

team leader will keep the State Director informed by telephone and by submission of weekly written reports, setting forth the problems discovered and the corrective actions taken or to be taken. The State Director will keep all County and District Offices in the designated area of the State informed of the common problems found by the team and require appropriate corrective action to be taken by the County Offices. Such actions will be monitored by the District Director and reported to the State Director when corrective measures have been completed. State Directors will monitor the handling of this quality control measure. The Assistant Administrator, Farmer Programs, will monitor States quality control procedures.

§§ 1951.919—1951.949 [Reserved]

§ 1951.950 OMB control number.

The reporting and recordkeeping requirements contained in this regulation have been approved by the Office of Management and Budget and have been assigned OMB control number 0575.0133. Public reporting burden for this collection of information is estimated to average five minutes per response including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIRM, room 404-W, Washington, DC 20250; and to the Office of Management and Budget, Paperwork Reduction Project (OMB# 0575-0133), Washington, DC 20503.

EXHIBITS TO SUBPART S

EXHIBIT A—NOTICE OF THE AVAILABILITY OF LOAN SERVICE AND DEBT SETTLEMENT PROGRAMS FOR DELINQUENT FARM BORROWERS

Note to County Supervisor: This exhibit will be sent to all borrowers who are 30 days behind schedule on their farmer program payments and to all such borrowers who be-

come 180 days behind schedule and do not respond to the 30-day notice.

Dear (Borrower's Name): This notice is to inform you that you are behind with your loan payments and to inform you of your options. Farmers who are more than 30 days late in making payments have several options.

I. Loan Service Programs Available

Primary loan service programs are intended to adjust the debt so that you can continue farming and the FmHA or its successor agency under Public Law 103-354 will receive a better recovery on the money it loaned you.

Preservation loan service programs are intended to help farmers who may lose their land to FmHA or its successor agency under Public Law 103-354 get their farmland and/or their home back through a lease with an option to buy.

II. Application Information

Time Limits

You must notify FmHA or its successor agency under Public Law 103-354 within 60 days of getting this notice if you want these programs.

If you are less than 180 days delinquent when you receive this notice and do not respond, you will be renotified when you become 180 days delinquent. However, if you timely respond, you will not be renotified when you become 180 days delinquent.

How to Apply

To apply, you must complete and return the required forms you get with this notice, including your signed Acknowledgement Of Notice Of Program Availability within the 60-day time limit.

How Soon Will You Know if You Qualify

FmHA or its successor agency under Public Law 103-354 has 90 days to process your completed forms and let you know if you qualify.

Included With This Notice You Will Find:

- (1) A summary of primary loan service programs options
- (2) A summary of preservation loan service programs
- (3) A summary of debt settlement programs
- (4) The forms you need to apply for services
- (5) Information on how to get copies of FmHA or its successor agency under Public Law 103-354 regulations
- (6) A description of the FmHA or its successor agency under Public Law 103-354 appeals process.

III. Foreclosure and Liquidation

What Happens if You Do Not Apply Within 60 Days?

FmHA or its successor agency under Public Law 103-354 will take steps to begin the acceleration of your loan if you are more than 180 days delinquent. Acceleration of your loan is very severe. This means FmHA or its successor agency under Public Law 103-354 will take legal action to collect all the money you owe them.

After acceleration, FmHA or its successor agency under Public Law 103-354 will start foreclosure proceedings. They will repossess or take legal action to take any real estate, personal property, crops, livestock, equipment, or any other assets in which FmHA or its successor agency under Public Law 103-354 has a security interest. FmHA or its successor agency under Public Law 103-354 will also stop allowing you to use your crop, livestock, and milk checks to pay living and operating expenses. FmHA or its successor agency under Public Law 103-354 may also take by administrative offset money which other federal agencies owe you.

Sincerely,

County Supervisor,

Farmers Home Administration or its successor agency under Public Law 103-354, United States Department of Agriculture.

ATTACHMENT 1—PRIMARY AND PRESERVATION LOAN SERVICE AND DEBT SETTLEMENT PROGRAMS PURPOSE

Note to County Supervisor:

This attachment will be provided to every borrower who requests Primary and/or Preservation Loan Servicing Programs and to every borrower FmHA or its successor agency under Public Law 103-354 contacts in regard to monetary, non-monetary default or in financial distress.

Purpose

These FmHA or its successor agency under Public Law 103-354 programs are to help you repay the loan and keep your farm property and settle your debt to FmHA or its successor agency under Public Law 103-354. This notice tells you:

- (1) How to get more information
- (2) How to apply
- (3) Your appeal rights if you apply and are turned down

How to Get More Information

Ask at any FmHA or its successor agency under Public Law 103-354 County Office for copies of the FmHA or its successor agency under Public Law 103-354 rules describing these programs. These rules must be given to you within 10 days.

Who Can Apply?

All “farmer program borrowers” who have one of the following loans:

- Operating (OL)
- Farm Ownership (FO)
- Emergency (EM)
- Economic Emergency (EE)
- Soil and Water (SW)
- Recreation (RL)
- Rural Housing Loans made for farm service buildings (RHF)
- Economic Opportunity (EO)

Borrowers that are current on their scheduled payments but are financially distressed through no fault of their own may be eligible for some assistance to restructure their debt.

You May Need Help in Applying

The legal requirements for these programs are very complicated. You may need help to understand them. You may want to ask an attorney to help you. If you cannot get an attorney, there are organizations that give free or low-cost advice to farmers. Ask your State Department of Agriculture or the USDA Extension Service what services are available to your state.

NOTE: FmHA or its successor agency under Public Law 103-354 County Supervisors cannot recommend a particular attorney or organization.

I. Primary Loan Service Programs

(1) Loan Consolidation

Two or more of the same type of loans can be combined into one larger loan. For example, operating loans can only be joined with operating loans and farm ownership loans with farm ownership loans.

(2) Loan Rescheduling

The payment schedule can be altered to give you longer to repay loans secured by equipment, livestock, or crops. For example, the time for repayment of an operating-type loan can be extended up to 15 years. When a loan is rescheduled, the interest rate may be reduced.

(3) Loan Reamortization

The payment schedule can be changed to give you longer to repay loans secured by real estate. For example, a Farm Ownership loan payback period may be extended to 40 years from the date the original loan was signed. When a loan is reamortized, the interest rate may be reduced.

(4) Interest Rate Reduction

Regular Interest Rate

FmHA or its successor agency under Public Law 103-354 has specific interest rates for each type of loan. These interest rates change quite often. They depend on what it

costs the Government to borrow money. Each type of loan will have a regular rate.

Limited Resource Interest Rate

If you have an Operating Loan (OL), Soil and Water (SW) loan or a Farm Ownership (FO) loan, it may be possible for you to get a "limited resource interest rate." The limited resource interest rate can be as low as 5 percent. It changes quite often and depends on what it cost the Government to borrow money.

Interest Rate for Loan Servicing

When loans are consolidated, rescheduled, or reamortized, the interest rate on the new loan will be either the interest rate on the original loan or the current regular rate of interest for that type of loan, whichever is less. The borrower may be able to get the limited resource interest rate on OL, SW, or FO loans.

For information about current interest rates, contact the FmHA or its successor agency under Public Law 103-354 County Office.

(5) Loan Deferral

Payments of principal and interest can be temporarily delayed for up to 5 years. You must show that you cannot pay essential living expenses or maintain your property and pay your debts. You must also show you will be able to pay at the end of the deferral period.

The interest rate on a deferred loan will be either the current rate of interest for loans of the same type or the original rate on the loan, whichever one is lower.

The interest that builds up during the deferral period will be added to the principal of the loan. You must pay this interest in yearly payments for the rest of the loan term.

NOTE: You can only get a loan deferral if the FmHA or its successor agency under Public Law 103-354 determines options 1-4 will not work for you.

NOTE: FmHA or its successor agency under Public Law 103-354 Softwood Timber Programs. Marginal land including highly erodible land and pasture can be planted in softwood timber. If you qualify, a debt of up to \$1,000 an acre can be deferred up to 45 years. Interest will be charged during the deferral period. The debt must be paid when the timber is sold.

NOTE: Conservation Easements. Use of highly erodible land, wetlands, or wildlife habitat can be signed over to the Secretary of Agriculture for a reduction in your debt. The amount of land left after the conservation easement must be enough to continue your farming operation.

(6) Debt Writedown

This is not available to borrowers who are current in their loan payments.

Debt writedown means the FmHA or its successor agency under Public Law 103-354 debt you owe is reduced. FmHA or its successor agency under Public Law 103-354 can reduce both the principal and interest of your debt. Your debt can be reduced to the recovery value.

Recovery value. The recovery value is the fair market value of the collateral pledged as security for FmHA or its successor agency under Public Law 103-354 loans minus all of the expenses such as sale costs, attorneys' fees, management costs, taxes and payment of prior liens on the collateral that FmHA or its successor agency under Public Law 103-354 would have to pay if it foreclosed on and sold the collateral. The fair market value of any collateral that is not in your possession and has not been released for sale by FmHA or its successor agency under Public Law 103-354 in writing will also be used in determining recovery value. Also considered will be the fair market value of any other assets that you may own that are not essential for family living or for farm operation, and are not exempt from your judgment creditors or in a bankruptcy action, minus the value of any creditors' prior security interests and your selling costs. The value of the collateral and any other assets must be decided by a qualified appraiser.

In order to get debt writedown, you must show that you will have enough money to pay all of your family living and farming operating expenses and up to 105 percent but not less than 100 percent of your scheduled debt payments. FmHA or its successor agency under Public Law 103-354 will not deny your request if you cannot make the full 105 percent of your scheduled debt payments including making payments on your FmHA or its successor agency under Public Law 103-354 debt once part of the loan is written down. This means you must have a feasible plan of operation. FmHA or its successor agency under Public Law 103-354 will never write down more of the debt than is necessary for you to show a feasible plan.

The writedown is used only when the loan servicing programs listed in programs 1-5 above alone will not be enough for you to have a feasible plan. If you get writedown, some of the principal and interest on your loan(s) will be written down in addition to changing the payback period, and possibly the interest rate, using programs 1-5 above.

If all of your outstanding loans have original promissory notes dated after January 6, 1988, you can receive only one writedown or one buyout. If you have any outstanding loans with original promissory notes dated on or before January 6, 1988, and have never received a deferral, writedown, or buyout on

any loan after that date, you can receive two writedowns or buyouts, or one of each. If you have any outstanding loans with original promissory notes dated on or before January 6, 1988, and have received deferral or writedown after that date, or if you previously bought out loans dated on or before January 6, 1988, at the net recovery value, you can receive one additional writedown or buyout. In addition, you have a total lifetime limit of \$300,000 for writedown and/or writeoff (with buyout), regardless of the number of writedowns and/or buyouts you may qualify for. Any writedown or buyout received on an application submitted before November 28, 1990, will not be counted toward the one writedown or buyout limit or the \$300,000 limit.

II. Who Can Qualify for Primary Loan Service Programs

To qualify you must prove that:

(1) You cannot repay your FmHA or its successor agency under Public Law 103-354 debt due to circumstances beyond your control. If you have certain nonessential assets with a value high enough to bring your account current, then you are not eligible for Primary Loan Service Programs. These assets are only those that are not essential for necessary family living or for your farm operation. FmHA or its successor agency under Public Law 103-354 cannot reduce or write off any of your debt that you could pay by selling any of these assets or borrowing against your equity in such assets.

You must have had less income than expected due to such things as:

- (a) A natural disaster, weather, or insect problems,
- (b) Family illness or injury,
- (c) Loss or reduction of off-farm income,
- (d) Disease in your livestock,
- (e) Low commodity prices and high operating expenses in your local area, or
- (f) Other circumstances beyond your control; and

(2) You have acted in "good faith" to keep your agreements with FmHA or its successor agency under Public Law 103-354 in that you have kept all written agreements with FmHA or its successor agency under Public Law 103-354 including those for the use of proceeds and release of property used to secure the loan, and your file shows no fraud, waste, or conversion.

(3) You must agree to give FmHA or its successor agency under Public Law 103-354 a lien on certain other assets for additional security for the FmHA or its successor agency under Public Law 103-354 debt. If you are offered restructuring and accept the offer, you must provide this lien at closing.

Who Will Decide if You Qualify?

The FmHA or its successor agency under Public Law 103-354 County Supervisor will decide if you qualify. The County Supervisor will decide whether you can pay as much or more on the loan as FmHA or its successor agency under Public Law 103-354 would get if they foreclosed and sold the collateral for the loan plus the value of any nonessential assets. To do this, the County Supervisor must decide whether the total payments of principal and interest on your adjusted debt will be at least as much as the "recovery value" explained under part I(6) above.

How Soon Will You Know?

Within 90 days from the day you apply you will get a copy of the County Supervisor's analysis and decision.

Can You Get Your Debts Written Down?

Only if FmHA or its successor agency under Public Law 103-354 will get as much or more by writing down part of your debt than through foreclosure or sale of the collateral for the loan and any nonessential assets. You also must be delinquent on your FmHA or its successor agency under Public Law 103-354 debt payments.

Conditions of the New Agreement if You Qualify

You must sign a shared appreciation agreement. Under the terms of the agreement:

- You must repay a part of the sum written down.
- The amount you must repay depends on how much your real estate collateral increases in value.
- The shared appreciation agreement will not last longer than 10 years.

During this 10 years, FmHA or its successor agency under Public Law 103-354 will ask you to repay part of the debt written down if you do any of the following things:

- (1) Sell or convey the real estate
- (2) Stop farming
- (3) Pay off the entire debt

If you do not do any of these things during the 10 years, FmHA or its successor agency under Public Law 103-354 will ask you to repay part of the debt written down at the end of the 10 years.

FmHA or its successor agency under Public Law 103-354 can only ask you to repay if the value of your real estate collateral goes up.

In the first four years of the agreement, FmHA or its successor agency under Public Law 103-354 will ask you to pay 75 percent of the increase in value of the real estate. In the last 6 years, you will be asked to pay only 50 percent of the increase in value. However, FmHA or its successor agency under Public Law 103-354 can never ask you to pay

more than the amount of the debt written down.

Date to Begin Restructured Agreement

If you are found eligible, you will be informed of the date for an appointment so your debt can be restructured. You must notify FmHA or its successor agency under Public Law 103-354 that you accept its offer to restructure your debt within 45 days of when you receive the offer.

(4) You must agree to meet, at your own cost, FmHA or its successor agency under Public Law 103-354's training requirements in production and financial management. The cost will be included in your farm plan as an operating expense. The training must be completed within 2 years from the date of restructuring. The County Committee may waive this requirement if you are able to demonstrate that you have adequate training in this area. To request a waiver of this training requirement, complete Form FmHA or its successor agency under Public Law 103-354 1924-27, "Request for Waiver of Borrower Training Requirements," and submit with your request for FmHA or its successor agency under Public Law 103-354 servicing. This training requirement is not applicable if you have previously received a waiver or you have successfully completed the required FmHA or its successor agency under Public Law 103-354 Borrower Training program.

III. Preservation Loan Service Programs

Purpose

These programs apply when the primary loan service programs cannot help you.

