerry L. Calhoun,
Chairman.

Henry B. Frazier III,
Member.

Jean McKee,
Member.

John C. Miller,
General Counsel.

Roy M. Brewer,
Chairman, FSIP.

[FR Doc. 87-15670 Filed 7-10-87; 8:45 am]

BILLING CODE 6727-01-M

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Parts 1807, 1863, 1864, 1866, 1900, 1924, 1941, 1950, 1951, 1955, 1956, and 1965

Deferral, Reamortization, and Reclassification of Distressed Farmer Program Loans (ST Loans) for Softwood Timber Production

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations to provide for the deferral, reamortization, and reclassification of distressed Farmer Program loans as defined in those regulations in conjunction with the production of softwood timber on marginal land as provide for in section 1254 of the Food Security Act of 1985, (Pub. L. 99-198). This action is needed to assist financially distressed FmHA borrowers to improve their financial condition and remove marginal land, including highly erodible land, from the production of other agricultural commodities. The intended effect is to assist these borrowers in developing a positive cash flow for their farming operation, increase the future production of softwood timber, take marginal land out of agricultural production, and assist in the control of soil erosion.

EFFECTIVE DATE: July 13, 1987.

FOR FURTHER INFORMATION CONTACT: Edward R. Yaxley, Jr., Senior Loan Officer, Farm Real Estate and Production Division, Farmers Home Administration, USDA, Room 5449, South Agricultural Building, 14th Street and Independence Avenue, SW., Washington, DC 20250, telephone (202) 447-4572.

SUPPLEMENTARY INFORMATION:

Classification

This action has been reviewed under USDA procedures established in Departmental Regulation 1512-1, which implements Executive Order 12291, and has been determined to be nonmajor, because there will be an annual effect on the economy of $100 million or more; a major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Intergovernmental Consultation

1. For the reasons set forth in the final rule related to Notice 7 CFR Part 3015, Subpart V (48 FR 29115, June 24, 1983) and FmHA Instruction 1940-J, "Intergovernmental Review of Farmers Home Administration Programs and Activities," (December 23, 1983), Emergency Loans, Farm Operating Loans, and Farm Ownership Loans are excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

2. The Soil and Water Loan Program is subject to the provisions of Executive Order 12372 and FmHA Instruction 1940-J.

Programs Affected

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

10.404—Emergency Loans
10.406—Farm Operating Loans
10.407—Farm Ownership Loans
10.416—Soil and Water Loans

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR Part 1940, Subpart G, "Environmental Program." It is the determination of FmHA that the final 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.

Discussion of Final Rule

On January 26, 1987, FmHA published a proposed rule in the **Federal Register** (52 FR 2717-2722) with a comment period ending February 25, 1987. The purpose of this final rule is to implement the provisions of section 1254 of the Food Security Act of 1985 (Pub. L. 99-198) for deferring and reamortizing distressed FmHA farmer program loans as defined in these regulations or a portion of these loans in conjunction with the production of softwood timber on marginal land. Such loans could be reamortized for up to 50 years with payments deferred for up to 45 years. The marginal land must have previously produced agricultural commodities or have been used as pasture. Such marginal land may not have any lien against it other than a lien to secure such reamortized loan. The total amount of loans secured by such land cannot exceed $1,000 per acre.

A recent USDA study, "Conversion of Southern Cropland to Southern Pine Tree Planting," and a report to Congress as required by Pub. L. 98-258, "Feasibility of Using Future Revenue from Southern Pine Tree Production to Amortize the Debts of Farmers Home Administration (FmHA) Delinquent Borrowers," indicate that the maximum harvest is obtained at between 40 and 50 years for softwood timber. Usually some thinning is needed at 17 years, 25 years, and 35 years which yields mostly pulpwood with some chip and saw timber for a minor amount of income. The regulations do not permit the borrower to harvest the softwood timber for use as Christmas trees. Harvesting the trees when they are small enough for use as Christmas trees would not bring the high prices and future revenue projected in the study. Table D of the report to Congress shows that under the assumption of high prices, 5% inflation rate and final harvest at 45 years, the future revenue discounted at 10% has a present value of $882 per acre. This is interpreted to mean that up to $882 of debt could be amortized at a compound interest rate of 10%. The results do not include any appreciation in land value.

The program is limited to 50,000 acres. Each borrower is required to place at least 50 acres of marginal land into the program. Therefore, the maximum number of borrowers could not exceed 1,000. At this time, no funds have been appropriated for the program for new loans. The Congressional Report estimates a direct cost of $43.00 per acre for planting trees and a $4.00 per acre cost for maintenance purposes for a total cost of $47.00 per acre. Therefore, it is likely that a borrower could obtain funds for these costs from income, other sources, including cost-sharing programs, or obtain an FmHA operating loan for establishing the softwood timber. Forestry is also an authorized purpose for farm ownership and soil and water loans. However, security requirements eliminate the use of these programs to finance the production of softwood timber on land that is marginal.

When an eligible borrower only owes FmHA loans which include the borrower's dwelling as security for these loans, and these loans are reclassified as Softwood Timber loans, the borrower will be required to make payments equal to the market value rent of the dwelling or the minimum installment. It is reasonable to require the borrower to make payments on the loan equal to the market value of the rent for the dwelling or the minimum equally amortized installment for the term of the loan, whichever is less. If FmHA does not receive any payment under these circumstances, the borrower would be living in the dwelling with all payments deferred on the loan until the timber produces income. In most cases, this would be 45 years. It would be an unreasonable financial burden on FmHA to provide housing free of charge to these borrowers for this length of time.

In most cases, there will be very little income from the timber until the final harvest. It is anticipated that normally payment would be deferred until final harvest, except for the requirement of the payment of income from culled and thinned timber. Therefore, the initial note will be all due and payable at the time of the final harvest, but not later than 46 years from the date of the initial note. However, if the final harvest is delayed and the borrower is unable to pay the note as agreed, the note could be reamortized for a term not to exceed 50 years from the date of the initial note. The total years of deferred payments will not exceed a total of 45 years, including the payments deferred in the initial note.

The final regulations appear in § 1951.46 which is in Subpart A of Part 1951, "Account Servicing Policies." The final regulations define the policy, purposes, and terms used in the reclassified ST loan program. The eligibility requirements, reamortization requirements, and additional special requirements for processing the reamortized ST loans are also described. The final regulation also explains how the reamortized ST loans will be serviced. Appropriate conforming changes are also made to FmHA regulations which categorize reamortized ST loan(s) as farmer program loans and specify the general requirements which then apply. The conforming changes appear in the final rule in the following Parts: 1807; 1863; 1864; 1866; 1900, Subpart B; 1924, Subpart B; 1941, Subpart A; 1950, Subpart C; 1951, Subparts F and L; 1955, Subpart A, B and C; 1956, Subpart B; 1965, Subpart A. An additional change is also made to update a citation in § 1950.104 from Part 1872 to Part 1965.

Discussion of Comments

One comment letter was received. The letter indicated concern for financing the planting of the softwood timber and suggested that a cost-sharing program be set up for this or existing cost-sharing programs be used for this purpose. FmHA has no authority to establish such a program. However, we believe the regulation is written so that such programs from other agencies could be used as a source of funds. We did add to the regulations that cost-sharing programs could be used. There was concern that the Soil Conservation Service (SCS) rather than a forestry agency was named as the agency to identify the land suitable for softwood timber.