Programs Available

(1) *Homestead Protection.* (Keeping your farm home.) You may lease your farm home and outbuildings plus a limited amount of land. The limit on the land you can retain is up to 10 acres. The lease time will be for up to 5 years. The lease will include an option to buy back the property you lease.

(2) *Farmland Leaseback/Buyback.* You can either lease or buy back your farm and ranch real property. This includes any on farm residence, and any off farm principal residence of the farm operator which is pledged as security for your FmHA or its successor agency under Public Law 103-354 loan from FmHA or its successor agency under Public Law 103-354. (The lease will contain an option to buy.)

IV. Who Can Qualify for Homestead Protection?

(1) Your gross annual income from your farm and/or ranch must have been similar to other comparable operations in your area. This must be true for at least 2 years of the last 6 years.

(2) Sixty percent (60%) of your gross annual income in at least 2 of the last 6 years must have come from the farming operation.

(3) You must have lived in your homestead property for 6 years immediately before your application. If you had to leave for less than 12 months during the 6-year period and you had no control over the circumstances, you still may qualify.

(4) If FmHA or its successor agency under Public Law 103-354 has already taken your property, you must apply within 90 days of the date FmHA or its successor agency under Public Law 103-354 took your property. (FmHA or its successor agency under Public Law 103-354 must notify you within 30 days of taking your property.)

(5) You must be the owner or former owner of the property.

How to Lease Your Dwelling

(1) You may lease your home and up to 10 acres if you pay FmHA or its successor agency under Public Law 103-354 reasonable rent. The rent prices FmHA or its successor agency under Public Law 103-354 charges you will be similar to comparable property in your area.

(2) You must maintain the property in good condition during the term of the lease.

(3) You may lease for up to 5 years.

(4) You cannot sublease your property.

(5) If you do not keep up your rental payments to FmHA or its successor agency under Public Law 103-354, FmHA or its successor agency under Public Law 103-354 will evict you and force you to leave. Before FmHA or its successor agency under Public Law 103-354 forces you to leave, they must let you appeal. FmHA or its successor agency under Public Law 103-354 must also follow the laws of your state.

NOTE: You can buy back your property at current market value at any time during the lease. FmHA or its successor agency under Public Law 103-354 may place an easement on your property to protect and restore any wetlands or converted wetlands. Current market value will be decided by an independent appraiser. The appraisal will be made within 6 months of your application for homestead protection. The appraised value of your property will reflect the value of the land due to any placement of a wetland conservation easement.

V. How to Lease Back or Buy Back Farmland Property

Under certain conditions you may lease or buy back your farm and ranch real property. If you applied for primary loan servicing, and do not qualify (see part VIII below), you will automatically be considered for leaseback/buyback. You can enter into a preacquisition agreement for leaseback/buyback of your farm prior to FmHA or its

successor agency under Public Law 103-354 acquiring title to the property. To do this, you must convey your property to FmHA or its successor agency under Public Law 103-354. FmHA or its successor agency under Public Law 103-354 will only accept the property if it is in the Government's financial interest. You can also apply if FmHA or its successor agency under Public Law 103-354 takes title to your farmland. If FmHA or its successor agency under Public Law 103-354 does not get title to your land because someone else buys it, you will not get leaseback/buyback.

You will have the opportunity to buy the farm during the period of the lease. You can buy the farm for cash or you may apply for FmHA or its successor agency under Public Law 103-354 financing of the purchase.

How Long Do I Have to Decide?

If FmHA or its successor agency under Public Law 103-354 takes your farmland, you will have 180 days after FmHA or its successor agency under Public Law 103-354 takes it to apply to purchase or lease your property. (Some states give you a longer time period.)

Who Can Apply to Buy or Lease Back?

(See next page for the order of these rights.)

(1) Buyback or leaseback rights apply to you, your spouse, and any one of your children if they also have been actively involved in farming.

(2) Members of family-held corporations if the corporation had the loan from FmHA or its successor agency under Public Law 103-354 and if the family member is actively engaged in farming.

(3) Members of family partnerships or joint operations who were responsible to pay the FmHA or its successor agency under Public Law 103-354 loan and if the family member is actively engaged in farming.

(4) A tenant operator (lessee) who operated the farm.

NOTE: You must notify your family of their right to lease or buy back. If you are an entity *i.e.*, partnership, corporation, etc., you must notify the entity members of this right. If you rented out the property when FmHA or its successor agency under Public Law 103-354 took it into inventory, please tell FmHA or its successor agency under Public Law 103-354 the name and address of the lessee. FmHA or its successor agency under Public Law 103-354 will then notify the lessee.

Your spouse and your children's rights, and the rights of entity members, exist only if FmHA or its successor agency under Public Law 103-354 takes the property into inventory.

You should be aware that any real property, located in special areas or having spe-

cial characteristics, which comes into FmHA or its successor agency under Public Law 103-354's inventory, may have restrictions and/or easements placed on the property which prevent your use of all or a portion of the property, should you choose to lease or buy your former farm and/or dwelling. These restrictions and encumbrances will be placed in leases and in deeds on farms containing wetlands, floodplains, endangered species, wild and scenic rivers, historic and cultural properties, coastal barriers, and highly erodible soils.

Order of Rights to Buy or Lease Back

(1) The former owner has first right. His/her right to be considered will last for 180 days from the time FmHA or its successor agency under Public Law 103-354 gets title to the land.

(2) The former owner's spouse or children (if the former owner was an individual) has the second right. However, if the former owner was an entity, then the entity members of a corporation, partnership, joint operation or cooperative have the second right to buy or lease back. Their right to be considered will last for 190 days (*i.e.*, 10 days more than owner's 180 days).

(3) The operator, if he/she is not owner of the property and was operating the property when FmHA or its successor agency under Public Law 103-354 took it into inventory, has the third right. The operator has 30 days after receipt of a notice about leaseback/buyback to notify FmHA or its successor agency under Public Law 103-354. If the land is on an Indian reservation and was owned by a tribe member, FmHA or its successor agency under Public Law 103-354 will make special offers to tribal members. FmHA or its successor agency under Public Law 103-354 will do this after the time period for owner/family leaseback/buyback has passed.

Who Can Qualify for Buybacks Financed by FmHA or its successor agency under Public Law 103-354 or Leasebacks?

(1) You must have enough financial and management skills to show you will be successful in the farming operation.

NOTE: If you get financing from someone other than FmHA or its successor agency under Public Law 103-354, you will need to meet the requirement of the lender for financial and management skills.

(2) You must give FmHA or its successor agency under Public Law 103-354 a farm plan that shows you have a reasonable chance of being successful.

(3) The rental price must be based on reasonable rent for the same type of property in your area.

(4) The purchase price will be the property's appraised market value.

(5) You must have acted in "good faith" to keep your agreements with FmHA or its successor agency under Public Law 103-354 in that you have kept all written agreements with FmHA or its successor agency under Public Law 103-354 including those agreements for the use of proceeds and release of property used to secure the loan and your file shows no fraud, waste, or conversion.

VI. Debt Settlement Programs.

Purpose

These programs apply after it has been determined that primary loan service programs cannot help you. You may be eligible for both debt settlement and preservation loan service programs. If you do not have FmHA or its successor agency under Public Law 103-354 collateral you will need to apply for debt settlement only. Under these programs, the debt you owe FmHA or its successor agency under Public Law 103-354 may be settled for less than the amount you owe. You may apply for debt settlement at any time by submitting an application for debt settlement on Form FmHA or its successor agency under Public Law 103-354 1956-1.

Programs Available

(1) *Compromise offer:* A lump-sum payment of less than the total FmHA or its successor agency under Public Law 103-354 debt owed.

(2) *Adjustment offer:* One or more payments of less than the total amount owed to FmHA or its successor agency under Public Law 103-354. Your payments can be spread out over a maximum of five years if FmHA or its successor agency under Public Law 103-354 decides you will be able to make the payments as they become due.

(3) *Cancellation:* The final settlement of a debt without any payment. FmHA or its successor agency under Public Law 103-354 must determine there is no FmHA or its successor agency under Public Law 103-354 security or other assets from which FmHA or its successor agency under Public Law 103-354 can collect. You must be unable to pay any part of the debt now or in the future.

(4) *Chargeoff:* FmHA or its successor agency under Public Law 103-354 may use this option to write off debt and terminate collection activity without release of your personal liability for the FmHA or its successor agency under Public Law 103-354 debt. The same conditions for cancellation apply here.

Approval Requirements

If you sell your collateral, you must apply the proceeds from the sale to your FmHA or its successor agency under Public Law 103-354 account before you can be considered for debt settlement. In the case of compromise and adjustment, however, you may keep

your collateral if you are unable to pay your total FmHA or its successor agency under Public Law 103-354 debt and pay FmHA or its successor agency under Public Law 103-354 the present fair market value of your collateral along with any additional amount you are able to pay as determined by FmHA or its successor agency under Public Law 103-354. You will be allowed to retain a reasonable equity in essential nonsecurity property to continue your normal operations and meet minimum family living expenses. FmHA or its successor agency under Public Law 103-354 will not finance a compromise or adjustment offer.

All debt settlements of farmer program loans must be recommended by the FmHA or its successor agency under Public Law 103-354 County Committee with a finding that the statements on your application are true. The committee must certify that you do not have assets or income in addition to what you stated in your application. If you qualify, your application must also be approved by the FmHA or its successor agency under Public Law 103-354 State Director or the FmHA or its successor agency under Public Law 103-354 Administrator depending on the amount of the debt to be settled.

VII. How To Apply for Primary and Preservation Loan Servicing Programs

Application Forms

These forms should be included with this notice. If they are not, you can obtain them from the FmHA or its successor agency under Public Law 103-354 County Office or as directed below. The forms required are listed below.

Form number Title

(1) FmHA or its successor agency under Public Law 103-354 410-1 Application for FmHA or its successor agency under Public Law 103-354 Services. (The financial statement on this form must include information no more than 90 days old. The financial statement must be for all individuals, corporations, or partnerships personally liable for the FmHA or its successor agency under Public Law 103-354 debt.)

(2) FmHA or its successor agency under Public Law 103-354 410-8 Application Reference Letters.

(3) FmHA or its successor agency under Public Law 103-354 410-9 Statement Regarding Privacy Act.

(4) FmHA or its successor agency under Public Law 103-354 431-2 Farm and Home Plan. You may request the County Supervisor to assist you in completing your plans.

(5) FmHA or its successor agency under Public Law 103-354 440-32 Request for Statement of Debts and Collateral.

(6) FmHA or its successor agency under Public Law 103-354 1910-5 Request for Verification of Employment.

(7) FmHA or its successor agency under Public Law 103-354 1924-1 Development Plan (if you are planning to make major changes in your farming operation). The County Supervisor can assist and advise you on any additional information that may be needed.

(8) FmHA or its successor agency under Public Law 103-354 1956-1 Application for Settlement of Indebtedness. (Complete this form only if you wish to apply for debt settlement.)

(9) SCS-CPA-026 Highly Erodible Land and Wetland Conservation Determination. (This form must be obtained from and completed in the Soil Conservation Service office.)

(10) AD-1026 Highly Erodible Land Conservation (HELIC) and Wetland Conservation (WC) Certification. (This form must be obtained from and completed in the Agricultural Stabilization and Conservation Service office.)

NOTE:

For Conservation Easement only, obtain the Agricultural Stabilization and Conservation Service or Soil Conservation Service photo of your farm. Show approximate number of acres you wish to use for a conservation easement.

Time To Apply for Primary and Preservation Loan Servicing Programs

To apply, you must complete the appropriate forms and return them to the FmHA or its successor agency under Public Law 103-354 County office within 60 days from the date you received this notice. If you are less than 180 days delinquent and do not choose to return the forms, you will receive a second notice when you are 180 days delinquent.

If you are less than 180 days delinquent and you return the forms within the required time, you will not be renotified when you are 180 days delinquent.

VIII. What Happens When You Are Not Eligible for Primary Loan Service Programs?

If the County Supervisor decides you are not eligible, you may request a meeting with the County Supervisor so he/she can explain the decision. If you think the County Supervisor's decision is wrong, you can tell him/her why. If you can make the necessary realistic changes to your Farm and Home Plan to show a feasible plan, you should show these changes to the County Supervisor.

Negotiation of the Appraisal

A negotiation of the appraisal is a process whereby the borrower objects to the FmHA or its successor agency under Public Law 103-354 appraisal, obtains an independent ap-

praisal at their own costs, pays one-half of the cost for a third appraisal, and the average of the two appraisals closest in value is taken as the final appraised value to be used in considering restructuring. In all cases of primary and preservation loan servicing where the borrower presents an independent appraisal which is conducted by a qualified appraiser and is within 5 percent of the value of the FmHA or its successor agency under Public Law 103-354 appraisal, the borrower must choose one of these two appraisals for the County Supervisor to use to continue processing the request. Borrowers who request to negotiate the appraisal do not have rights to an FmHA or its successor agency under Public Law 103-354 appeal of the final appraisal.

You May Request Mediation of Other Loans

If you cannot show a feasible farm plan because you owe too much to other creditors and suppliers, FmHA or its successor agency under Public Law 103-354 will help you try to get your other creditors to adjust your debts. This will be done by FmHA or its successor agency under Public Law 103-354 asking for mediation if your State has a mediation program approved by the United States Department of Agriculture. If there is no State mediation program, FmHA or its successor agency under Public Law 103-354 will try to set up a meeting with your other creditors and suppliers if it can be shown that a reduction in these debts can provide a feasible farm plan. If you object to the FmHA or its successor agency under Public Law 103-354 appraisal, you may ask FmHA or its successor agency under Public Law 103-354 to negotiate the appraisal prior to mediation.

You Have the Right to Appeal

(1) *Appeal Hearing.* If you do not convince the County Supervisor that you should get primary loan servicing or were unable to resolve the problem through mediation, you have a right to appeal the decision. The County Supervisor must send you a letter after the meeting that explains his/her decision. The letter must also say you have 30 days to ask for an appeal hearing. You can present witnesses and documents and ask FmHA or its successor agency under Public Law 103-354 questions at the hearing. The appeal hearing is recorded, and you can get a copy of the transcript of the hearing if you pay for the copying costs.

(2) *Review.* If you do not win at the appeal hearing, FmHA or its successor agency under Public Law 103-354 must tell you why and let you ask for a review of that decision. The transcript and the documents used at the hearing will be reviewed when you ask for a review of the appeal hearing decision.

You May Buyout (Pay Off) Your Loan at the
"Recovery Value"

(1) *Recovery Value.* If the analysis of your debt shows that you cannot "cash flow" even if your debt to FmHA or its successor agency under Public Law 103-354 is reduced to the recovery value of the collateral, the County Supervisor will send you a letter saying you can buyout the loan by paying the "recovery value." The recovery value is described in more detail in section I(6) of this notice.

(2) *Limits.* If all of your outstanding loans have original promissory notes dated after January 6, 1988, you can receive only one writedown or one buyout. If you have any outstanding loans with original promissory notes dated on or before January 6, 1988, and have never received a deferral, writedown, or buyout on any loan after that date, you can receive two writedowns or buyouts, or one of each. If you have any outstanding loans with original promissory notes dated on or before January 6, 1988, and have received deferral, writedown, or buyout after that date, you can receive one (additional) writedown or buyout. In addition, you have a total lifetime limit of \$300,000 for writedown and/or writeoff (with buyout), regardless of the number of writedowns and/or buyouts you may qualify for. Any writedown or buyout received on an application submitted before November 28, 1990, will not be counted toward the one writedown or buyout limit or the \$300,000 limit.

(3) *Eligibility.* To qualify you must prove that:

You cannot repay your FmHA or its successor agency under Public Law 103-354 delinquent debt which was due to circumstances beyond your control,

You have acted in good faith, and

The value of your restructured loan is less than the recovery value.

(4) *Time Limit.* If you want to pay off the loan at "recovery value," you must pay FmHA or its successor agency under Public Law 103-354 within 90 days of the date you receive the offer. If you appeal the County Supervisor's decision not to give you primary loan servicing, this 90 days will not start until all appeal hearings and appeal reviews end.

(5) *Cash.* If you pay off the loan at net recovery value, you must pay in cash. FmHA or its successor agency under Public Law 103-354 will not make or guarantee a loan for this purpose.

(6) *You Must Sign a Net Recovery Buy Out Recapture Agreement.* The agreement asks you to repay all or part of the amount of your debt FmHA or its successor agency under Public Law 103-354 writes off if you sell or otherwise convey your real estate collateral. The amount you repay depends upon the market value of your real estate collat-

eral on the date you sell or otherwise convey it.

The agreement will not last longer than 10 years.

Consideration for Preservation Loan Service Programs

You will be considered for preservation loan service programs if:

(1) You applied for primary loan servicing as required and did not qualify.

(2) You do not appeal your primary loan servicing denial, or do not win your appeal.

(3) You do not pay off the loan at recovery value.

FmHA or its successor agency under Public Law 103-354 will consider you for preservation loan service programs after the 90-day time period you have to pay off the loan at recovery value.

Consideration for Homestead Protection and/ or Farmland Leaseback/Buyback Agreement

You will be considered for preservation loan service programs if you:

(1) Meet the conditions described above, and

(2) Agree to give FmHA or its successor agency under Public Law 103-354 title to your land at the time FmHA or its successor agency under Public Law 103-354 signs the written homestead protection and/or farmland leaseback/buyback agreement with you. FmHA or its successor agency under Public Law 103-354 will not accept title and will deny your preservation request if it is not in FmHA or its successor agency under Public Law 103-354's best financial interest to accept title. FmHA or its successor agency under Public Law 103-354 will figure the costs of taking title including the cost of paying other creditors who have outstanding liens on the property. FmHA or its successor agency under Public Law 103-354 will take title only if it can obtain a recovery on its cost. Any written agreement for preservation loan servicing will include the amount you must pay for rent, the number of years you can rent, and an option to buy.

FmHA or its successor agency under Public Law 103-354 may consider you for homestead protection and farmland leaseback/buyback on your real estate and, at the same time, consider you for buyback of your equipment and any other non-real estate collateral at market value.

Consideration for Debt Settlement Programs

If you wish to be considered for debt settlement, you will need to request and return a completed Form FmHA or its successor agency under Public Law 103-354 1956-1. You may request debt settlement at any time.

Usually, the most appropriate time for making this request is when FmHA or its successor agency under Public Law 103-354 has determined that Primary Servicing options will not provide the best net recovery to the Government and you are requesting preservation loan servicing. If you no longer have any security remaining for the outstanding FmHA or its successor agency under Public Law 103-354 loans, you may want to request debt settlement instead of primary and preservation loan servicing.

IX. What Happens When You Are Turned Down for Preservation Loan Service Programs and/or Debt Settlement Programs?

You Can Appeal

If FmHA or its successor agency under Public Law 103-354 decides that you cannot get homestead protection and/or farmland leaseback/buyback and/or debt settlement you can ask for:

- (1) A meeting with FmHA or its successor agency under Public Law 103-354 to discuss the decision, and
- (2) An appeal hearing.

The Right to a Meeting

The County Supervisor will send you a letter telling you why FmHA or its successor agency under Public Law 103-354 decided not to give you homestead protection or farmland leaseback/buyback and/or debt settlement. That letter will give you 15 days to ask for a meeting with FmHA or its successor agency under Public Law 103-354.

The Right to an Appeal Hearing

If you do not convince FmHA or its successor agency under Public Law 103-354 at the meeting to change their decision. FmHA or its successor agency under Public Law 103-354 will send you another letter giving you 30 days to request an appeal hearing.

At the appeal hearing, you can contest FmHA or its successor agency under Public Law 103-354's rental price and its decision not to give you homestead protection and/or farmland leaseback/buyback. You can also contest FmHA or its successor agency under Public Law 103-354's decision to reject your debt settlement application.

The Right to a Review

If you do not win the appeal hearing, FmHA or its successor agency under Public Law 103-354 must let you ask for a further review. The recorded transcript of the hearing will be reviewed at this stage. You can get a copy of the transcript by paying the copying costs.

X. What Happens if You Do Not Win the Appeal for Preservation Loan Service Programs and/or Debt Settlement Programs?

FmHA or its successor agency under Public Law 103-354 will accelerate your loan account and call in the whole debt. FmHA or its successor agency under Public Law 103-354 will stop allowing you to use any of your crop, livestock, and milk checks, on which they have a claim, to pay for living and operating expenses. FmHA or its successor agency under Public Law 103-354 will also repossess the collateral or start legal foreclosure or liquidation proceedings to take and sell the collateral, including your equipment, livestock, crops, and land. After acceleration, FmHA or its successor agency under Public Law 103-354 may also take by administrative offset money which other Federal Government agencies owe you.

FmHA or its successor agency under Public Law 103-354 will take these actions unless you do one of the following things with FmHA or its successor agency under Public Law 103-354's approval:

- (1) Sell all the collateral for the loan at market value.
- (2) Convey (legally transfer) the collateral to FmHA or its successor agency under Public Law 103-354.
- (3) Apply to transfer the collateral to someone else and have that person assume all or part of the FmHA or its successor agency under Public Law 103-354 debt. (This is called transfer and assumption.)

If any of these options result in payment of less than you owe, you may apply or reapply for debt settlement. You may apply or reapply for homestead protection and farmland leaseback/buyback if FmHA or its successor agency under Public Law 103-354 gets title to your land or home through a foreclosure action or conveyance. You may re-apply for these programs even if you applied before and did not get one of these programs and were not successful on appeal. However, applications for leaseback/buyback or debt settlement filed after the 60-day time period provided in this notice will not delay acceleration and foreclosure.

ATTACHMENT 2—ACKNOWLEDGEMENT OF NOTICE OF PROGRAM AVAILABILITY

Note to County Supervisor

This attachment will be provided to every borrower who requests Primary and/or Preservation Loan Servicing Programs, and to every borrower FmHA or its successor agency under Public Law 103-354 contacts in regard to monetary default or financial distress.

I/We have been given a notice explaining the primary and preservation loan service and debt settlement programs.

The date on the notice was _____.

This notice explained that FmHA or its successor agency under Public Law 103-354 programs are available to help me keep my property and/or settle my debt with FmHA or its successor agency under Public Law 103-354.

I/We ask FmHA or its successor agency under Public Law 103-354 to consider me/us for all of these programs.

I understand that I will be notified of my rights to appeal after FmHA or its successor agency under Public Law 103-354 decides on my request.

Signature

Date

ATTACHMENT 3—NOTICE TO BORROWERS WITH NON-MONETARY DEFAULTS, NON-MONETARY DEFAULTS AND DELINQUENCY, OR THAT A PRIOR LIENHOLDER OR JUNIOR LIENHOLDER IS FORECLOSING

Note to County Supervisor

This attachment will be used to notify borrowers with non-monetary defaults, borrowers with both non-monetary and monetary defaults, and borrowers where a prior or junior lienholder is foreclosing.

Dear _____:

FmHA or its successor agency under Public Law 103-354 has reviewed your loan account. Our record shows:

You are now \$_____ behind on your payments. This is a violation of your loan agreement.

You have disposed of some of your property used to secure your loan. You did not get written approval for this. This property is _____

(Describe property.)

You have stopped farming or ranching. This is a violation of your loan agreement.

A foreclosure action has been filed against you by _____. This is a violation of your loan agreement.

You have _____

(Insert reasons for proposed action.)

FmHA or its successor agency under Public Law 103-354 Will Accelerate Your Loans

This means FmHA or its successor agency under Public Law 103-354 will take legal action to collect the money you owe. They will foreclose on real estate and repossess equipment and other property used to secure your loans. They will also stop the release of money from the sale of crops or other property. They may take by administrative offset money you are owed by other Federal agencies.

Steps You Can Take Before FmHA or its successor agency under Public Law 103-354 Accelerates Your Loans

You can apply for the programs described in attachment 1. These are called Primary and Preservation Loan Service and Debt Settlement Programs. You can also ask for a meeting. At this meeting you can explain why you think FmHA or its successor agency under Public Law 103-354's records, as indicated on this Notice, are wrong. You can also suggest things you can do to correct these problems, so as to void acceleration and foreclosure. You can request loan servicing, debt settlement and a meeting at the same time. For example, if this Notice states that you are delinquent, and also have disposed of property without FmHA or its successor agency under Public Law 103-354's written consent, you can request servicing to deal with the delinquency problem and request a meeting on the question of unauthorized disposition of property. Please read the section on debt settlement programs for guidance in requesting and receiving consideration of a request for debt settlement.

Forms Attached to This Notice

You will find:

- (1) A summary of all primary loan service programs;
- (2) A summary of preservation loan service programs;
- (3) A summary of all debt settlement programs;
- (4) Copies of the forms needed to apply;
- (5) Advice on how to get copies of FmHA or its successor agency under Public Law 103-354 regulations; and
- (6) A short description of the FmHA or its successor agency under Public Law 103-354 appeal process.

Purpose of Primary Service Programs

These loan service programs are to help you repay the loan and keep your farm property.

Purpose of Preservation Loan Service Programs

These programs are intended to help farmers who may lose their land to FmHA or its successor agency under Public Law 103-354 to get their farmland and their home back through a lease with an option to buy.

Purpose of Debt Settlement Programs

These programs apply after it has been determined that primary loan service programs cannot help you. You may be eligible for both debt settlement and preservation loan service programs. If you do not have FmHA or its successor agency under Public Law 103-354 collateral you will need to apply for debt settlement only. Under these programs,

the debt you owe FmHA or its successor agency under Public Law 103-354 may be settled for less than the amount you owe. You may apply for debt settlement at any time by requesting and submitting an application for debt settlement on Form FmHA or its successor agency under Public Law 103-354 1956-1.

How to Apply for Loan Servicing

Complete attachment 4 and the appropriate forms included with this notice.

You must return these within 60 days of getting this notice.

Right to a Meeting

You have the right to meet with your FmHA or its successor agency under Public Law 103-354 County Official before they decide to accelerate your loan. You must check the box on attachment 4 saying you want a meeting. (Attachment 4 is the "Response to Notice of Intent to Accelerate and Notice of Borrower Rights.")

How to Ask for a Meeting

You must check the box on attachment 4 asking for a meeting within 15 days from the date of this notice. Return it to your County Office. Do this as soon as possible. It is wise to call also to set up the meeting.

NOTE: If you ask for loan servicing, the meeting will be delayed until a decision on your loan servicing request is made.

The Right to Appeal

- You can ask for an administrative appeal even if the meeting does not resolve your problems.
- You can ask for an appeal even if you do not have a meeting.
- You have the right to appeal even if you do not want to apply for loan servicing programs and/or debt settlement.

How to Ask for an Appeal

Check the box on attachment 4 and mail it to your County Office within 30 days of getting this notice.

NOTE: If you do not check the box on the attachment 4 to ask for primary and preservation loan service programs, you will not be considered.

If you do not ask for a meeting you will not get one.

You may still appeal by asking for an administrative appeal on the attached form.

The Right Not To Be Discriminated Against

Federal law does not allow discrimination of any kind. You cannot be denied a loan because of your race, color, religion, national origin, sex, marital status, handicap, or age (if you can legally sign a contract).

You cannot be denied a loan because all or part of your income is from a public assistance program.

You cannot be denied a loan because you exercised your rights under the Consumer Credit Protection Act. You must have exercised these rights in good faith. The Federal Agency responsible for seeing this law is obeyed is the Federal Trade Commission, Equal Credit Opportunity, Washington, DC 20580.

Sincerely,

County Supervisor, Farmers Home Administration or its successor agency under Public Law 103-354, United States Department of Agriculture

Date: _____

ATTACHMENT 4—RESPONSE TO NOTICE INFORMING ME OF FMHA OR ITS SUCCESSOR AGENCY UNDER PUBLIC LAW 103-354'S INTENT TO ACCELERATE MY LOAN

Note to County Supervisor

This attachment will be included with attachment 3, when contacting a borrower about non-monetary default, non-monetary default and delinquency, and when a prior or junior lienholder is foreclosing.

Notice of My Rights

To: County Supervisor, Farmers Home Administration or its successor agency under Public Law 103-354

From: _____

(Please print your name and address.)

I have read the notice informing me of FmHA or its successor agency under Public Law 103-354's intent to accelerate my loan which I received with this form.

I want to: (Check one or more of the following boxes)

- 1. Request a meeting with the FmHA or its successor agency under Public Law 103-354 County Office.

My phone number is _____.

I must return this form in 15 days.

I understand I do not lose my right to appeal by asking for a meeting.

- 2. Be considered for all primary and preservation loan service and debt settlement programs. I must return this form along with all applicable forms in 60 days.

- 3. Have an administrative appeal hearing. I understand that I will be contacted by FmHA or its successor agency under Public Law 103-354's National Appeals Staff to set up the appeal hearing date and give me more information. I must return this form in 30 days.

Date: _____

Signature: _____

(Sign here.)

Date

ATTACHMENT 5

Note to County Supervisor:

This attachment is used when notifying borrower who returned attachment 2 of Exhibit A, that FmHA or its successor agency under Public Law 103-354 cannot provide the assistance requested with the Primary Services Programs.

See §1951.909(h)(3)(i) and (ii).

Notice of Intent to Accelerate or to Continue Acceleration and Notice of Borrowers' Rights

Name and Address

(Dear (Borrower's Name): You are not eligible for debt restructuring.

I. FmHA or its successor agency under Public Law 103-354 has reviewed your application for primary loan servicing (debt restructuring).

You cannot get primary loan servicing because your Farm and Home Plan does not show you can pay all your family living expenses, farm operating expenses, and scheduled debt repayments even with FmHA or its successor agency under Public Law 103-354 help.

To get primary loan servicing, your Farm and Home Plan must show you can pay FmHA or its successor agency under Public Law 103-354 at least \$_____ per year.

NOTE: The attached computer printout which summarizes FmHA or its successor agency under Public Law 103-354's calculations based on your application.

II. FmHA or its successor agency under Public Law 103-354 has reviewed your application and your case file. You have broken your agreement with FmHA or its successor agency under Public Law 103-354. Your Farm and Home Plan shows you can pay all of your family living expenses, farm operating expenses, and scheduled debt payments if FmHA or its successor agency under Public Law 103-354 uses primary loan servicing, softwood timber, and conservation easement programs to restructure your loans.