Since a forestry agency will be involved in developing a timber management plan and the SCS is involved in developing a conservation plan for other programs, we see no reason to change the rule on this point. There was also concern about what is sufficient training and experience. We have had similar language in other programs for a number of years with very few problems and see no reason to change the rule on this point.

Discussion of Changes

In addition to the changes made as a result of the comment received as addressed above, upon a further review and due to changes made by recent publication of other regulations, we have made a few additional changes in the final rule that are different from the proposed rule.

We have added § 1950.105 to Subpart C of Part 1950 to meet the statutory requirement of the Soldiers and Sailors Relief Act. Any borrower who enters full-time active military duty may not be charged more than six percent interest on any outstanding loan while on duty. Since this is a statutory requirement it is published as a final rule.

We have removed from § 1941.46(d)(2)(ii) the requirement of developing a feasible farm plan after the deferral period. It would be impossible to project a reasonable estimate of the borrower's financial condition and a cash flow projection 46 years down the road. Similarly, we have removed the requirement contained in §§ 1951.46(d)(2)(ii) and 1951.46(g) that the State Director issue a State supplement projecting timber prices 46 years in the future.

We have revised § 1951.44(c)(9) to clarify when borrowers will be notified of the reclassified softwood timber loan program. This section was also clarified to state that FmHA will consider a borrower for the softwood timber option only after FmHA determines the borrower cannot develop a feasible plan with use of a deferral.

In § 1951.46(b)(4), we have revised the definition for a positive cash flow to make the definition uniform for all farmer program loans. No new requirements have been added. The revisions are the result of 12 comments received on similar definition of positive cash flow which FmHA published as a proposed rule in the **Federal Register** (52 FR 1706–1804) on January 15, 1987, as part of its general revision of farmer program regulations. The definition has simply been refined to detail the requirements that FmHA considers essential for its borrowers. The comments were received from State government officials, interest groups, an FmHA employee, and an individual. The major concerns with the definition are that the definition would: (1) Require funds for two years of taxes; (2) require a capital reserve which will be determined on the depreciation value rate of assets; (3) not provide any guidelines for a reasonable standard of living; (4) require funds for the payment of all debts including all open accounts and carryover debts; and (5) in general, the requirements were subjective without any guidelines.

As a result of the comments, we further researched the subject. We conducted analysis of current information in the FmHA FARMS data base for 19,504 FmHA borrowers. We contacted the Economic Research Service, the Extension Service, the National Agriculture Statistical Service and several Land Grant Colleges. In view of the comments received, the contacts with the aforementioned agencies, and the analyses performed, we have revised the definition to provide specific guidelines for reserve investments, risk and uncertainties. The State Director will issue a State supplement to provide guidelines for farm family living expenses. We have also clarified the requirement for meeting scheduled payments and operating expenses. For specific details, see § 1951.46(b)(4) of Subpart A of Part 1951 of this document. We believe these changes will improve the definition and respond to the major concerns of the comments on the subject.

In § 1951.46 (d)(5), we have added the words *including NP loans* to clarify that security for Non Program (NP) loans can be released from the parcel of land that is security for the ST loans. The statute mandates that only ST loan liens will be secured by the parcel of land for the production of softwood timber.

In § 1951.46 (j)(1) we have added the words *including NP loans* and also the words *paid current* for clarification.

In the introductory paragraph of § 1965.12 Subpart A of Part 1965 of this Chapter, we made an addition that borrowers convicted of a controlled substances violations (see 21 CFR Part 1308, which is Exhibit C to Subpart A of Part 1941 of this chapter and available in any FmHA offices, for a definition of a controlled substances) after December 31, 1985, are ineligible for a subordination for the crop year of the conviction and for four succeeding crop years. This change is required by the Food Security Act of 1985 (Pub. L. 99-198) and was inadvertently dropped in the proposed rule. Also in the introductory paragraph of 1965.13 we have added a statement for clarification when a borrower has a combination of different types of loans.

List of Subjects

7 CFR Parts 1807, 1863, 1864, 1866, 1900, 1955, and 1956

Agriculture, Loan programs—Agriculture, Loan programs—housing and community development, Low and moderate income housing, Rural areas.

7 CFR Part 1924

Agriculture, Construction and repair, Loan programs—Agriculture.

7 CFR Part 1941

Crops, Livestock, Loan programs—Agriculture, Rural, areas, Youth.

7 CFR Part 1950

Accounting, Loan programs—Agriculture, Military personnel.

7 CFR Part 1951

Account servicing, Credit, Loan programs—Agriculture, Loan programs—Housing and community development, Mortgages, Rural areas.

7 CFR Part 1965

Foreclosure, Loan programs—Agriculture, Rural areas.

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

PART 1807—TITLE CLEARANCE AND LOAN CLOSING

1. The authority citation for Part 1807 continues to read as follows:

Authority: Secs. 307, 339, 75 Stat. 308, 318, Secs. 502, 510, 63 Stat. 433, as amended, 437, Sec. 4, 64 Stat. 100; 7 U.S.C. 1927, 1989; 42 U.S.C. 1472, 1480; 40 U.S.C. 442; Orders of Sec. of Agr. 19 FR 74, 26 FR 8403, 27 FR 5005, 9957, unless otherwise noted.

2. Section 1807.1 is amended by revising paragraph (a) to read as follows:

§ 1807.1 General.

(a) *Farm Ownership, Rural Housing, and Individual Soil and Water Conservation and Softwood Timber Loans.* This part contains the title clearance and loan closing authorities, policies, and procedures for all Farm Ownership, Rural Housing, and Individual Soil and Water Conservation and Softwood Timber loans, except loans in connection with transfers and assumption agreements or credit sales by the Farmers Home Administration.

* * * * *

PART 1863—REAL ESTATE TAX SERVICING

3. The authority citation for Part 1863 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; unless otherwise noted.

4. Section 1863.1 is revised to read as follows:

§ 1863.1 General.

This instruction applies to borrowers with a Farm Ownership (FO), Operating Loan (OL), Soil and Water (SW), Recreation Loan (RL), Emergency (EM), Economic Opportunity (EO), Rural Rental Housing (RRH), Rural Cooperative Housing (RCH), Labor Housing (LH), Softwood Timber (ST), and Non-Program (NP) loans secured by real estate. It also applies to Section 502 and Section 504 Rural Housing borrowers (Single Family Housing (SFH)) who also have a Farmer Program loan. *It does not apply to borrowers who have a SFH loan only;* those will be serviced under § 1965.105 of Subpart C of Part 1965 of this chapter. Borrowers are responsible for paying taxes on the real estate security to the proper taxing authorities before taxes become delinquent. This obligation is set forth in the security instrument securing the loan.

PART 1864—DEBT SETTLEMENT

5. The authority citation for Part 1864 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 31 U.S.C. 3711; 7 CFR 2.23; 7 CFR 2.70.

6. Section 1864.2 is amended by revising paragraph (a)(5) to read as follows:

§ 1864.2 General policies.