But you have broken your loan agreements with FmHA or its successor agency under Public Law 103-354.

You have broken loan agreements with FmHA or its successor agency under Public Law 103-354 in the following way:

You are \$_____ behind in your scheduled loan payments.

You have sold or gotten rid of property you used to secure the FmHA or its successor agency under Public Law 103-354 loan without proper approval from FmHA or its successor agency under Public Law 103-354. This property is _____

(Describe property.)

- You have stopped farming or ranching.
 You have _____

III. FmHA or its successor agency under Public Law 103-354 Intends to Foreclose

FmHA or its successor agency under Public Law 103-354 will accelerate your loan because you are not eligible for primary loan servicing.

FmHA or its successor agency under Public Law 103-354 will take legal action to collect the money you owe.

FmHA or its successor agency under Public Law 103-354 may:

(1) Repossess and sell your equipment, crops, livestock, livestock products, and other personal property used to secure your FmHA or its successor agency under Public Law 103-354 loan;

(2) Foreclose and sell your real estate mortgaged to FmHA or its successor agency under Public Law 103-354; this could include your dwelling even if your housing account is current, if it was used to secure your farm loan(s);

(3) Stop any release of money from the sale of crops, livestock, livestock products, or other property you need to live and operate your farm;

(4) Take by administrative offset any money you are owed by Federal agencies;

(5) File lawsuits to collect money you owe to FmHA or its successor agency under Public Law 103-354.

IV. What You Can Do To Stop Foreclosure

Before FmHA or its successor agency under Public Law 103-354 can take action against you, you can;

(1) Request a meeting with the FmHA or its successor agency under Public Law 103-354 county official.

If you disagree with FmHA or its successor agency under Public Law 103-354's decision that you broke your loan agreement or the decision not to give you debt restructuring, you should request a meeting with the county FmHA or its successor agency under Public Law 103-354 official. The county official can explain the FmHA or its successor agency under Public Law 103-354 decision. You can also present changes in your Farm and Home Plan which may show that you can make the amount of payment listed above in Section 1.

To ask for this meeting, check the box #1 on the "Response Form: (Attachment 6).

Time Limit: You must return the "Response Form" to the county FmHA or its successor agency under Public Law 103-354 office within 15 days from the date you get this letter. You should also call the county office to set up the meeting.

(2) Request an Appeal Hearing.

You may also request an appeal hearing to contest FmHA or its successor agency under Public Law 103-354's decision. At the hearing you may challenge the ways FmHA or its successor agency under Public Law 103-354 says you broke your loan agreements. You may also challenge FmHA or its successor agency under Public Law 103-354's decision that you cannot present a feasible Farm and Home Plan for primary loan servicing if your notice states FmHA or its successor agency under Public Law 103-354 believes you cannot present a feasible plan.

You can appear at the appeal hearing and present witnesses and documents to support your position.

You may also ask for an independent appraisal of your property used to secure the FmHA or its successor agency under Public Law 103-354 loan. This independent appraisal may be important if you think FmHA or its successor agency under Public Law 103-354 has put too high or too low a value on your property when it considered you for primary loan servicing. You will have to pay for this appraisal. FmHA or its successor agency under Public Law 103-354 will give you three names of appraisers to choose from. Check box #3 on the "Response Form" if you want the independent appraisal.

If you request a meeting with the FmHA or its successor agency under Public Law 103-354 county official, you will be given a chance to appeal after this meeting.

If you do not want to request the meeting but do want to appeal, you must say so on the enclosed "Response Form."

You may request both the meeting and the appeal hearing on the "Response Form." Check box #2 on the "Response Form" to request an appeal hearing. If you ask for just the appeal hearing, you must return the "Response Form" to FmHA or its successor agency under Public Law 103-354 within 30 days of the date you received the letter.

(3) Buy Out the Loan at Recovery Value.

You have this option only if the recovery value is greater than the value of the restricted loan.

You [may] or [may not] buy out your FmHA or its successor agency under Public Law 103-354 loan(s) at the "recovery value" of the property securing the loan. The recovery value is \$_____. The restricted loan(s) value is \$_____.

NOTE: The attached computer printout which summarizes FmHA or its successor agency under Public Law 103-354's calculations.

If you are eligible and pay the recovery value, FmHA or its successor agency under Public Law 103-354 will write off the rest of your debt. If you are eligible to pay the recovery value, FmHA or its successor agency under Public Law 103-354 will require you to sign a recapture agreement. This agreement would allow FmHA or its successor agency

under Public Law 103-354 to require you to pay the difference between the recovery value and the current market value of your real estate securing the loan if you sell it within 2 years of the agreement. FmHA or its successor agency under Public Law 103-354 can never recapture more than it wrote off.

Time limit. If you are eligible and want to buy out your loan(s) at the recovery value, you must pay FmHA or its successor agency under Public Law 103-354 within 45 days from the date you received this letter. You must pay FmHA or its successor agency under Public Law 103-354 in cash, money order, or certified check.

If you appeal FmHA or its successor agency under Public Law 103-354's decision, the 45-day period to buy out at recovery value will not start until all of the appeals are completed. Check box #4 on the "Response Form" if you want to buy out at recovery value.

(4) Consider for Homestead Protection and Farmland Leaseback/Buyback.

If you do not appeal, or if you do not win your appeal and you do not buy out the loan at recovery value, FmHA or its successor agency under Public Law 103-354 will automatically consider you for Homestead protection and farmland leaseback/buyback. [You applied for these programs when you applied for primary loan servicing (debt restructuring).] FmHA or its successor agency under Public Law 103-354 will notify you that it will be considering you for these programs and will request some additional information when the time comes to consider you.

Note to County Supervisor.

¹Circle appropriate entry.

V. What Happens If You Do Not Respond?

If you do not respond to this letter by completing and returning the enclosed Attachment 6, "Response to Notice of Intent to Accelerate or Continue with Acceleration and Notice of Borrowers' Rights," FmHA or its successor agency under Public Law 103-354 will accelerate or continue with acceleration of your FmHA or its successor agency under Public Law 103-354 debts. This is very severe action FmHA or its successor agency under Public Law 103-354 will take any of the actions listed in Section III above to collect on your debt.

The Right Not to Be Discriminated Against

Federal law does not allow discrimination of any kind. You cannot be denied a loan because of your race, color, religion, national origin, sex, marital status, handicap, or age (if you can legally sign a contract).

You cannot be denied a loan because all or part of your income is from a public assistance program.

You cannot be denied a loan because you exercised your rights under the Consumer Credit Protection Act. You must have exercised these rights in good faith. The Federal Agency responsible for seeing this law is obeyed is the Federal Trade Commission, Equal Credit Opportunity, Washington, DC 20580.

Sincerely,
County Supervisor,
Farmers Home Administration or its successor agency under Public Law 103-354, United States Department of Agriculture.

ATTACHMENT 5-A—NOTICE OF INTENT TO ACCELERATE OR TO CONTINUE ACCELERATION AND NOTICE OF BORROWERS' RIGHTS

Note to County Supervisor

This attachment is used when notifying a borrower who returned attachment 2 or 4 of exhibit A, that FmHA or its successor agency under Public Law 103-354 cannot provide the assistance requested with the Primary Loan Services Programs.

(To Be Used for Applications Submitted on or After November 28, 1990)

Name and Address
Dear (Borrower's Name):
You are not eligible for debt restructuring.

I. FmHA or its successor agency under Public Law 103-354 Has Reviewed Your Application for Primary Loan Servicing (Debt Restructuring)

You cannot get primary loan servicing because your Farm and Home Plan does not show you can pay all your family living expenses, farm operating expenses, and scheduled debt repayments even with FmHA or its successor agency under Public Law 103-354 help.

To get primary loan servicing, your Farm and Home Plan must show you can pay FmHA or its successor agency under Public Law 103-354 at least \$_____ per year.

NOTE: The attached computer printout summarizes FmHA or its successor agency under Public Law 103-354's calculations based on your application.

II. FmHA or its successor agency under Public Law 103-354 Has Reviewed Your Application and Your Case File

Your Farm and Home Plans shows you can pay all of your family living expenses, farm operating expenses, and scheduled debt repayments if FmHA or its successor agency under Public Law 103-354 uses primary loan servicing, softwood timber, and conservation easement programs to restructure your loans.

But you have not acted in good faith.

You have broken your loan agreements with FmHA or its successor agency under Public Law 103-354.

You have broken loan agreements with FmHA or its successor agency under Public Law 103-354 in the following way:

- You are \$_____ behind in your scheduled loan payments.
- You have sold or gotten rid of property you used to secure the FmHA or its successor agency under Public Law 103-354 loan without proper approval from FmHA or its successor agency under Public Law 103-354. You have not acted in good faith. This property is _____

(Describe property.)

- You have stopped farming or ranching.
- You have _____

III. FmHA or its successor agency under Public Law 103-354 Has Reviewed Your Application and Case File

You have sufficient nonessential assets to bring your FmHA or its successor agency under Public Law 103-354 account current. The net recovery value of FmHA or its successor agency under Public Law 103-354's collateral is \$_____. The net recovery value (NRV) of the nonessential assets is \$_____. Your nonessential assets and their NRVs are as follows:

Nonessential Assets

NRVs

The NRV is the current appraised market value minus any prior liens and any costs of sale such as taxes due, commissions and advertising costs.

The amount needed to bring your FmHA or its successor agency under Public Law 103-354 account current is \$_____.

If you intend to sell the nonessential assets or borrow against their value to obtain the money to pay FmHA or its successor agency under Public Law 103-354 current, you must do so immediately so that you can pay FmHA or its successor agency under Public Law 103-354 current within 90 days from the date you receive this letter.

If you do not pay FmHA or its successor agency under Public Law 103-354 current within 90 days or appeal the adverse decision (see part VI of this notice), FmHA or its successor agency under Public Law 103-354 will accelerate your account (see part V). If you appeal the decision, the 90-day period to pay FmHA or its successor agency under Public

Law 103-354 current will not start until all the appeals are completed. You must check the appropriate block on the response form and return it to FmHA or its successor agency under Public Law 103-354 within the specified time limit. Since FmHA or its successor agency under Public Law 103-354 believes you have sufficient nonessential assets to bring your FmHA or its successor agency under Public Law 103-354 account current, you are not now eligible for net recovery buyout (option 5 on attachment 6-A). If you disagree, see part VI for an explanation of your rights.

IV. You have already received your lifetime limit for the number of writedowns and/or buyouts for which you are entitled.

Your writedown and/or writeoff of debt exceeded your lifetime limit of \$300,000.

V. FmHA or its successor agency under Public Law 103-354 Intends to Foreclose

FmHA or its successor agency under Public Law 103-354 will accelerate your loan because you are not eligible for primary loan servicing.

FmHA or its successor agency under Public Law 103-354 will take legal action to collect the money you owe.

FmHA or its successor agency under Public Law 103-354 may:

(1) Repossess and sell your equipment, crops, livestock, livestock products, and other personal property used to secure your FmHA or its successor agency under Public Law 103-354 loan;

(2) Foreclose and sell your real estate mortgaged to FmHA or its successor agency under Public Law 103-354. This could include your dwelling even if your housing account is current, if it was used to secure your farm loan(s);

(3) Stop any release of money from the sale of crops, livestock, livestock products, or other property you need to live and operate your farm;

(4) Take by administrative offset any money you are owed by Federal agencies;

(5) File lawsuits to collect money you owe to FmHA or its successor agency under Public Law 103-354.

VI. What You Can Do to Stop Foreclosure

Before FmHA or its successor agency under Public Law 103-354 can take action against you, you can:

(1) Pay your FmHA or its successor agency under Public Law 103-354 account current.

(2) Request a meeting with the FmHA or its successor agency under Public Law 103-354 county official.

If you disagree with FmHA or its successor agency under Public Law 103-354's decision that you broke your loan agreement or the decision not to give you debt restructuring, you should request a meeting with the county FmHA or its successor agency under Pub-

lic Law 103-354 official. The county official can explain the FmHA or its successor agency under Public Law 103-354 decision. You can also present changes in your Farm and Home Plan which may show that you can make the amount of payment listed above in Section I.

To ask for this meeting, check the box #1 on the Response Form: (attachment 6-A).

Time limit: You must return the "Response Form" to the county FmHA or its successor agency under Public Law 103-354 office within 15 days from the date you get this letter. You should also call the county office to set up the meeting.

(3) Request an appeal hearing.

You may also request an appeal hearing to contest FmHA or its successor agency under Public Law 103-354's decision. At the hearing you may challenge the ways FmHA or its successor agency under Public Law 103-354 says you broke your loan agreements. You may also challenge FmHA or its successor agency under Public Law 103-354's decision that you cannot present a feasible Farm and Home Plan for primary loan servicing if your notice states FmHA or its successor agency under Public Law 103-354 believes you cannot present a feasible plan. You may also challenge FmHA or its successor agency under Public Law 103-354's decision that you are ineligible for debt restructuring because you have already received a writedown or buyout.

You can appear at the appeal hearing and present witnesses and documents to support your position.

If you did not previously negotiate your appraisal, you may ask for an independent appraisal of your property including any nonessential assets that FmHA or its successor agency under Public Law 103-354 says you own. This independent appraisal may be important if you think FmHA or its successor agency under Public Law 103-354 has put too high or too low a value on your property. You will have to pay for this appraisal. The FmHA or its successor agency under Public Law 103-354 County Supervisor will give you a list of three appraisers to choose from. Check box #3 on the "Response Form" if you want the independent appraisal. If the FmHA or its successor agency under Public Law 103-354 appraisal contains mathematical or property description errors, you and the County Supervisor can make the necessary corrections if you both agree to such changes.

If you submit an independent appraisal and it is within five percent of the value of the FmHA or its successor agency under Public Law 103-354 appraisal, you must select which of the two appraisals you want FmHA or its successor agency under Public Law 103-354 to use for your request. This will be the final appraisal. It cannot be appealed.

If you request a meeting with the FmHA or its successor agency under Public Law 103-354 county official, you will be given a chance to appeal after that meeting.

If you do not want to request the meeting but do want to appeal, you must say so on the enclosed "Response Form."

You may request both the meeting and the appeal hearing on the "Response Form." Check box #2 on the "Response Form" to request an appeal hearing. If you ask for just the appeal hearing, you must return the "Response Form" to FmHA or its successor agency under Public Law 103-354 within 30 days of the date you received the letter. If you are appealing the appraisal, you should, if possible, submit a copy of your independent appraisal to the hearing officer and the County Supervisor prior to the appeal hearing.

(4) Buy out the loan at recovery value.

You have this option only if the recovery value is greater than the value of the restructured loan(s), you cannot repay your FmHA or its successor agency under Public Law 103-354 debt due to circumstances beyond your control, and you have acted in good faith and tried to keep your loan agreement with FmHA or its successor agency under Public Law 103-354. In addition, buyout is subject to certain lifetime limitations regarding the maximum amount and number of benefits that can be received. A further explanation of these limits can be found in the Primary and Preservation Loan Service and Debt Settlement Programs Purpose notice which was sent to you earlier.

You [may] or [may not] buy out your FmHA or its successor agency under Public Law 103-354 loan(s) at the recovery value of the property securing the loan and any non-essential assets. The recovery value is \$ _____. The restructured loan(s) value is \$ _____.