(a) * * *

(5) "Farmer program loans" means Farm Ownership (FO), Operating (OL), Soil and Water (SW), Economic Emergency (EE), Emergency (EM), Recreation (RL), Economic Opportunity (EO), Special Livestock (SL), Softwood Timber (ST) loans and/or Rural Housing loans for farm service buildings (RHF).

* * * * *

PART 1866—FINAL PAYMENT ON LOANS SECURED BY REAL ESTATE

7. The authority citation for Part 1866 continues to read as follows:

Authority: Secs. 339, 510, 75 Stat. 318, 63 Stat. 437; (7 U.S.C. 1989; 42 U.S.C. 1480); Orders of the Secretary of Agriculture, 29 FR 16210, 32 FR 6650, unless otherwise noted.

8. Section 1866.3 is amended by revising the introductory text of paragraphs (b)(1) and (b)(2) to read as follows:

§ 1866.3 County Office actions.

* * * * *

(b) * * *

(1) For direct and insured Farm Ownership (FO), Soil and Water (SW), Recreation Loans (RL), Softwood Timber (ST), and RH loans to individuals; direct Operating-type loans secured by real estate; and direct and insured loans to organizations, the amount to be collected for payment of the account in full will be calculated by the County Supervisor based on the information

shown on the latest Form FHA 451-26, "Transaction Record," or Form FHA 451-31, "Borrower Transaction Record," for the borrower. The final payment will be calculated as outlined in Item 19 of the Forms Manual Insert for Form FHA 451-26 or Item 16 of the Forms Manual Insert for Form FHA 451-31.

* * * * *

(2) For Non-Program (NP) loans, whether secured by real estate or other property, the County Supervisor will request a Statement of Account from the Finance Office by use of Form FHA 451-10, "Request for Statement of Account." (In an unusual case, where the borrower has the cash or a check on hand and insists on paying the account that day, the County Supervisor will calculate the interest and accept the payment. The County Supervisor will advise the borrower that the payment may or may not be sufficient to pay the loan in full and that he will be notified of the status of his account as soon as the County Supervisor receives the statement from the Finance Office.)

* * * * *

PART 1900—GENERAL

9. The authority citation for Part 1900 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 B—Farmers Home Administration Appeal Procedure

10. Section 1900.52 is amended by revising paragraph (d) to read as follows:

§ 1900.52 Definitions.

* * * * *

(d) *Farmer program loans* means Farm Ownership (FO), Operating (OL), Soil and Water (SW), Recreation (RL), Emergency (EM), Economic Emergency (EE), Economic Opportunity (EO), Special Livestock (SL), Softwood Timber (ST) loans, and/or Rural Housing loans for farm service buildings (RHF).

* * * * *

PART 1924—CONSTRUCTION AND REPAIR

11. 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 B—Management Advice to Individual Borrowers and Applicants

12. Section 1924.51 is revised to read as follows:

§ 1924.51 General.

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

13. Section 1924.60 is amended by adding a new paragraph (d)(7) to read as follows:

§ 1924.60 Analysis.

* * * * *

(d) * * *

(7) Who have softwood timber loan(s).

PART 1941—OPERATING LOANS

14. The authority citation for Part 1941 continues to read as follows:

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

Subpart A—Operating Loan Policies, Procedures, and Authorizations

15. Section 1941.16 is amended by adding a new paragraph (m) to read as follows:

§ 1941.16 Loan purpose.

* * * * *

(m) To plant softwood timber on marginal land which was previously used to produce an agricultural commodity or as pasture.

16. Section 1941.19 is amended by adding paragraph (a)(7) to read as follows:

§ 1941.19 Security.

* * * * *

(a) * * *

(7) A lien will not be taken on timber or the marginal land for a loan for planting softwood timber trees on marginal land in conjunction with a softwood timber (ST) loan.

* * * * *

PART 1950—GENERAL

17. The authority citation for Part 1950 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 C—Servicing Accounts of Borrowers Entering the Armed Forces

18. Section 1950.103 is amended by revising paragraph (a) to read as follows:

§ 1950.103 Borrower owing FmHA loans which are secured by chattels.

(a) *Policy.*

(1) Borrowers who owe loans *other than* Farm Ownership (FO), Operating (OL), Soil and Water (SW), Recreation (RL), Emergency (EM), Economic Emergency (EE), Economic Opportunity (EO), Special Livestock (SL), Softwood Timber (ST) loans, and/or Rural Housing loans for farm service buildings (RHF). When information is received that a borrower is entering the armed forces, the County Supervisor will be responsible for contacting the borrower immediately for the purpose of reaching an understanding concerning the actions to take in connection with the FmHA loan indebtedness. The borrower will be permitted to retain the chattel security if arrangements can be worked out which are satisfactory to the borrower and FmHA. However, because of the nature of chattel security, the borrower will be informed of the usual depreciation of such property and will be encouraged to sell the property and apply the proceeds to the loan(s). In most cases, the interests of both the borrower and the Government can best be served by arranging for a voluntary sale of the security. A borrower retaining security will be expected to make payments on the loan(s) equal to the scheduled payments.

(2) *Borrowers who owe FO, SW, RL, OL, EE, EM, SL, EO, ST and/or RHF loans.* If the borrower is delinquent or otherwise in default, the County Supervisor will send the borrower Forms FmHA 1924-14, "Notice—Farmer Program Borrower Servicing Options Including Deferrals and Borrower Responsibilities," Form FmHA 1924-25, "Notice of Intent to Take Adverse Action," and Form FmHA 1924-26, "Borrower Acknowledgement of Notice of Intent to Take Adverse Action," and

follow the directions in Subpart A of Part 1962 of this chapter for liquidating chattel security. If the borrower is not delinquent, the County Supervisor will explain the options set out in paragraph (b) of this section.

* * * * *

19. Section 1950.104 is amended by revising the introductory paragraph and paragraph (d) to read as follows:

§ 1950.104 Borrower owing FmHA loans which are secured by real estate.

County Supervisors, to the greatest extent possible, should keep themselves informed of the plans of borrowers with FmHA loans secured by real estate who may enter the armed forces. They should encourage any borrower who is definitely entering the armed forces to consult with them before the borrower's military service begins concerning the most advantagous arrangements that can be made regarding the security. County Supervisors will assist these borrowers in working out mutually satisfactory arrangements. Borrowers who owe FO, SW, RL, OL, EE, EM, SL, EO, ST and/or RHF loans and who are delinquent or otherwise in default must be sent Forms FmHA 1924–14, 1924–25, and 1924–26. The County Supervisor will follow the directions in Subpart A of Part 1965 of this chapter for liquidating real estate security. FO, SW, RL, OL, EE, EM, SL, EO, ST and/or RHF borrowers who are not delinquent will have their accounts handled as set out in the following paragraphs.