Note to County Supervisor

Circle the appropriate entry.

NOTE: The attached computer printout summarizes FmHA or its successor agency under Public Law 103-354's calculations.

If you are eligible and pay the recovery value, FmHA or its successor agency under Public Law 103-354 will write off the rest of your debt up to \$300,000. If you are eligible to pay the recovery value, FmHA or its successor agency under Public Law 103-354 will require you to sign a recapture agreement. This agreement would allow FmHA or its successor agency under Public Law 103-354 to require you to pay the difference between the recovery value and the current market value of your real estate securing the loan if you sell it within 10 years of the agreement. FmHA or its successor agency under Public Law 103-354 can never recapture more than it wrote off.

Time Limit. If you are eligible and want to buy out your loan(s) at the recovery value, you must pay FmHA or its successor agency under Public Law 103-354 within 90 days from the date you received this letter. You must pay FmHA or its successor agency under Public Law 103-354 in cash, money order, or certified check.

If you appeal FmHA or its successor agency under Public Law 103-354's adverse decision, the 90-day period to buy out at recovery value will not start until all of the appeals are completed. Check box #3 on the "Response Form" if you want to buy out at recovery value.

(5) Consideration for Homestead Protection, Farmland Leaseback/Buyback and Debt Settlement.

If you do not appeal, or if you do not win your appeal and you do not buy out the loan at recovery value, FmHA or its successor agency under Public Law 103-354 will automatically consider you for Homestead protection and farmland leaseback/buyback. [You applied for these programs when you applied for primary loan servicing (debt restructuring).] FmHA or its successor agency under Public Law 103-354 will notify you that it will be considering you for these programs and will request some additional information when the time comes to consider you. If you applied for Debt Settlement by returning Form FmHA or its successor agency under Public Law 103-354 1956-1, FmHA or its successor agency under Public Law 103-354 will also consider you for this option now. If you did not apply for Debt Settlement before, you can apply now. Copies of Form FmHA or its successor agency under Public Law 103-354 1956-1 are available at your FmHA or its successor agency under Public Law 103-354 County Office.

VII. What Happens if You Do Not Respond

If you do not respond to this letter by completing and returning the enclosed attachment 6-A, "Response to Notice of Intent to Accelerate or Continue with Acceleration and Notice of Borrowers' Rights," FmHA or its successor agency under Public Law 103-354 will accelerate or continue with acceleration of your FmHA or its successor agency under Public Law 103-354 debts. This is a very severe action. FmHA or its successor agency under Public Law 103-354 will take any of the actions listed in Section V above to collect on your debt.

The Right Not To Be Discriminated Against

Federal law does not allow discrimination of any kind. You cannot be denied a loan because of your race, color, religion, national origin, sex, marital status, handicap, or age (if you can legally sign a contract).

You cannot be denied a loan because all or part of your income is from a public assistance program.

You cannot be denied a loan because you exercised your rights under the Consumer Credit Protection Act. You must have exercised these rights in good faith. The Federal Agency responsible for seeing this law is obeyed is the Federal Trade Commission, Equal Credit Opportunity, Washington, DC 20580.

Sincerely,
County Supervisor, Farmers Home Administration or its successor agency under Public Law 103-354, United States Department of Agriculture

ATTACHMENT 6

Note to County Supervisor:
This attachment will always be sent with Attachment 5.

See § 1951.909(h)(3)(i) and (ii).

Response to Notice Informing Me of FmHA or its successor agency under Public Law 103-354's Intent To Accelerate or Continue With Acceleration and Notice of My Rights

TO: County Supervisor, Farmers Home Administration or its successor agency under Public Law 103-354

FROM: _____
(Please print your name and address.)

I have read the notice informing me of FmHA or its successor agency under Public Law 103-354's intent to accelerate or continue with acceleration my loan which I received with this response form.

I want to:
[Check appropriate box or boxes.]

(1) Request a meeting with the FmHA or its successor agency under Public Law 103-354 county official.

My current telephone number is _____.
I understand that I do not lose my appeal rights by asking for this meeting.

(2) Request an appeal hearing.
I understand that I will be contacted by FmHA or its successor agency under Public Law 103-354's National Appeals Staff to set up the appeal hearing date and to give me more information.

(3) Request that an independent appraisal of my property that secures the FmHA or its successor agency under Public Law 103-354 loan(s).

I understand that I must pay for this appraisal. I understand that the appeal hearing officer will give me the names of three appraisers, from which I must choose one.

(4) Buy out my loan(s) at the recovery value.

I understand that I must pay FmHA or its successor agency under Public Law 103-354 \$_____ in cash, certified check, or money order. I understand that I must

pay this to FmHA or its successor agency under Public Law 103-354 within 45 days of the date I received this letter or, if I appeal. I must pay within 45 days from the end of the appeal. I understand that if I pay this amount FmHA or its successor agency under Public Law 103-354 will write off the rest of my debt.

Borrower's signature

Date

ATTACHMENT 6-A—RESPONSE TO NOTICE INFORMING ME OF FMHA OR ITS SUCCESSOR AGENCY UNDER PUBLIC LAW 103-354'S INTENT TO ACCELERATE OR CONTINUE WITH ACCELERATION AND NOTICE OF MY RIGHTS

Note to County Supervisor

This attachment will always be sent with attachment 5-A.

(To be used for application submitted on or after November 28, 1990).

To: County Supervisor, Farmers Home Administration or its successor agency under Public Law 103-354

From: _____
(Please print your name and address.)

I have read the notice informing me of FmHA or its successor agency under Public Law 103-354's intent to accelerate or continue with acceleration of my loan which I received with this response form.

I want to:
[Check appropriate box or boxes.]
 (1) Request a meeting with an FmHA or its successor agency under Public Law 103-354 county official.

I must return this "Response Form" within 15 days to request a meeting.
My current telephone number is _____.

I understand that I do not lose my appeal rights by asking for this meeting.
 (2) Request an appeal hearing.

I must return this "Response Form" within 30 days to request a hearing.

I understand that I will be contacted by FmHA or its successor agency under Public Law 103-354's National Appeals Staff to set up the appeal hearing date and to give more information.

If possible, I should provide the County Supervisor and the hearing officer a copy of my independent appraisal prior to the appeal hearing if I am requesting an appeal of the appraisal.

(3) Request an independent appraisal of my property including any nonessential assets.

I must return this "Response Form" within 30 days to request an independent appraisal.

I understand that I must pay for this appraisal. I understand that the FmHA or its

successor agency under Public Law 103-354 County Supervisor will give me names of three appraisers, from which I must choose one if I am also requesting an appeal.

(4) Buy out my loan(s) at the recovery value.

I understand that I must pay FmHA or its successor agency under Public Law 103-354 \$_____ in cash, certified check, or money order. I understand that I must pay this to FmHA or its successor agency under Public Law 103-354 within 90 days of the date I received this letter, or if I appeal the FmHA or its successor agency under Public Law 103-354 decision, I must pay within 90 days from the end of the appeal of the FmHA or its successor agency under Public Law 103-354 decision.

(5) Pay my FmHA or its successor agency under Public Law 103-354 account current.

I understand that I must pay FmHA or its successor agency under Public Law 103-354 \$_____ to pay my account current. I will pay this amount to FmHA or its successor agency under Public Law 103-354 within 90 days of the date I received this letter, or if I appeal the FmHA or its successor agency under Public Law 103-354 decision, I will pay within 90 days from the end of the appeal of the FmHA or its successor agency under Public Law 103-354 decision. I understand that when I pay this amount FmHA or its successor agency under Public Law 103-354 will continue with my account.

Borrower's signature

Date

ATTACHMENT 7

Note to County Supervisor:

This attachment will be used to advise borrowers whose accounts have been accelerated but who DID NOT return attachment 2 of exhibit A, that FmHA or its successor agency under Public Law 103-354 intends to continue acceleration of their accounts.

See §1951.907 (a) and (b).

NOTIFICATION OF CONTINUED ACCELERATION OF LOANS AND NOTICE OF BORROWERS' RIGHTS

FmHA or its successor agency under Public Law 103-354 will continue to accelerate your loan.

You can:

(1) Ask to sign over to FmHA or its successor agency under Public Law 103-354 all the property you used to secure your loan. FmHA or its successor agency under Public Law 103-354 will release you from liability when the debt is settled.

(2) Ask for a leaseback or buyback of your farm real estate once FmHA or its successor

agency under Public Law 103-354 has taken it by you signing it over or foreclosure.

(3) Ask to keep your home after FmHA or its successor agency under Public Law 103-354 has taken it.

(4) Ask to pay in full within 30 days.

Dear (Borrower's Name):

FmHA or its successor agency under Public Law 103-354 intends to continue to accelerate your loan.

Dear (Borrower's Name):

FmHA or its successor agency under Public Law 103-354 intends to continue to accelerate your loan.

FmHA or its successor agency under Public Law 103-354 will take legal action to: foreclose on real estate; this could include your dwelling even if your housing account is current, if it was used to secure your farm loan(s).

How to Avoid Foreclosure

You can avoid foreclosure by:

Voluntarily signing over property you used to secure your loans to FmHA or its successor agency under Public Law 103-354. FmHA or its successor agency under Public Law 103-354 will decide if it is to the government's financial advantage to let you do this. You must ask for a meeting with County Office staff in 15 days to discuss if your debt can be settled this way.

NOTE: Voluntarily signing over, or foreclosure means you lose the title to your land. But you can still apply for preservation loan service programs to keep possession of your house or farm. [See Exhibit A Attachment 1 sent to you on _____. If you did not get these forms, contact your County Office within 15 days of this notice.]

What Happens If You Do Not Respond to This Notice

If you do not respond to this notice by asking for a meeting in 15 days, FmHA or its successor agency under Public Law 103-354 will take the legal action described above to foreclosure, or repossess your property.

Amount Owed:

You owe:
\$ _____
unpaid principal
\$ _____
unpaid interest
plus
\$ _____
per day interest for each day after

(Date)
plus
\$ _____
advance made by the U.S. Government.

Pt. 1951, Subpt. S, Exh. A

7 CFR Ch. XVIII (1-1-97 Edition)

Time Limit:

See § 1951.907 (a) and (b).

You must pay all of your debt within 30 days of the date on this notice. This can be avoided if you sign over your property.

RESPONSE TO NOTICE INFORMING ME OF FMHA OR ITS SUCCESSOR AGENCY UNDER PUBLIC LAW 103-354'S INTENT TO CONTINUE TO ACCELERATE MY LOAN

How to Pay

Notice of My Rights

Cashiers' check, certified check, or postal money orders made payable to: Farmers Home Administration or its successor agency under Public Law 103-354 at

TO: County Supervisor, Farmers Home Administration or its successor agency under Public Law 103-354

Street address or P.O. box

From: _____
Please print your name and address.

City

I have read and considered the notice informing me of FmHA or its successor agency under Public Law 103-354's intent to continue to accelerate my loan.

State

I want to:

Zip

(check one or more of the following boxes)
 (1) Request a meeting with the FmHA or its successor agency under Public Law 103-354 County Official to discuss signing over my property used to secure my loan to FmHA or its successor agency under Public Law 103-354 to settle my debt.

Part payment will not be enough to stop FmHA or its successor agency under Public Law 103-354 taking legal action. FmHA or its successor agency under Public Law 103-354 still has full legal rights to continue the legal action just as if no payment had been made.

My phone number is _____
I must return this form in 15 days.

The FmHA or its successor agency under Public Law 103-354 plans to go ahead with foreclosure on your property without court action. Public sale will be after

(2) Be considered for preservation loan programs.

(Date)

Signature: _____
Date: _____

The FmHA or its successor agency under Public Law 103-354 plans to go ahead with foreclosure on your property after court action.

ATTACHMENT 9

Note to County Supervisor:

This attachment will be sent to borrowers who are 180 days delinquent, whose accounts have not been accelerated. WHO DID NOT return attachment 2 of Exhibit A.

Sincerely,

See § 1951.907(h)(2).

County Supervisor
Farmers Home Administration or its successor agency under Public Law 103-354
United States Department of Agriculture

NOTIFICATION OF INTENT TO ACCELERATE OR CONTINUE ACCELERATION OF LOANS AND NOTICE OF YOUR RIGHTS

Your Right Not to Be Discriminated Against

FmHA or its successor agency under Public Law 103-354 will accelerate your loan because you have not asked for primary loan service programs or debt restructuring.

Federal law does not allow discrimination of any kind. You cannot be denied a loan because of your race, color, religion, national original, sex, marital status, handicap, or age (if you can legally sign a contract).

You can:
(1) Ask for a meeting with your County Official.

You cannot be denied a loan because you exercised your rights under the Consumer Credit Protection Act. You must have exercised these rights in good faith.

(2) Appeal FmHA or its successor agency under Public Law 103-354's decision.

The Federal Agency responsible for seeing this law is obeyed is the Federal Trade Commission, Equal Credit Opportunity, Washington, DC 20580.

(3) Ask to voluntarily sign over to FmHA or its successor agency under Public Law 103-354 the property used to secure your loan and ask to be released from your debt.

ATTACHMENT 8

Note to County Supervisor:

This attachment will always be sent with Attachment 7.

(4) Apply to a leaseback or buyback of your farm real estate once FmHA or its successor agency under Public Law 103-354 has taken it.

(5) Ask to keep your home after the FmHA or its successor agency under Public Law 103-354 has taken it.

Dear (Borrower's Name):

You are behind with your payments to FmHA or its successor agency under Public Law 103-354, and a review of your account shows:

You are \$_____ behind in your FmHA or its successor agency under Public Law 103-354 loan payments.

This is a violation of your loan agreement.

You have sold or gotten rid of property used to secure your FmHA or its successor agency under Public Law 103-354 loan. Your did not get written approval for this.

The property is _____

(Describe property.)

You have stopped farming or ranching.

This is a violation of your loan agreement.

You have _____

(Insert reason for proposed action.)

FmHA or its successor agency under Public Law 103-354 Will Accelerate Your Loans.

This means FmHA or its successor agency under Public Law 103-354 will take legal action to collect the money you owe. They will foreclose on real estate and other property used to secure your loans. This could include your dwelling even if your housing account is current, if it was used to secure your farm loan(s). They may also stop release of money from the sale of crops or other property. They may take, by administrative offset, any money you are owed by other Federal agencies.

Steps You Can Take Before FmHA or its successor agency under Public Law 103-354 Accelerates or Continues Acceleration of Your Loans.

(1) Right to a meeting. You have the right to meet with your FmHA or its successor agency under Public Law 103-354 County Official before they decide to accelerate or continue acceleration of your loan. You must check the box on Attachment 10 saying you want a meeting. [Attachment 10 is the "Response to Notice of Intent to Accelerate or Continue Acceleration of My Loan."]

How Soon Must I Ask for a Meeting? You must ask for a meeting within 15 days from the date of this notice. Check the box on Attachment 10. Return it to your County Office. Do this as soon as possible.