* * * * *

(d) *Borrower abandons the security or fails to make satisfactory arrangements.* This paragraph does *not* apply to borrowers with FO, SW, RL, OL, EE, EM, SL, EO, ST and/or RHF loans. Those borrowers should be sent Forms FmHA 1924–14, 1924–25, and 1924–26. When a borrower abandons the security or fails to make satisfactory arrangements for maintenance of the security and payment of taxes, insurance, and installations on the loan, the County Supervisor will send a complete report on the case to the State Director. The report will include all the information that can be obtained regarding the borrower's plans for the security and any evidence to indicate that abandonment has, in fact, taken place. In these instances, it must be recognized that the borrower may have entered into verbal arrangements for the care of the security without properly advising the County Superviser. Whether such cases may be construed to be in violation of the provisions of the mortgage, so as to support foreclosure by order of the Court under the provisions of the Soldier's and Sailor's Civil Relief Act of 1940, will need to be determined on an individual case basis by the State Director and OGC. Clear-cut abandonment cases or instances in which the borrower fails to take action to transfer or sell the property, while evidencing no interest in it or desire to retain it, will be processed in accordance with applicable procedures.

* * * * *

20. Section 1950.105 is added to read as follows:

§ 1950.105 Interest rate.

(a) The Soldiers and Sailors Relief Act requires that the effective interest rate charged a borrower who enters active military duty after a loan is closed will not exceed 6 percent. This applies only to full-time active military duty and does not include military reserve status or National Guard participation.

(b) As soon as the County Supervisor verifies that a borrower is on active duty, the County Supervisor will send the borrower a letter which states that the interest rate on the borrower's FmHA loans will not exceed 6 percent. At the same time, the County Supervisor will send the Finance Office a memorandum which states that the borrower is on active duty and that interest of not more than 6 percent should accrue on the borrower's loans, effective as of the date of the memorandum or as of the date of the last payment, whichever is later, until further notice. If a borrower's interest rate on any loan is less than 6 percent, the loan will continue to accrue interest at the lower rate. The assistance under this section may not be retroactively applied.

(c) As soon as the County Supervisor verifies that a borrower is no longer on active duty, the County Supervisor will send the Finance Office a memorandum advising them to terminate the 6 percent interest rate. The rate will revert to the note rate (or the interest credit rate), effective with the next scheduled payment. The 6 percent interest rate will not be cancelled retroactively.

(d) Additional directions for handling Single Family Housing Loans are contained in Subpart G of Part 1951 of this chapter.

PART 1951—SERVICING AND COLLECTIONS

21. The authority citation for Part 1951 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—Account Servicing Policies

22. Section 1951.1 is revised to read as follows:

§ 1951.1 Purpose.

This subpart sets forth the policies and procedures to use in servicing Farmer Program loans (FP) which include Softwood Timber (ST), Operating Loan (OL), Farm Ownership (FO), Soil and Water (SW), Recreation Loan (RL), Emergency Loan (EM), Economic Emergency Loan (EE), Special Livestock Loan (SL), Economic Opportunity Loan (EO), and Rural Housing Loan for farm service buildings (RHF) accounts. This subpart also applies to Rural Rental Housing Loan (RRH), Rural Cooperative Housing Loan (RCH), Labor Housing Loan (LH), Rural Housing Site Loan (RHS), and Site Option Loan (SO) accounts not covered under the Predetermined Amortization Schedule System (PASS). Loans on PASS will be administered under Subpart K of Part 1951 of this chapter. Cases involving unauthorized assistance will be serviced under Subparts L and N of this part. Cases involving graduation of borrowers to other sources of credit will be serviced under Subpart F of this part.

23. Section 1951.9 is amended by adding a new paragraph (a)(4) to read as follows:

§ 1951.9 Distribution of payments when a borrower owes more than one type of FmHA loan. * * *

(a) * * *

(4) Any income received from the sale of softwood timber on marginal land converted to the production of softwood timber must be applied on the ST loan(s).

* * * * *

24. Section 1951.44 is amended by adding a new paragraph (c)(9) to read as follows:

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

* * * * *

(c) * * *

(9) Is unable to develop a feasible farm plan in accordance with § 1924.57 of Subpart B of Part 1924 of this chapter with the use of deferral in accordance with this paragraph. In such cases, the FmHA official will inform the borrower about the reclassified softwood timber loan program by a letter similar to Exhibit H of this subpart (available in any FmHA office).

* * * * *

25. Section 1951.46 is added to read as follows:

§ 1951.46 Deferral, reamortization and reclassification of distressed FP loans (ST loans) for softwood timber production.

All borrowers are expected to repay their loans according to established repayment schedules. However, borrowers with distressed FP loans, as defined in this subpart, with 50 or more acres of marginal land may request assistance under the provisions of this section. Such distressed FP loans may be reamortized with the use of future revenue produced from the planting of softwood timber on marginal land as set out in this section. The basic objectives of the FmHA is reamortizing and deferring payments of distressed FP loans (called ST loans) to financially distressed farmers are to develop a positive cash flow to assist eligible FmHA borrowers to improve their financial condition, to repay their outstanding FmHA debts in an orderly manner, to carry on a feasible farming operation, and to take marginal land, including highly erodible land, out of the production of agricultural commodities other than for the production of softwood timber. County Supervisors are authorized to approve ST loans subject to the limitations in paragraph (h) of this section.

(a) *Management assistance.* Management assistance will be provided borrowers to assist them to achieve loan objectives and protect the Government's interest, in accordance with Subpart B of Part 1924 of this chapter.

(b) *Definitions.* (1) "Distressed FmHA loan". An FP loan which is delinquent as provided in § 1924.72 of this chapter or in financial distress, which exists because a borrower cannot project a positive cash flow by using other authorities including rescheduling, reamortizing or deferral at the maximum term.

(2) "Farm plan". Annual "Farm and Home Plan" (Form FmHA 432-1) or other plans or documents acceptable to FmHA which include similar information necessary for FmHA to make a decision.

(3) "Marginal land" Land determined suitable for softwood timber production by the Soil Conservation Service (SCS) that was previously (within the last five years) used for the production of agricultural commodities, as defined in § 12.2(a)(1) of Subpart A of Part 12 of this title and which is Attachment 1 of Exhibit M of Subpart G of Part 1940 of this chapter, or pasture. This could include, but is not limited to, highly erodible land as defined or classified by the SCS. However, marginal land shall not include wetlands as defined in § 12.2(a)(26) of Subpart A of Part 12 of this title and which is Attachment 1 of Exhibit M of Subpart G of Part 1940 of this chapter.

(4) "Positive cash flow" A positive cash flow must indicate that all of the anticipated cash farm and non-farm income equals or exceeds all the anticipated cash outflows for the planned period. A positive cash flow must show that a borrower will at least be able to:

(i) Pay all operating expenses and all taxes which are due during the projected farm budget period.

(ii) Meet scheduled payments on all open accounts and on carryover debts which would include delinquent taxes.

(iii) Provide a reserve, of at least 5 percent above the amount due and payable as recorded in Table K of the Farm and Home Plan or other similar plans of operation acceptable by FmHA. The reserve will allow for new investments, risk and uncertainties associated with the farm operation.

(iv) Provide an average standard of living for the family members of an individual borrower or a wage for an average standard of living for the farm operator in the case of a cooperative, corporation, partnership, or joint operation borrower. Family members include the individuel borrower or farm operator in the case of an entity and the immediate members of the family which resides in the same household. The State Director will consult with the State Land Grant College including 1890 Land Grant College or State Agricultural College to establish average family living expenses for farm families with adjustment factors for family size. The State Director will establish, either on a State-wide basis or regional basis, a State supplement to be issued annually to comply with the farm planning season outlining acceptable family living expenses. Those applicants which indicate their living expenses are in excess or significantly below this established level must provide justification which will be documented in the running record. The State-wide or regional figures are advisory only. They are not intended to be a basis for a claim of entitlement that FmHA must release the amount established on an annual basis from crop proceeds which it has a lien on.

(5) "Softwood timber" The wood of a coniferous tree having soft wood that is easy to work or finish and is commonly grown and commercially sold for pulpwood, chip and sawtimber.

(c) *ST loan eligibility.* A borrower must:

(1) Have the debt repayment ability and reliability, managerial ability and industry to carry out the proposed operation.

(2) Be willing to place not less than 50 acres of marginal land in softwood timber production; such land (including timber) may not have any lien against such land other than a lien for ST loans to secure such reamortized FP loans or portion of such loans.

(3) Have properly maintained chattel and real estate security and properly accounted for the sale of security, including crops, and livestock production.

(4) Be an FmHA FP loan borrower who owns 50 acres or more of marginal land which SCS determines to be suitable for softwood timber.

(5) Have sufficient training or farming experience to assure reasonable prospects of success in the proposed operation.

(6) Have one or more distressed FmHA FP loans as defined by this subpart.

(7) Not have a total indebtedness of ST loan(s) that will exceed $1,000 per acre for the marginal land at closing. Example: If 50 acres of marginal land is put in softwood timber production, the total ST loan indebtedness may not exceed $50,000 at closing.

(8) Be able to obtain sufficient money through FmHA or other sources including existing cost-sharing programs for forestry purposes for the planting, care and harvesting of the softwood timber trees.

(d) *Reamortization requirements.* (1) A Timber Management Plan must be developed with the assistance of the Federal Forest Service (FS), State Forest Service or such other State or Federal agencies or qualified private forestry service outlining the necessary site preparation, planting practices, environmental protection practices, tree varieties, the harvesting projection, the planned use of the timber, etc.

(2) The following requirements must also be met:

(i) If the borrower is otherwise eligible, the County Supervisor must determine that a feasible farm plan, as defined by Subpart B of Part 1924 of this chapter, with a positive cash flow projection on the present farm operation is not possible without using the provisions of this section. The County Supervisor must calculate the borrower's cash flow projection, using the maximum terms for the rescheduling, reamortization and deferral authorities set out in this subpart. If a positive cash flow projection can be achieved by using any of these authorities, the borrower's account will be rescheduled, reamortized or deferred, as applicable.

Limited Resource rates must be considered, if the borrower is eligible, in determining whether a positive cash flow can be achieved. The County Supervisor must document the steps taken to develop these cash flow projections and must place this documentation in the borrower's case file. If a positive cash flow projection is shown, the borrower is not eligible for a reamortization of a distressed loan(s) as set out in this section. The borrower will be given an opportunity to appeal the denial, as provided in Subpart B of Part 1900 of this chapter.

(ii) If a positive cash flow projection is not possible by using the options listed in paragraph (d)(2)(i) of this section, the County Supervisor will determine if a positive cash flow projection is possible by deferring and reamortizing a portion of one or more distressed FP loans as ST loans. The ST loan is limited to the loan amount (rounded up to the nearest $1,000) sufficient to generate a positive cash flow. However, the amount of the loan cannot exceed the amount per acre specified in paragraph (c)(7) of this section. The borrower, with assistance from the County Supervisor, must be able to develop a feasible farm plan for the first full crop year of the deferral in accordance with the requirements of Subpart B of Part 1924 of this chapter.

(iii) When a loan is reamortized the accrued interest will be capitalized. Payment may be deferred for up to 45 years or until the timber crop produces revenue, whichever comes first, except as required in paragraph (j)(2) of this section. If income is available, payments will be required as determined in paragraph (d)(2)(iv) of this section. Repayment of such a reamortized loan shall be made not later than 46 years after the date of the reamortization, unless the borrower qualifies for a further reamortization as authorized in paragraph (k)(8) of this section.

(iv) If assistance is granted, an annual plan will be developed each year to determine if there is any balance available to pay interest and/or principal on ST loans before the deferral period ends. If a balance is available, the borrower will sign Form FmHA 440-9, "Supplementary Payment Agreement," for payments on the ST loans.

(v) Applicable requirements of Subpart G of Part 1940 of this chapter must be met.

(3) If a borrower has requested an ST loan that has a portion of the debt set-aside under this subpart, the set-aside will be cancelled at the time the reamortization is granted. The borrower may retain the set-aside on other loans. A borrower who requests a reamortization of a distressed set-aside loan must agree in writing to the cancellation of the set-aside. The written agreement must be placed in the borrower's case file.

(4) If the total amount of the distressed FP loan(s) exceeds $1,000 per acre of the marginal land designated for softwood timber production, the FP loan must be split. The split portion of the loan may not exceed $1,000 per acre for the marginal land. A new mortgage will be required to secure this portion of the loan unless the State supplement provides otherwise. The mortgage must provide the FmHA has a security interest in the timber. The remaining balance of such a split loan will be secured by the remaining portion of the farm and such other security previously held as security prior to the split. Separate promissory notes will be executed for each portion of the split loan. The remaining portion of the note will be rescheduled, deferred, or reamortized, as applicable, in accordance with this subpart. The ST loan will be deferred and reamortized in accordance with this section. The ST loan(s) will be secured by the marginal land including timber.

(5) The County Supervisor will release all other liens securing FmHA loans including NP loans on such marginal land when the ST loan is closed. Only ST loans will be secured by such marginal land including timber. Releases will be processed in accordance with Subpart A of Part 1965 of this chapter. Such releases are authorized by this paragraph. If other lenders have liens on this marginal land, the lenders must release their liens before or simultaneously with FmHA's release of its liens. No additional liens can be placed on the marginal land and timber after the closing of a ST loan.

(e) *Interest rates for ST loans.* See Exhibit B of FmHA Instruction 440.1 for the applicable interest rate. (Available in any FmHA office.) However, the interest rate will be the lower of (1) the rate of interest on the original loan which has been deferred and reamortized as the ST loan or (2) the Exhibit B rate.

(f) *Special requirements*—(1) *Size of the timber tract.* The minimum parcels of marginal land selected as a tract for softwood timber production must be contiguous parcels of land containing at least 50 acres. Small scattered parcels will be excluded.

(2) *Farm or residence situated in different counties.* If a farm is situated in more than one State, county, or parish, the loan will be processed and serviced in the State, county, or parish in which the borrower's residence on the farm is located. However, if the residence is not situated on the farm, the loan will be serviced by the county office serving the county in which the farm or a major portion of the farm is located unless otherwise approved by the State Director.

(3) *Graduation of ST borrowers.* If, at any time, it appears that the borrower may be able to obtain a refinancing loan from a cooperative or private credit source at reasonable rates and terms, the borrower will, upon request, apply for and accept such financing.