(2) The Right to Appeal. You can ask for an administrative appeal before a hearing officer. You can contest FmHA or its successor agency under Public Law 103-354's decision to accelerate or continue acceleration of your loan. You can ask for a independent appraisal of the value of your land. You will have to pay for this appraisal. FmHA or its successor agency under Public Law 103-354 will give you three names of approved appraisers to choose from. Check box 4 if you

want an independent appraisal. You can ask for an administrative appeal, even if you have asked for a meeting and your problems were not resolved at that meeting. You can ask for an appeal if you do not have a meeting.

How to Ask for an Appeal. Check the box on Attachment 10 and mail it to your County Office within 30 days of getting this notice.

What Happens If You Do Not Respond?

If you do not respond to this notice by filling out Attachment 10, FmHA or its successor agency under Public Law 103-354 will accelerate or continue acceleration of any loans. This means they will take legal action to collect the unpaid loan including foreclosure as described above.

NOTE: Foreclosure means you lose the title to your land. But you can still apply for preservation loan service programs to keep possession of your house or farm. [See Exhibit A Attachment 1 sent to you on _____. If you did not get these forms, contact your County Office within 15 days of this notice.]

The Right Not to Be Discriminated Against

Federal law does not allow discrimination of any kind. You cannot be denied a loan because of your race, color, religion, national origin, sex, marital status, handicap, or age (if you can legally sign a contract).

You cannot be denied a loan because you exercised your rights under the Consumer Credit Protection Act. You must have exercised these rights in good faith.

The Federal Agency responsible for seeing this law is obeyed is the Federal Trade Commission, Equal Credit Opportunity, Washington, DC 20580.

Sincerely,

County Supervisor,
Farmers Home Administration or its successor agency under Public Law 103-354,
U.S. Department of Agriculture

Dated: _____

ATTACHMENT 9-A—NOTIFICATION OF INTENT TO ACCELERATE OR CONTINUE ACCELERATION OF LOANS AND NOTICE OF YOUR RIGHTS

Note to County Supervisor

This attachment will be sent to borrowers who are 180 days delinquent, whose accounts have not been accelerated, WHO DID NOT return attachment 2 of exhibit A sent on or after November 28, 1990, or attachment 2 of exhibit F.

(To be used for borrowers receiving notices on or after November 28, 1990)

FmHA or its successor agency under Public Law 103-354 will accelerate your loan because you have not asked or have not accepted the offer for primary loan service programs.

You can:

(1) Ask for meeting with your FmHA or its successor agency under Public Law 103-354 County official.

(2) Appeal FmHA or its successor agency under Public Law 103-354's decision.

(3) Ask to voluntarily sign over to FmHA or its successor agency under Public Law 103-354 the property used to secure your loan and ask to be released from your debt.

(4) Apply for a leaseback or buyback of your farm real estate once FmHA or its successor agency under Public Law 103-354 has taken it.

(5) Ask to keep your home after FmHA or its successor agency under Public Law 103-354 has taken it.

Dear (Borrower's Name):

You are behind with your payments to FmHA or its successor agency under Public Law 103-354, and a review of your account shows:

You are \$ _____ behind in your FmHA or its successor agency under Public Law 103-354 loan payments.

This is a violation of your loan agreement.

You have sold or gotten rid of property used to secure your FmHA or its successor agency under Public Law 103-354 loan. You did not get written approval for this.

The property is _____

(Describe property.)

You have stopped farming or ranching.

This is a violation of your loan agreement.

You have _____

(Insert reason for proposed action.)

FmHA or its successor agency under Public Law 103-354 Will Accelerate Your Loans

This means FmHA or its successor agency under Public Law 103-354 will take legal action to collect the money you owe. They will foreclose on real estate and other property used to secure your loans. This could include your dwelling even if your housing account is current, if it was used to secure your farm loan(s). They may also stop the release of money from the sale of crops or other property. They may take by administrative offset any money you are owed by other Federal agencies.

Steps You Can Take Before FmHA or its successor agency under Public Law 103-354 Accelerates or Continues Acceleration of Your Loans

(1) *Right to a meeting.* You have the right to meet with an FmHA or its successor agency under Public Law 103-354 County official before they decide to accelerate or continue acceleration of your loan. You must check the box on Attachment 10-A saying you want a meeting. [Attachment 10-A is the "Response

to Notice of Intent to Accelerate or Continue Acceleration of My Loan."]

How Soon Must I Ask for a Meeting? You must ask for a meeting within 15 days from the date of this notice. Check the box on attachment 10-A. Return it to your County office. Do this as soon as possible.

(2) *The Right to Appeal.* You can ask for an administrative appeal before a hearing officer. You can contest FmHA or its successor agency under Public Law 103-354's decision to accelerate or continue acceleration of your loan. You can ask for an administrative appeal, even if you have asked for a meeting and your problems were not resolved at that meeting. However, you can only appeal an issue once. For example, if you previously appealed a favorable debt restructuring offer and were not successful on appeal, you cannot appeal this offer again.

You can ask for an appeal even if you do not have a meeting.

How to Ask for an Appeal. Check the box on attachment 10-A and mail it to your County Office within 30 days of getting this notice.

What Happens if You Do Not Respond? If you do not respond to this notice by filling out attachment 10-A, FmHA or its successor agency under Public Law 103-354 will accelerate or continue acceleration of any loans. This means they will take legal action to collect the unpaid loan, including foreclosure as described above.

NOTE: Foreclosure means you lose the title to your land. But you can still apply for preservation loan service programs to keep possession of your house or farm if FmHA or its successor agency under Public Law 103-354 buys the property at the foreclosure sale. [See exhibit A, attachment 1 sent to you on _____. If you did not get these forms, contact your County Office within 15 days of this notice.]

The Right Not To Be Discriminated Against

Federal law does not allow discrimination of any kind. You cannot be denied a loan because of your race, color, religion, national origin, sex, marital status, handicap, or age (if you can legally sign a contract).

You cannot be denied a loan because you exercised your rights under the Consumer Credit Protection Act. You must have exercised these rights in good faith.

The Federal Agency responsible for seeing this law is obeyed is the Federal Trade Commission, Equal Credit Opportunity, Washington, DC 20580.

Sincerely,

County Supervisor
Farmers Home Administration or its successor agency under Public Law 103-354
U.S. Department of Agriculture

Date: _____

ATTACHMENT 10

Note to County Supervisor:

This attachment will always be sent with Attachment 9.

See § 1951.907(h)(2).

Response to Notice Informing Me of FmHA or its successor agency under Public Law 103-354's Intent to Accelerate or Continue to Accelerate My Loan

Notice of My Rights

TO: County Supervisor, Farmers Home Administration or its successor agency under Public Law 103-354

FROM: _____
(Please print your name and address.)

I want to:

(check one or more of the following boxes)

- 1) Request a meeting with the FmHA or its successor agency under Public Law 103-354 County Official. My telephone number is _____. I understand I do not lose my right to appeal if I ask for a meeting.
- 2) Voluntarily sign over to FmHA or its successor agency under Public Law 103-354 all the property used to secure my loan and settle my debt.
- 3) Request an administrative appeal. I understand that I will be contacted by an official of FmHA or its successor agency under Public Law 103-354's National Appeals Staff to set up an appeal hearing and give me more information.
- 4) Request an independent appraisal of property securing my loan(s). I understand I must pay for this appraisal. I understand that the hearing officer from the National Appeals Staff will give me names of three appraisers.
- 5) Preservation loan service programs.

Signed _____
Date _____

ATTACHMENT 10-A—RESPONSE TO NOTICE INFORMING ME OF FMHA OR ITS SUCCESSOR AGENCY UNDER PUBLIC LAW 103-354'S INTENT TO ACCELERATE OR CONTINUE TO ACCELERATE MY LOAN

Note to County Supervisor

This attachment will always be sent with attachment 9-A.

(To be used for borrowers receiving notices on or after November 28, 1990).

Notice of My Rights

To: County Supervisor, Farmers Home Administration or its successor agency under Public Law 103-354

From: _____
(Please print your name and address.)

I want to: (Check one or more of the following boxes)

- (1) Request a meeting with the FmHA or its successor agency under Public Law 103-354 County Official.

My telephone number is _____.

I must return this form within 15 days.

I understand I do not lose my right to appeal if I ask for a meeting.

- (2) Voluntarily sign over to FmHA or its successor agency under Public Law 103-354 all the property used to secure my loan and settle my debt.
- (3) Request an administrative appeal.

I understand that I will be contacted by an official of FmHA or its successor agency under Public Law 103-354's National Appeals Staff to set up an appeal hearing and give me more information. I understand I must request an appeal within 30 days of receiving this notice. I have not previously appealed this issue.

(4) Preservation loan service programs.
Signed _____
Date _____

[53 FR 35718, Sept. 14, 1988; 53 FR 45755, Nov. 14, 1988, as amended at 56 FR 6952, Feb. 21, 1991; 57 FR 18650, Apr. 30, 1992; 58 FR 30105, May 26, 1993; 58 FR 69200, Dec. 30, 1993]

EXHIBIT B—NOTIFICATION OF OFFER TO RESTRUCTURE DEBT FOR FINANCIALLY DISTRESSED BORROWERS CURRENT ON THEIR LOAN PAYMENTS

(Borrower's Name and Address)

(Date)

Dear (Borrower's Name):

We have determined that the Farmers Home Administration or its successor agency under Public Law 103-354 (FmHA or its successor agency under Public Law 103-354) can approve your request for primary loan servicing programs.

Our calculations indicate that you will be able to make the necessary annual payment on your FmHA or its successor agency under Public Law 103-354 loan if your loan is restructured through the use of primary loan servicing programs. Therefore, we are offering to restructure your FmHA or its successor agency under Public Law 103-354 debt in the following fashion:

(The County Supervisor will fill in the blank by describing exactly what would be done with the borrower's account. For example, if the borrower has a farm ownership loan, the County Supervisor will fill in the blank by saying that (\$ Amount) of principal and interest on that loan would be reamortized for 40 years from the original date of the loan, or up until (date) at the limited resource interest rate, which is _____ percent.)

The attached computer printout indicates the primary loan servicing program that will help you overcome your financial difficulty

and provide the greatest net recovery to the Government.

(If production and/or financial management training is to be required, insert the following paragraphs and attach a list of the courses the borrower is required to complete and a list of approved vendors in the borrower's area for these courses:)

As a condition of this restructuring, you must agree to meet, at your own cost, FmHA or its successor agency under Public Law 103-354's training requirements which provide instruction in production and financial management within 2 years of the date your loans are restructured. The cost will be included in your farm plan as an operating expense. Upon completion of the training course(s), the instructor will assign a score according to the following criteria:

Score

1 The borrower attended classroom sessions as agreed, satisfactorily completed all assignments, and demonstrated an understanding of the course material.

2 The borrower attended classroom sessions as agreed and attempted to complete all assignments; however, the borrower does not demonstrate an understanding of the course material.

3 The borrower did not attend classroom sessions as agreed and/or did not attempt to complete assignments. In general, the borrower did not make a good faith effort to complete the training.

Attached is a list of courses you will be required to complete to fulfill the training requirement. A list of approved vendors in your area for these courses is also attached. Any denial of a request for a waiver of the training requirement is not appealable. If you fail to complete the training as agreed, you will be ineligible for future FmHA or its successor agency under Public Law 103-354 benefits including future Farmer Programs direct and guaranteed loans, Primary Loan Servicing, Interest Assistance renewals, and restructuring of guaranteed loans.

(If production and/or financial management training is being waived, insert the following sentence:)

The County Committee has waived the training requirement for the restructuring offered in this notice.

If you want FmHA or its successor agency under Public Law 103-354 to use the primary servicing program identified on the computer printout, you must accept this offer in writing. Your acceptance must be received by FmHA or its successor agency under Public Law 103-354 not later than 45 days from your receipt of this letter. You may accept this offer in writing by signing and returning the attached form titled "Acceptance of Offer to Restructure my Debt."

If you do not accept this offer within 45 days, and your account becomes delinquent,

FmHA or its successor agency under Public Law 103-354 will renotify you of all servicing options available at that time.

Sincerely,
County Supervisor

ATTACHMENT 1—ACCEPTANCE OF OFFER TO RESTRUCTURE MY DEBT

(Date) _____

To: _____

From: (Please print your name and address)

Dear County Supervisor:

I have received your offer to restructure my FmHA or its successor agency under Public Law 103-354 debt. I would like to accept that offer.

Sincerely,
(Borrower's signature) _____

(Date) _____

[57 FR 18658, Apr. 30, 1992, as amended at 58 FR 69200, Dec. 30, 1993]

EXHIBIT C—NET RECOVERY BUYOUT RECAPTURE AGREEMENT

In consideration of the Farmers Home Administration or its successor agency under Public Law 103-354 (FmHA or its successor agency under Public Law 103-354) allowing me/us to purchase the real estate property securing my/our FmHA or its successor agency under Public Law 103-354 Farmer Program loan obligations at the net recovery value of \$_____ in accordance with FmHA or its successor agency under Public Law 103-354 Instruction 1951-S, I/we agree to pay to difference between the net recovery value of the security of \$_____ and the fair market value of the real estate property of \$_____ as of the date of this agreement, if/we sell or otherwise convey the security within 2 years of this agreement for an amount which exceeds the net recovery value. This amount is \$_____. I further agree to give FmHA or its successor agency under Public Law 103-354 a mortgage or deed of trust to secure this amount for the best lien obtainable which will be subordinate to any purchase money security instrument which does not exceed the fair market value of the property to enable the borrower to purchase the property from FmHA or its successor agency under Public Law 103-354 at the net recovery value. This mortgage or deed of trust will be released 2 years from the date of this agreement if I/we do not sell or convey the property during the two year period.

I/We understand that the difference between the net recovery value of the real estate securing the FmHA or its successor agency under Public Law 103-354 loan obligations and the fair market value of the real estate security specified above will all be due and payable on the day of sale or conveyance

if I/we sell or otherwise convey the real estate property within two (2) years from the date of this agreement, if I/we realize a gain in this transaction.

Loan Balance \$ _____.

Amount of Buyout \$ _____.

Date of Agreement

Borrower

[53 FR 35718, Sept. 14, 1988]

**EXHIBIT C-1—NET RECOVERY BUYOUT
RECAPTURE AGREEMENT**

(For applications filed for restructuring on or after November 28, 1990.)

Purpose

This agreement with FmHA or its successor agency under Public Law 103-354 will allow you to buy out your loan(s) at the net recovery value.

1. I/we _____ understand and agree to the following conditions.

2. I/We will give FmHA or its successor agency under Public Law 103-354 a lien (mortgage or deed of trust) on the FmHA or its successor agency under Public Law 103-354 real estate security property I/we own to secure this agreement.

The lien is to secure the maximum recapture amount listed in item 6.c. of this agreement. This lien is secondary to the following lien(s), including any lien used to obtain the net recovery buyout amount up to the net recovery value.

(name, address, and unpaid balance of lien(s))

3. I/We agree that if I/we do not sell or convey any portion of the real estate used as security for 10 years, the agreement and any liability you have under it will be satisfied at the end of 10 years, and then FmHA or its successor agency under Public Law 103-354 will release its lien.

NOTE: Convey includes, but is not limited to, any form of transfer in all or any portion of the real estate property, including sale, gift, Contract Sale/Purchase Agreement, foreclosure, and below-fair-market sale, but does not include a mortgage or deed of trust. Transfer of title to property to a spouse or child who is actively engaged in farming the property upon the death or retirement of a borrower, will not be treated as a conveyance. In such a transaction, FmHA or its successor agency under Public Law 103-354 will not release its lien, and the transferee will assume liability under the agreement.

4. I/We agree that as of the date of this agreement, the net recovery value of the real estate is \$ _____.

5. I/We agree that as of the date of this agreement, the total amount of the FmHA or its successor agency under Public Law 103-354 debt secured by real estate including principal and interest before buyout is \$ _____.

6. If I/we do sell or convey any part or all of this real estate within 10 years of this agreement, I/we must pay FmHA or its successor agency under Public Law 103-354 the recapture amount for that part sold or conveyed which is the smaller of a., b., or c.

a. The Fair Market Value of the real estate parcel at the time of the sale or conveyance, as determined by an FmHA or its successor agency under Public Law 103-354 appraisal, minus that portion of the recovery value of the real estate represented in item 4, or

b. The Fair Market Value of the real estate parcel at the time of the sale or conveyance, as determined by an FmHA or its successor agency under Public Law 103-354 appraisal, minus the unpaid balance of prior liens at the time of the sale or conveyance, minus the net recovery value of the real estate in item 4 if this amount has not been accounted for as a prior lien, or

c. The total amount of the FmHA or its successor agency under Public Law 103-354 debt written off for loans secured by real estate. I/We agree that this amount is the outstanding balance of principal and interest owed on the FmHA or its successor agency under Public Law 103-354 Farmer Programs loan(s) as of the date of this agreement in item 5, minus the net recovery value of the real estate in item 4. This amount is \$ _____ and is the maximum amount that can be recaptured.

7. When I/we pay the recapture amount due, FmHA or its successor agency under Public Law 103-354 will release its lien on the property sold or conveyed. The agreement and any liability I/we have under it will be satisfied at the end of 10 years if I/we have made all the required payments under the recapture agreement. The agreement and any liability I/we have under it will be satisfied before this time only if I sell or convey all of the real estate securing this agreement and make all the required payments under the agreement.

8. This agreement is subject to FmHA or its successor agency under Public Law 103-354 regulations in 7 CFR part 1951, subpart S, and any future regulations which are consistent with this agreement.

9. The date of this agreement is the latest date of the dates below.

Signed _____
(borrower or obligor)

Date _____

Signed _____
(borrower or obligor)

Date _____

(FmHA or its successor agency
under Public Law 103-354)
Date _____

[57 FR 18658, Apr. 30, 1992, as amended at 57
FR 47257, Oct. 15, 1992]

EXHIBIT D—SHARED APPRECIATION
AGREEMENT

This Agreement is entered into between
(FmHA or its successor agency under Public
Law 103-354) and (Borrower's name) (called
"Borrower") on (Date) and expires on (Date)
(maximum term of ten (10) years).

Borrower is indebted to FmHA or its suc-
cessor agency under Public Law 103-354 for
loan(s) as evidenced by the note(s) described
below:

Date _____
Principal Amount _____
Interest Rate _____
Due Date _____

This Agreement is attached to the note(s)
described above. As of the date of this Agree-
ment, before write-down, the unpaid prin-
cipal balance on this note was \$_____ and
the unpaid interest balance was \$_____.
These note(s) were modified by the following
note(s) which are attached to note(s) de-
scribed above.

Date _____
Principal Amount _____
Interest Rate _____
Due Date _____

The note(s) described above are secured by
the following real estate security instru-
ments:

Grantor _____
Date of Security Instrument _____
Records of County/State _____
Book or Reel _____
Page _____

As a condition to, and in consideration of,
FmHA or its successor agency under Public
Law 103-354 writing down the above amounts
and restructuring the loan, Borrower agrees
to pay FmHA or its successor agency under
Public Law 103-354 an amount according to
one of the following payment schedules:

1. Seventy-five (75) percent of any positive
appreciation in the market value of the prop-
erty securing the loan as described in the
above security instrument(s) between the
date of this Agreement and either the expira-
tion date of this Agreement or the date the
Borrower pays the loan in full, ceases farm-
ing or transfers title of the security, if such
event occurs four (4) years or less from the
date of this Agreement.

2. Fifty (50) percent of any positive appre-
ciation in the market value of the property
securing the loan above as described in the
security instruments between the date of
this Agreement and either the expiration

date of this Agreement or the date Borrower
pays the loan in full, ceases farming or
transfers title of the security, if such event
occurs after four (4) years but before the ex-
piration date of this Agreement.

The amount of recapture by FmHA or its
successor agency under Public Law 103-354
will be based on the difference between the
value of the security at the time of disposal
or cessation by Borrower of farming and the
value of the security at the time this Agree-
ment is entered into. If the borrower violates
the term of this agreement, FmHA or its
successor agency under Public Law 103-354
will liquidate after the borrower has been no-
tified of the right to appeal.

Market value of the property securing
loan(s) \$. _____

Net recovery value of property securing
loan(s) \$. _____

Amount of write-down \$. _____

Amount of Account Equity \$. _____

(Borrower's signature)

(Farmers Home Administration or its suc-
cessor agency under Public Law 103-354)

[53 FR 35718, Sept. 14, 1988]

EXHIBIT E—NOTIFICATION OF REQUEST
FOR MEDIATION OR MEETING OF CREDI-
TORS AND/OR OTHER OPTIONS

(To be used by FmHA or its successor agency
under Public Law 103-354 to inform borrow-
ers that FmHA or its successor agency under
Public Law 103-354 is requesting mediation
or a voluntary meeting of the borrower's
creditors and/or to offer borrowers who sub-
mitted applications on or after November 28,
1990, the opportunity to negotiate the FmHA
or its successor agency under Public Law
103-354 appraisal and/or pay FmHA or its suc-
cessor agency under Public Law 103-354 the
net recovery value of any nonessential as-
sets)

(Borrower's Name and Address)

Dear (Borrower's Name):

The Farmers Home Administration or its
successor agency under Public Law 103-354
(FmHA or its successor agency under Public
Law 103-354) has carefully considered your
request for primary loan servicing programs.
Due to your debt with lenders other than
FmHA or its successor agency under Public
Law 103-354, you are unable to develop a fea-
sible plan. Your Farm and Home Plan must
show that you have enough income after
payment of your essential living and operat-
ing expenses and other non-FmHA or its suc-
cessor agency under Public Law 103-354 debts
to make an annual payment to FmHA or its
successor agency under Public Law 103-354 of
at least \$_____. Your Farm and Home Plan
shows that you have only \$_____ to make

this annual payment. Attached are the calculations on which our decision is based.

If you did not previously request a Conservation Set-Aside Easement, you may request this servicing action by submitting an ASCS photo indicating that portion of the farm and the appropriate acres to be considered. You must submit this ASCS photo to FmHA or its successor agency under Public Law 103-354 within 30 days of receiving this notice.

(Use the appropriate following paragraph, if applicable.)

Paragraph I

(To be used when Certified State Mediation is available)

Certified State Mediation

We are requesting mediation under the (Name) State Certified Mediation Program. We will work with you and your creditors to determine if your debts can be adjusted sufficiently to permit you to develop a feasible plan of operation. If, with the adjustment of your debt, you are able to develop a feasible plan of operation which shows that you can make an annual payment to FmHA or its successor agency under Public Law 103-354 of at least \$_____, FmHA or its successor agency under Public Law 103-354 will reconsider your application for primary loan servicing.

Paragraph II

(To be used when Certified State Mediation is not available and undersecured creditors have a substantial part of the total borrower's debt)

Meeting of Creditors

We will schedule a meeting with you and your other creditors in an effort to reach agreements with them to adjust your debts sufficiently to permit you to develop a feasible plan of operation. The FmHA or its successor agency under Public Law 103-354 State Director will contract for a mediator or appoint an FmHA or its successor agency under Public Law 103-354 representative not previously involved in servicing of your account upon your written request to participate in the meeting with creditors. Please sign the attached acknowledgment within 30 days of the date of this letter. The acknowledgment will be your written request and consent to FmHA or its successor agency under Public Law 103-354 releasing information concerning your account to other creditors who participate in the meeting.

Paragraph III

(To be used when Certified State Mediation is not available and undersecured creditors do not hold a substantial part of the total borrower's debt)

We will not be scheduling a meeting with you and your other creditors in an effort to reach agreements with them to adjust your debts. We have determined that your other creditors do not hold a sufficient amount of your total debt to permit you to develop a feasible plan of operation even if their debts are entirely written off. You may object to our determination not to give you a voluntary meeting of creditors in any appeal you may have. You will be notified of your appeal rights in a later notice.

(The following paragraphs will be removed if the application was submitted Before November 28, 1990, or the borrower does not have any nonessential assets.)

Nonessential Assets

FmHA or its successor agency under Public Law 103-354 has determined that you have nonessential assets that do not contribute income to pay essential family living and farm operating expenses. The net recovery value (NRV) of the nonessential assets has been added to the NRV of the FmHA or its successor agency under Public Law 103-354 collateral for the calculation on the attached printout. The NRV of the nonessential assets is \$_____. Your nonessential assets and their NRVs are as follows:

Nonessential Assets

NRVs

FmHA or its successor agency under Public Law 103-354 encourages you to sell the nonessential assets or borrow against their value. If you pay the NRV of the nonessential assets on your FmHA or its successor agency under Public Law 103-354 debt, that amount will be subtracted from your debt and FmHA or its successor agency under Public Law 103-354 will reevaluate your servicing request. If you are going to pay FmHA or its successor agency under Public Law 103-354 the NRV of your nonessential assets, you must do so within 45 days of the date of receiving this letter. You must check the appropriate block on the response form and return it to FmHA or its successor agency under Public Law 103-354 within 45 days with \$_____ for payment of the NRV of the nonessential assets. If you want to reduce the NRV, you must pay FmHA or its successor agency under Public Law 103-354 before any mediation or meeting of creditors.

If you wish to dispute FmHA or its successor agency under Public Law 103-354's decision that you own nonessential assets, you

will be given the opportunity to appeal if mediation or the meeting of creditors is unsuccessful. If mediation or a meeting of creditors is not held, you will be notified of your appeal rights in a later notice.

Negotiation of the Appraisal

If you object to the FmHA or its successor agency under Public Law 103-354 appraisal of your property, you may ask the FmHA or its successor agency under Public Law 103-354 by returning the "Response Form" to negotiate the appraisal with you. You must ask to negotiate the FmHA or its successor agency under Public Law 103-354 appraisal within 30 days from the date you receive this notice. To do this you must provide FmHA or its successor agency under Public Law 103-354 with a copy of your current independent appraisal or you must now obtain, at your cost, an independent appraisal of your property. The appraisal and the appraiser must meet certain standards published in FmHA or its successor agency under Public Law 103-354 regulations.

If you do not have a current independent appraisal and wish FmHA or its successor agency under Public Law 103-354 to assist you, check option 2 of the "Response Form" and FmHA or its successor agency under Public Law 103-354 will provide you with a list of such appraisers.

You must provide FmHA or its successor agency under Public Law 103-354 a copy of your independent appraisal within 30 days of requesting negotiation.

If your current independent appraisal is within five percent of the FmHA or its successor agency under Public Law 103-354 appraisal, you must select which appraisal of the two you want FmHA or its successor agency under Public Law 103-354 to use in processing your request. The appraisal you select will be the final appraisal. It cannot be further negotiated or appealed. If the difference is more than five percent and you have requested a negotiated appraisal, you and FmHA or its successor agency under Public Law 103-354 will choose an independent appraiser to complete a third appraisal. You must pay one-half of the cost of the third appraisal. FmHA or its successor agency under Public Law 103-354 will pay for the other half of the third appraisal. You, the appraiser and the County Supervisor must complete and sign an appraisal agreement. Following the completion of the third appraisal, the average of the two appraisals that are closest in value, as determined by FmHA or its successor agency under Public Law 103-354, shall establish the appraised value to be used. This final negotiated appraisal is not appealable. Do not select this option of the "Response Form" if you and FmHA or its successor agency under Public Law 103-354 have already negotiated your appraisal.

If you choose not to negotiate and wish to dispute FmHA or its successor agency under Public Law 103-354's appraisal, you will be given the opportunity to appeal in a later notice. If you believe there are mathematical or property description errors in the appraisals, you should immediately contact the County Supervisor. If you and the County Supervisor agree, the corrections will be made and initialed by both you and the County Supervisor.

If you want information on the requirements of an FmHA or its successor agency under Public Law 103-354 appraisal, you may request a copy of the FmHA or its successor agency under Public Law 103-354 appraisal regulations from the County Supervisor.

Sincerely,
County Supervisor
Attachment

ATTACHMENT 1—BORROWER'S REQUEST FOR MEETING OF CREDITORS AND ACKNOWLEDGMENT

I/We have been given a notice explaining that I/we are not eligible for primary loan service programs. FmHA or its successor agency under Public Law 103-354 has told me that due to my/our debt with other lenders it does not believe that I/we can develop a feasible plan. I/we request that you schedule a meeting with my undersecured creditors to assist me/us in developing a feasible plan of operation. I/we consent to FmHA or its successor agency under Public Law 103-354 releasing information concerning my/our FmHA or its successor agency under Public Law 103-354 account(s) to these creditors to assist me in developing a feasible plan.

(Date)

(Borrower's signature)

NOTE TO COUNTY SUPERVISOR: Send attachment 1 to exhibit E to borrowers who submitted applications before November 28, 1990.

ATTACHMENT 2—BORROWER'S REQUEST FOR MEETING OF CREDITORS AND/OR REQUEST TO NEGOTIATE THE FMHA OR ITS SUCCESSOR AGENCY UNDER PUBLIC LAW 103-354 APPRAISAL AND ACKNOWLEDGMENT

I/We have been given a notice explaining that I/we are not eligible for primary loan service programs.

I/we want to:
[Check the appropriate box or boxes.]

(1) Request an independent appraisal of my property including any nonessential assets.

I must return this "Response Form" within 30 days to request an independent appraisal.

I understand that I must pay for this appraisal. I understand that the FmHA or its

successor agency under Public Law 103-354 County Supervisor will give me a list of appraisers.

If the independent appraisal is within five percent of the FmHA or its successor agency under Public Law 103-354 appraisal, I must select which of the two appraisals I want to be used for processing my request.

(2) Request Negotiation of the Appraisal.

I must return this "Response Form" within 30 days to request a negotiation of my appraisal.

I understand that I must provide FmHA or its successor agency under Public Law 103-354 with a copy of my independent appraisal within 30 days of requesting negotiation. I understand that I must pay for this appraisal and one-half of a third appraisal. I understand that FmHA or its successor agency under Public Law 103-354 will not negotiate the appraisal more than once.

(3) I/We request a copy of the FmHA or its successor agency under Public Law 103-354 recent appraisal of my property.

(4) I/We am paying FmHA or its successor agency under Public Law 103-354 the net recovery value of any nonessential assets that FmHA or its successor agency under Public Law 103-354 has said I/we own. I will pay this amount within 45 days.

Please recalculate the restructuring of the FmHA or its successor agency under Public Law 103-354 debt.

NOTE TO COUNTY SUPERVISOR: Do not include paragraph #5 if certified state mediation is available or the undersecured creditors' debts are not a substantial part of the borrower's total debt.