(g) *Planning.* A farm plan will be completed as provided in Subpart B of Part 1924 of this chapter. The State Director will supplement this subpart with a State supplement to guide the County Supervisor regarding the sources available to obtain a Timber Management Plan. The required Timber Management Plan developed with the assistance of the FS, State Forest Service or such other State or Federal agencies or qualified private forestry service should provide management recommendations to assist the borrower in establishing, managing and harvesting softwood timber. Borrowers are responsible for implementing the Timber Management Plan.

(h) *Distressed reamortized loan approval or disapproval.* County Supervisors are authorized to approve or disapprove the reamortization of distressed FmHA loans as described in this section. No more than 50,000 acres can be placed in the program. Acres for the program will be allocated to borrowers on a first-come, first-served basis. "Administrative Notices" containing reporting requirements will be issued to field offices so that the National Office can keep a tally of the acres for the program. County Supervisors will obtain a verification from the State Director that the acres can be allocated to the program prior to approval of the reamortization of the distressed FP loan(s). Normally, the verification of allocated acres will be obtained when the loan docket is complete and ready for approval. Loans for the program will not be approved until a confirmation is received for the allocation of acres for the loan(s). When a reamortization is approved, the County Supervisor will notify the borrower by letter of the approval of the ST loan(s). The Finance Office will be notified by the County Supervisor by completing Forms FmHA 1965-22 and 1965-23 for entry into the field office terminal system.

(i) *Reamortizing disapproval.* When a reamortization is disapproved, the County Supervisor will notify the borrower in writing of the action taken and the reasons for the action, and include any suggestions that could result in favorable action when appropriate. The borrower will be given written notice of the opportunity to appeal as provided in Subpart B of Part 1900 of this chapter.

(j) *Processing of ST loans.* (1) If the reclassified ST loan is approved, all other FmHA loans must be current on or before the date the reclassified ST notes are signed except for vouchered recoverable cost items that cannot be rescheduled or reamortized. All other delinquent loans including NP loans will be rescheduled, reamortized, consolidated, deferred or paid current as applicable to bring the account current.

(2) ST loans on the dwelling. If the only liens on the borrower's dwelling are the reclassified ST loans, the borrower must make payments on the loans(s) at least equal to the market value rent for the dwelling as determined by the County Supervisor or for the minimum equally amortized installment for the term of the loan whichever is less. Such payments cannot be deferred and will be shown in the promissory note as a regular installment for the reclassified ST loan.

(3) Form FmHA 1940-18, "Promissory Note for ST loans," will be used for ST loans. Form 1940-17, "Promissory Note," will be used for any remaining portion of a split distressed loan. The forms will be completed, signed and distributed as provided in the FMI.

(4) New mortgages must be filed unless otherwise provided in the State supplement. If a new mortgage or separate security agreement is taken, the new mortgage and/or security agreement should be filed and perfected as provided in the State supplement. In many cases a survey of the land securing the ST loan will be required.

(5) The borrower will obtain any required releases from other lienholders and the County Supervisor will release any other FmHA liens in accordance with paragraph (d)(5) of this section.

(k) *Servicing.* ST loans will be serviced in accordance with Subpart A of Part 1965 of this chapter with the following exceptions:

(1) ST loans will not be subordinated for any purpose.

(2) Security for ST loans will not be leased except for the softwood timber production authorized by the ST loan.

(3) Land designated for softwood timber production cannot be used for grazing or the production of other agricultural commodities, as defined in § 12.2(a)(1) of Subpart A of Part 12 of this title and which is in Attachment 1 of Exhibit M of Subpart G of Part 1940 of this chapter during the life of the loan.

(4) ST loans will only be transferred as NP loans in accordance with Subpart A of Part 1965 of this chapter except in the case of a deceased borrower. Deceased borrower cases involving transfers will be handled in accordance with Subpart A of Part 1962 of this chapter.

(5) Land designated for softwood timber production under this subpart must remain in the production of softwood timber for the life of the loan. If the trees die or are destroyed or the production of timber ceases, as recognized by acceptable timber management practices, and the borrower is unable to develop feasible plans for the reestablishing of the timber production, the account will be liquidated in accordance with the productions of Subpart A of Part 1965 of this chapter. Borrowers must receive Forms FmHA 1924-14, FmHA 1924-25 and FmHA 1924-26, and *any appeal must be concluded before any adverse action can be taken.*

(6) The Timber Management Plan will be updated and revised, as appropriate, every five years or more often if necessary.

(7) Harvesting softwood timber for Christmas trees is prohibited.

(8) A ST loan will only be further reamortized if the timber is not harvested in the year planned for when the initial promissory note was signed and the borrower is unable to pay the note as agreed. Interest will be capitalized at the time of the reamortization. The total term of the reamortized notes will not exceed 50 years from the date of the intital note. The total years of deferred payments will not exceed 45 years, including the payments deferred in the initial note. The note should be scheduled for payment when the timber is expected to be harvested or when income will be available to pay on the note, whichever comes first. However, partial payments must be scheduled for those years that exceed the deferral period.

(l) *Exception authority.* The Administrator, in individual cases, make an exception to any requirement or provision of this section which is not inconsistent with the authorizing statute or other applicable law if the Administrator determines that the application of the requirement would adversely affect the Government's interest. The Administrator will excerise this authority upon request of the State Director and on recommendation of the Assitant Administrator, Farmer Programs, or upon request inititated by that Assistant Administrator. Requests for exceptions must be made in writing and supported with documentation to explain the adverse effect on the Government's interest, propose alternate couses of action and show how the adverse effect will be eliminated or minimized if the exception is granted.

(m) *State supplements.* State supplements will be issued immediately and updated as necessary to implement this section.

26. Section 1951.50 is added to read as follows:

§ 1951.50 OMB control number.

The collection of information requirements in Subpart A of Part 1951 have been approved by the Office of Management and Budget and assigned OMB control number 0575-0075.

Subpart F—Analyzing Credit Needs and Graduation of Borrowers

27. Section 1951.252 is amended by revising paragraph (a) to read as follows:

§ 1951.252 Definitions.

(a) *Farmer program loans* means Farm Ownership (FO), Operating (OL), Soil and Water (SW), Recreation (RL), Emergency (EM), Economic Emergency (EE), Economic Opportunity (EO), Special Livestock (SL), Softwood Timber (ST) loans, and/or Rural Housing loans for farm service buildings (RHF).

* * * * *

28. Section 1951.261 is amended by revising paragraph (b)(1)(i)(A) to read as follows:

§ 1951.261 Graduation of FmHA borrowers to other sources of credit.

* * * * *

(b) * * *

(1) * * *

(i) * * *

(A) The list will contain borrowers who have been indebted for at least 3 years for Emergency (EM) and Economic Emergency (EE) loans; 4 years for Operating Loans (OL); 6 years for Farm Ownership (FO), Soil and Water (SW), Softwood Timber (ST), and Rural Housing (RH) loans.

* * * * *

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

29. Section 1951.551 is revised to read as follows:

§ 1951.551 Purpose.

This subpart prescribes the policies and procedures for servicing insured Operating (OL), Farm Ownership (FO), Soil and Water (SW), Recreation (RL), Emergency (EM), Economic Emergency (EE), Special Livestock (SL), Softwood Timber (ST), Economic Opportunity (EO) loans, and Rural Housing loans for farm service buildings (RHF) (referred to as farmer program (FP) loans), when it is determined that the borrower was not eligible for all or part of the financial assistance received in the form of a loan or subsidy granted. It does not apply to guaranteed loans.

PART 1955—PROPERTY MANAGEMENT

30. The authority citation for Part 1955 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—Liquidation of Loans Secured by Real Estate and Acquisition of Real and Chattel Property

31. Section 1955.3 is amended by revising paragraph (d) to read as follows:

§ 1955.3 Definitions.

* * * * *

(d) *Loans to individuals*, Farm Ownership (FO), Soil and Water (SW), Recreation (RL), Special Livestock (SL), Economic Opportunity (EO), Operating (OL), Emergency (EM), Economic Emergency (EE), Softwood Timber (ST), and Rural Housing loans for farm service buildings (RHF), whether to individuals or entities, referred to in this subpart as Farmer Programs (FP) loans; and Land Conservation and Development (LCD); and Single-Family Housing (SFH), including both Section 502 and 504 loans.

* * * * *

Subpart B—Management of Property

32. Section 1955.53 is amended by revising paragraphs (e) and (g) to read as follows:

§ 1955.53 Definition.

* * * * *

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

* * * * *

(g) *Loans to individuals.* Farmer Program, as defined in paragraph (e) of this section, whether to individuals or entities; Land Conservation and Development (LCD); and Single-Family Housing (SFH), including both sections 502 and 504 loans.

* * * * *

Subpart C—Disposal of Inventory Property

33. Section 1955.105 is amended by revising paragraph (a) to read as follows:

§ 1955.105 Real Property affected (CONACT).

(a) *Loan types.* Sections 1955.106–1955.109 of this subpart prescribe procedures for the sale of inventory real property which secured any of the following type of loans (referred to as CONACT property in this subpart): Farmer Ownership (FO); Recreation (RL); Soil and Water (SW); Operating (OL); Emergency (EM); Economic Opportunity (EO); Economic Emergency (EE); Softwood Timber (ST); CF; WWD; RC&D; WS; Association Recreation; EOC; Rural Renewal; Water Facility; B&I; Irrigation and Drainage; Shift-in-land Use (Grazing Association); and loans to Indian Tribes and Tribal Corporations. Before property can be sold, § 1955.73 of Subpart B of this part concerning dwelling retention must be followed, if applicable.

PART 1956—DEBT SETTLEMENT

34. The authority citation for Part 1956 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 31 U.S.C. 3711; 7 CFR 2.23; 7 CFR 2.70.

Subpart B—Debt Settlement—Farmer Programs and Single Family Housing

35. Section 1956.54 is amended by revising paragraph (f) to read as follows:

§ 1956.54 Definitions.

* * * * *

(f) *Farmer program loans.* Farm Ownership (FO), Operating (OL), Soil and Water (SW), Economic Emergency (EE), Emergency (EM), Recreation (RL), Special Livestock (SL), Softwood Timer (ST) loans, and/or Rural Housing Loans for farm services buildings (RHF).

* * * * *

PART 1965—REAL PROPERTY

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

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

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

37. Section 1965.7 is amended by revising paragraph (d) to read as follows:

§ 1965.7 Definitions.

* * * * *

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

* * * * *

38. Section 1965.12 is amended by revising the introductory text to read as follows:

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

See § 1965.34(e) of this subpart for requirements concerning subordinations of non-program (NP) loans. In accordance with the Food Security Act of 1985 (Public Law 99–198) after December 23, 1985, if an individual or any member, stockholder, partner, or joint operator of an entity is convicted under Federal or State law of planting, cultivating, growing, producing, harvesting, or storing a controlled substance (see 21 CFR Part 1308, which is Exhibit C to Subpart A of Part 1941 of this chapter and is available in any FmHA office, for the definition of "controlled substance") prior to the issuance of the subordination in any crop year, the individual or entity shall be ineligible for a subordination for the crop year in which the individual or member, stockholder, partner, or joint operator of the entity was convicted and the four succeeding crop years. Applicants for subordinations will attest on Form FmHA 465–1, "Application for Partial Release, Subordination, or Consent," that as individuals or that its members, if an entity, have not been convicted of such crime after December 23, 1985. A decision to reject an application for subordination for this reason is not appealable. Softwood timber (ST) loans will not be subordinated.

* * * * *

39. Section 1965.13 is amended by revising the introductory text to read as follows:

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

If an NP loan is involved, see § 1965.34 of this subpart or see § 1951.46(d)(5) of Subpart A of Part 1951 of this chapter when a combination of NP, ST and other FP loans are involved. If an FP loan is being deferred and reamortized as an ST loan, partial releases are authorized as provided in § 1951.46(d)(5) of Subpart A of Part 1951 of this chapter. However, there is no authority for FmHA employees to consent to partial release or sale, exchange or other disposition of a portion of the security for an existing ST loan.

* * * * *

40. Section 1965.31 is amended by adding introductory text to read as follows:

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

Additional liens will not be taken for other loans on marginal land used for the production of softwood timber if the land is presently securing an ST loan.

* * * * *

Dated: June 16, 1987.

La Verne Ausman,

Acting Under Secretary for Small Community and Rural Development.

[FR Doc. 87-15850 Filed 7-10-87; 8:45 am]

BILLING CODE 3410-07-M

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7 CFR Part 1924

Provisions for Planning and Performing Construction and Other Development; Correction

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule; correction.

SUMMARY: When this regulation was published as a final rule in the **Federal Register** (52 FR 7998) on March 13, 1987, changes resulting from one of the comments received during the comment period were inadvertently omitted. This action is necessary for FmHA to now make those changes. The intended effect of this action is to correct the omission.

EFFECTIVE DATE: August 12, 1987.

FOR FURTHER INFORMATION CONTACT: Karen L. King, Loan Specialist, Multiple Family Housing Processing Division, Farmers Home Administration, Room 5337, South Agriculture Building, 14th and Independence Avenue SW., Washington, DC 20250, Telephone (202) 382-1620.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures established in Departmental Regulation 1512-1 which implements Executive Order 12291 and has been classified as "nonmajor." This action will result in an annual effect on the economy of less than $100 million and will neither result in a major increase in cost or prices, nor adversely affect competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. There is no impact on proposed budget levels, and funding allocations will not be affected because of this action.

This document has been reviewed in accordance with 7 CFR Part 1940, Subpart G, "Environmental Program." It is the determination of FmHA that it 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.

The FmHA programs which are listed in the Catalog of Federal Domestic Assistance under numbers 10.405—Farm Labor Housing Loans and Grants; 10.415—Rural Rental Housing Loans are 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).

Discussion of Comments

A proposed rule was published in the **Federal Register** (51 FR 9014) on March 17, 1986, and invited comments for 60 days ending May 16, 1986. Changes to the regulation resulting from comments from one commenter were inadvertently omitted when preparing the regulation for final rule which was published in the **Federal Register** (52 FR 7998) on March 13, 1987. Therefore, we are addressing those comments at this time.

The commenter suggested that modifications be made to FmHA regulation to more accurately reflect auditing standards issued by the American Institute of Certified Public Accountants. Auditors are required by their Code of Professional Ethics to issue reports in accordance with the reporting language contained in generally accepted auditing standards and may not use other suggested formats if those formats conflict with authoritative auditing literature. The specific comments dealt with FmHA: Requiring an unqualified opinion; requiring an audit of all records; requiring the auditor to state that the costs are necessary and reasonable, and; showing a sample auditor's report. The Agency has considered the comments and revised the rule to include the suggestions.

List of Subjects in 7 CFR Part 1924

Agriculture, Construction management, Construction and repair, Energy conservation, Housing, Loan programs—Agriculture, Loan programs—Housing and community development, Low and moderate income housing.

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

PART 1924—CONSTRUCTION AND REPAIR

1. 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 and 2.70.

Subpart A—Planning and Performing Construction and Other Development

2. Section 1924.13 is amended by removing paragraph (e)(1)(v)(C), redesignating paragraph (e)(1)(v)(D) as (e)(1)(v)(C), removing paragraph (e)(2)(viii)(B), redesignating paragraph (e)(2)(viii)(C) as (e)(2)(viii)(B) and by revising paragraphs (e)(1)(ii)(F), (e)(1)(v) introductory text, (e)(1)(v)(B), (e)(2)(viii) introductory text, and (e)(2)(viii)(A) to read as follows:

§ 1924.13 Supplemental requirements for more complex construction.

* * * * *

(e) * * *

(1) * * *

(ii) * * *

(F) All contracts will contain a certification by the applicant indicating that there is not now nor will there be an identity of interest between the applicant and any of the following: Contractor, architect, engineer, attorney, subcontractors, material suppliers, equipment lessors, or any of their members, directors, officers, stockholders, partners, or beneficiaries unless specifically identified to FmHA in writing prior to the award of the contract. All contracts must also indicate that when any identity of interest exists or comes into being, the contractor agrees to have construction costs as reported to FmHA on Form 1924-13, "Estimate and Certificate of Actual Cost," audited by a Certified Public Accountant (CPA) or Licensed Public Accountant (LPA) licensed prior to December 31, 1970, who will provide an opinion as to whether the Form

FmHA 1924–13 presents fairly the costs of construction in conformity with eligible construction costs as prescribed in FmHA regulations.

* * * * *

(v) *Cost certification.* Whenever the State Director determines it appropriate, and in all situations where there is an identity of interest as defined in § 1924.2 (i) of this subpart, the borrower, contractor and any subcontractor, material supplier or equipment lessor having an identity of interest must each provide certification using Form FmHA 1924–13 as to the actual cost of the work performed in connection with the construction contract. The construction costs as reported on Form FmHA 1924–13 must also be audited by a CPA or an LPA licensed on or before December 31, 1970, except for owner-builders not required to provide cost certification who must follow the instructions provided in § 1924.13 (e)(2)(viii) of this subpart.

* * * * *

(B) The CPA or LPA's audit will include such tests of the accounting records and such other auditing procedures of the borrower and the contractor (and any subcontractor, material supplier or equipment lessor sharing an identity of interest) concerning the work performed, services rendered, and materials supplied in accordance with the construction contract he/she considers necessary to express an opinion on the construction costs as reported on Form FmHA 1924–13. Upon completion of construction and prior to final payment, the CPA or LPA will provide an opinion concerning whether the construction costs as reported on Form FmHA 1924–13 presents fairly the cost of construction in conformity with eligible construction costs as prescribed in FmHA regulations. FmHA reserves the right to determine, upon receipt of the certified Form FmHA 1924–13 and the auditor's report, whether they are satisfactory to FmHA.

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(2) * * *

(viii) The applicant/owner-builder and any subcontractor, material supplier or equipment lessor sharing an identity of interest as defined in § 1924.4(i) of this subpart must each provide certification as to the actual cost of work performed in connection with the construction of the project on Form FmHA 1924–13 prior to final payment. For all such projects involving a total development cost of more than $350,000 and any other project where the State Director determines it appropriate, the applicant/owner-builder must provide for an audit of the construction costs as reported on Form FmHA 1924–13 by a CPA or an LPA licensed on or before December 31, 1970.

(A) The CPA or LPA's audit will include such tests of the accounting records and such other auditing procedures of the applicant/owner-builder (and any subcontractor, material supplier or equipment lessor sharing an identity of interest) concerning the work performed, services rendered, and materials supplied in connection with construction of the project he/she considers necessary to express an opinion on the construction costs as reported on Form FmHA 1924–13. Upon completion of construction and prior to final payment, the CPA or LPA will provide an opinion concerning whether the construction costs as reported on Form FmHA 1924–13 presents fairly the costs of construction in conformity with eligible construction costs as prescribed in FmHA regulations. FmHA reserves the right to determine, upon receipt of the certified Form FmHA 1924–13 and the auditor's report, whether they are satisfactory to FmHA.

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Dated: June 5, 1987.

Vance L. Clark,

Administrator, Farmers Home Administration.

[FR Doc. 87–15830 Filed 7–10–87; 8:45 am]

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Animal and Plant Health Inspection Service

9 CFR Part 114

[Docket No. 87–027]

Unlicensed Products Prepared Solely for Intrastate Distribution or Exportation; Claim for Exemption

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The interim rule, which was effective October 22, 1986, and which amended the regulations to simplify procedures manufacturers of unlicensed biological products must follow in order to claim the exemption provided in the Food Security Act of 1985 for products prepared solely for intrastate commerce or exportation is issued as a final rule without change. The Act provides an exemption for the continued preparation of biological products by unlicensed manufacturers during a 4-year phase-in period, provided that the exemption is claimed by January 1, 1987.

EFFECTIVE DATE: July 13, 1987.

FOR FURTHER INFORMATION CONTACT: Dr. Peter L. Joseph, Senior Staff Veterinarian, Veterinary Biologics Staff, VS, APHIS, USDA, Room 838, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, Telephone: 301–436–6332.

SUPPLEMENTARY INFORMATION:

Background

The interim rule providing simplified procedures for claiming the statutory exemption for the continued preparation of biologics in unlicensed establishments which was published October 22, 1986 at 51 FR 37383–37384 was effective on the date of publication in the **Federal Register**. Comments were solicited for 30 days ending November 21, 1986. One comment was received from a veterinary biologics manufacturer expressing concern that § 114.2(d)(3), which allows for a 12-month extension of the period of exemption beyond the 4-year period, would create an unfair competitive advantage for some manufacturers in the market place. The interim final rule provided that the exemption may be extended in an individual case on a showing by a person, firm, or corporation of good cause and a good faith effort to comply with the amended Act with due diligence. This provision is based on the statute and mirrors the statutory language providing that the Secretary may on a proper showing grant such an extension. It is the Agency's view that this provision should be given effect in the regulations.

Therefore, having given full consideration to the comment, the Agency has determined that the interim rule should remain unchanged.

Executive Order 12291 and Regulatory Flexibility Act

This interim rule has been issued in conformance with Executive Order 12291 and Department Regulation 1512–1, and has been classified as a "Non-major Rule."

The action would not have a significant effect on the economy and would not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. The Department estimates that affected facilities taken as a group will devote approximately 250 hours in order to comply with this rule. This brief total expenditure of time should not have a significant effect on the economy or on