(5) Request that you schedule a meeting with my undersecured creditors to assist me/us in trying to develop a feasible plan of operation. I/we consent to FmHA or its successor agency under Public Law 103-354 releasing information concerning my/our FmHA or its successor agency under Public Law 103-354 account(s) to these creditors to assist me in developing a feasible plan. I must return this "Response Form" within 30 days if I want a meeting.

(Date)

(Borrower's signature)

NOTE TO COUNTY SUPERVISOR: To be sent to borrowers who submitted applications on or after November 28, 1990.

[57 FR 18659, Apr. 30, 1992]

EXHIBIT F—NOTIFICATION OF OFFER TO RESTRUCTURE DEBT

(To be used by FmHA or its successor agency under Public Law 103-354 to offer to restructure the borrower's debt, and *in the case of applications submitted on or after November 28, 1990*, to inform the borrower about any non-essential assets and the opportunity to negotiate the appraisal)

(Borrower's Name and Address)

Dear (Borrower's Name):

We have determined that the Farmers Home Administration or its successor agency under Public Law 103-354 (FmHA or its successor agency under Public Law 103-354) can approve your request for primary loan servicing programs.

Offer

Our calculations indicate that you will be able to make the necessary annual payment on your FmHA or its successor agency under Public Law 103-354 loan if your loan is restructured through the use of primary loan servicing programs. Therefore, we are offering to restructure your FmHA or its successor agency under Public Law 103-354 debt in the following fashion:

(The County Supervisor will fill in the blank by describing exactly what would be done with the borrower's account.) For example, if the borrower has a farm ownership loan, the County Supervisor will fill in the blank by saying that (\$Amount) of principal and interest on that loan would be written off, and the remainder of the loan would be reamortized for 40 years from the original date of the loan, or up until (date) at the limited resource interest rate, which is ____ percent, in exchange for the borrower signing a shared appreciation agreement, which is attached to the notice.)

The attached computer printout indicates the primary loan servicing program that will keep you on the farm and provide the greatest net recovery to the Government.

(If production and/or financial management training is to be required, insert the following paragraphs and attach a list of the courses the borrower is required to complete and a list of approved vendors in the borrower's area for these courses:)

As a condition of this restructuring, you must agree to meet, at your own cost, FmHA or its successor agency under Public Law 103-354's training requirements which provide instruction in production and financial

management within 2 years of the date your loans are restructured. The cost will be included in your farm plan as an operating expense. Upon completion of the training course(s), the instructor will assign a score according to the following criteria:

Score

1 The borrower attended classroom sessions as agreed, satisfactorily completed all assignments, and demonstrated an understanding of the course material.

2 The borrower attended classroom sessions as agreed and attempted to complete all assignments; however, the borrower does not demonstrate an understanding of the course material.

3 The borrower did not attend classroom sessions as agreed and/or did not attempt to complete assignments. In general, the borrower did not make a good faith effort to complete the training.

Attached is a list of courses you will be required to complete to fulfill the training requirement. A list of approved vendors in your area for these courses is also attached. Any denial of a request for a waiver of the training requirement is not appealable. If you fail to complete the training as agreed, you will be ineligible for future FmHA or its successor agency under Public Law 103-354 benefits including future Farmer Programs direct and guaranteed loans, Primary Loan Servicing, Interest Assistance renewals, and restructuring of guaranteed loans.

(If production and/or financial management training is being waived, insert the following sentence:)

The County Committee has waived the training requirement for the restructuring offered in this notice.

If you want FmHA or its successor agency under Public Law 103-354 to use the primary servicing program identified on the computer printout to restructure your debt, you must accept this offer in writing. Your acceptance must be received by FmHA or its successor agency under Public Law 103-354 no later than 45 days from your receipt of this letter. You may accept this offer in writing by signing and returning the attached form titled "Acceptance of Offer to Restructure my Debt."

(The following paragraphs (the nonessential assets option) will be removed if the application was submitted before November 28, 1990, or if the application was submitted on or after that date and the borrower does not have any nonessential assets.)

Nonessential Assets

FmHA or its successor agency under Public Law 103-354 has determined that you have nonessential assets that do not contribute a net income to pay essential family living expenses or maintain a sound farming oper-

ation. The net recovery value (NRV) of the nonessential assets has been added to the NRV of the FmHA or its successor agency under Public Law 103-354 collateral for the calculation on the attached printout. The NRV of the nonessential assets is \$_____. Your nonessential assets and their NRVs are as follows:

Nonessential Assets

NRVs

FmHA or its successor agency under Public Law 103-354 encourages you to sell the nonessential assets or borrow against their value. If you pay the NRV of the nonessential assets, that amount will be subtracted from your debt and FmHA or its successor agency under Public Law 103-354 will recalculate the amount of your FmHA or its successor agency under Public Law 103-354 debt. If you are going to pay FmHA or its successor agency under Public Law 103-354 the NRV of your nonessential assets, you must do so within 45 days of the date of receiving this letter. You must check the appropriate block on the response form and return it to FmHA or its successor agency under Public Law 103-354 within 45 days with your payment for the NRV of the nonessential assets of \$_____.

If you wish to dispute FmHA or its successor agency under Public Law 103-354's decision that you own nonessential assets or disagree with the offer presented, you may request a meeting and/or an appeal.

(The following paragraphs (the negotiation option only) will be removed if the borrower has already negotiated the appraisal or the application was submitted before November 28, 1990.)

Negotiation of the Appraisal

If you object to the FmHA or its successor agency under Public Law 103-354 appraisal of your property, you may ask the FmHA or its successor agency under Public Law 103-354 to negotiate the appraisal with you by returning the "Response Form." You must ask to negotiate the FmHA or its successor agency under Public Law 103-354 appraisal within 30 days from the date you receive this notice. To do this you must provide FmHA or its successor agency under Public Law 103-354 with a copy of your current independent appraisal or you must now obtain, at your cost, an independent appraisal of your property. The appraisal and the appraiser must meet certain standards published in FmHA or its successor agency under Public Law 103-354's regulations.

If you do not have a current appraisal and wish FmHA or its successor agency under Public Law 103-354 to assist you, check option 2 of the "Response Form" and FmHA or its successor agency under Public Law 103-354 will provide you with a list of such appraisers.

You must provide FmHA or its successor agency under Public Law 103-354 with a copy of your independent appraisal within 30 days of requesting negotiation.

If your current independent appraisal is within five percent of the FmHA or its successor agency under Public Law 103-354 appraisal, you must select which appraisal of the two you want FmHA or its successor agency under Public Law 103-354 to use in processing your request. The appraisal you select will be the final appraisal. It cannot be further negotiated or appealed. If the difference is more than five percent and you have requested a negotiated appraisal you and FmHA or its successor agency under Public Law 103-354 will choose an independent appraiser to complete a third appraisal. You must pay one-half of the cost of the third appraisal. You, the appraiser and the County Supervisor must complete and sign an appraisal agreement for this appraisal. FmHA or its successor agency under Public Law 103-354 will pay for the other half of the third appraisal. Following the completion of the third appraisal, the average of the two appraisals that are closest in value, as determined by FmHA or its successor agency under Public Law 103-354, shall establish the appraised value to be used. This final negotiated appraisal is not appealable. Do not select this option on the "Response Form" if you and FmHA or its successor agency under Public Law 103-354 have already negotiated your appraisal.

If you wish to dispute FmHA or its successor agency under Public Law 103-354's appraisals but do want to reach agreement with FmHA or its successor agency under Public Law 103-354 by negotiating the appraisal, you may also request a meeting and/or appeal of other items of the decision that you do not agree with by checking the appropriate box/boxes on the attached response form. If you believe there are mathematical or property description errors in the appraisals, you should immediately contact the County Supervisor. If you and the County Supervisor agree, the corrections will be made and initialed by both you and the County Supervisor.

If you want information on the requirements of an FmHA or its successor agency under Public Law 103-354 appraisal, you may request a copy of the FmHA or its successor agency under Public Law 103-354 appraisal regulations from the County Supervisor.

What Happens If You Do Not Accept the Offer

If you do not accept the restructuring offer on page 1, FmHA or its successor agency under Public Law 103-354 will deny your request for primary loan servicing. You can appeal the offer now by checking the appropriate block on attachment 2, or you can wait until you receive an additional notice stating that FmHA or its successor agency under Public Law 103-354 intends to liquidate your account. The notice will explain the reasons for this action and give you the opportunity to appeal.

You may have a Federal income tax liability if FmHA or its successor agency under Public Law 103-354 restructures your FmHA or its successor agency under Public Law 103-354 indebtedness with a writedown. You should contact the Internal Revenue Service (IRS) for information on this matter.

Sincerely,
County Supervisor

ATTACHMENT 1—ACCEPTANCE OF OFFER TO RESTRUCTURE MY DEBT

TO: County Supervisor, Farmers Home Administration or its successor agency under Public Law 103-354

FROM: (Please print your name and address)

Dear County Supervisor:

I have received your offer to restructure my FmHA or its successor agency under Public Law 103-354 debt.

I would like to accept that offer.

Sincerely,
(Borrower's signature)

(Date)

ATTACHMENT 2—ACCEPTANCE OF RESTRUCTURING OFFER, REQUEST TO NEGOTIATE APPRAISAL OR PAY FMHA OR ITS SUCCESSOR AGENCY UNDER PUBLIC LAW 103-354 THE NRV OF NONESSENTIAL ASSETS

(This attachment will be used instead of attachment 1 for borrowers who submitted applications on or after November 28, 1990.)

To: County Supervisor, Farmers Home Administration or its successor agency under Public Law 103-354

From: (Please print your name and address)

Dear County Supervisor:

I have received your offer to restructure my FmHA or its successor agency under Public Law 103-354 debt.

(Check the appropriate blocks.)

(1) I/We accept FmHA or its successor agency under Public Law 103-354's offer to restructure my debt. I/We must accept FmHA or its successor agency under Public Law 103-354's offer within 45 days of receiving exhibit F.

(2) I/We request an independent appraisal of my property including any non-essential assets. If the difference between my independent appraisal and the FmHA or its successor agency under Public Law 103-354 appraisal is not more than five percent, I understand that I must select which of the two appraisals I want to be used for reconsidering my request. In such a case, there will not be an appeal of the appraisal or any further negotiation of the appraisal.

I must return this "Response Form" within 30 days to request an independent appraisal.

I understand that I must pay for this appraisal. I understand that the FmHA or its successor agency under Public Law 103-354 County Supervisor will give me a list of appraisers.

(3) I/We request a copy of the FmHA or its successor agency under Public Law 103-354 recent appraisal of my property.

(4) Request Negotiation of the Appraisal.

I must return this "Response Form" within 30 days to request a negotiation of my appraisal.

I understand that I must provide FmHA or its successor agency under Public Law 103-354 with a copy of my independent appraisal within 30 days of requesting negotiation. I understand that I must pay for this appraisal plus one-half of a third appraisal. I understand that FmHA or its successor agency under Public Law 103-354 will not negotiate the appraisal more than once.

(5) Request an appeal hearing.

I/We must return this "Response Form" within 30 days to request a hearing.

I/We understand that I/we will be contacted by FmHA or its successor agency under Public Law 103-354's National Appeals Staff to set up the appeal hearing date and to give more information.

If possible, I/we should submit a copy of my/our independent appraisal to the County Supervisor and the hearing officer prior to the appeal hearing of the appraisal.

(6) I/We intend to pay FmHA or its successor agency under Public Law 103-354 the net recovery value of any nonessential assets that FmHA or its successor agency under Public Law 103-354 has said I/we own.

I/We must pay the net recovery value of the nonessential assets within 45 days of receiving exhibit F.

Please recalculate my restructuring of the FmHA or its successor agency under Public Law 103-354 debt.

Sincerely,
(Borrower's signature)

(Date)

ATTACHMENT 3—APPRAISAL AGREEMENT

I. This agreement is with (insert name of appraiser), referred herewithin as the appraiser, FmHA or its successor agency under Public Law 103-354, and (insert name of FmHA or its successor agency under Public Law 103-354 borrower requesting a negotiated appraisal) herewithin referred to as the borrower.

II. The purpose of this agreement is to set forth the terms and conditions of the appraisal which will be used in determining an negotiated appraisal of the borrower's farm property.

III. The appraiser agrees to perform an appraisal of the borrower's farm property as described below: _____

IV. The appraiser certifies that he has not conducted either the FmHA or its successor agency under Public Law 103-354 appraisal or the borrower's independent appraisal of this farm property.

V. The appraiser certifies that he/she is a qualified independent appraiser as approved by the FmHA or its successor agency under Public Law 103-354 County Supervisor. The appraiser also agrees that the completed appraisal will conform to subpart E of part 1922 of this chapter for real estate and Form FmHA or its successor agency under Public Law 103-354 440-21 for chattels.

VI. The cost of the appraisal will be (insert dollar cost). The cost of the appraisals will be shared equally by FmHA or its successor agency under Public Law 103-354 and the borrower, each paying one-half of the cost upon delivery of the completed appraisal to FmHA or its successor agency under Public Law 103-354 and the borrower. The completed appraisal must be delivered to FmHA or its successor agency under Public Law 103-354 and the borrower within 30 days of the date of this agreement.

(Borrower)

(County Supervisor)
(Appraiser)

Date: _____

[53 FR 35718, Sept. 14, 1988, as amended at 57 FR 18660, Apr. 30, 1992; 58 FR 44753, Aug. 25, 1993; 58 FR 69200, Dec. 30, 1993]

EXHIBIT G—DEFERRAL, REAMORTIZATION
AND RECLASSIFICATION OF DIS-
TRESSED FARMER PROGRAM (FP)
LOANS FOR SOFTWOOD TIMBER PRO-
DUCTION (ST) LOANS

I. GENERAL.

Borrowers with distressed FP loans, as defined in this exhibit, with 50 or more acres of marginal land may request FmHA or its successor agency under Public Law 103-354 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 or its successor agency under Public Law 103-354 in reamortizing and deferring payments of distressed FP loans (ST loans) to financially distressed farmers are to develop a feasible plan to assist eligible FmHA or its successor agency under Public Law 103-354 borrowers to improve their financial condition, to repay their outstanding FmHA or its successor agency under Public Law 103-354 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 softwood timber (ST) loans subject to the limitations in paragraph VI of this exhibit.

(A) *Management assistance.* FmHA or its successor agency under Public Law 103-354 management assistance will be provided to borrowers to assist them to achieve loan objectives and protect the Government's financial interests, in accordance with subpart B of part 1924 of this chapter.

(B) *Definitions.*

(1) *Distressed FmHA or its successor agency under Public Law 103-354 loan.* An FP loan which is delinquent or in financial distress because a borrower cannot project a feasible plan by using the other loan modification actions including rescheduling, reamortizing or deferral for the maximum term.

(2) *Marginal land.* Land determined suitable for softwood timber production by the Soil Conservation Service (SCS) that was previously pasture land or within the last five years used for the production of agricultural commodities, as defined in §12.2 of subpart A of part 12 of this chapter and which is Attachment 1 of Exhibit M of subpart 1940 of this chapter. This could include:

(a) Highly erodible land as defined or classified by the SCS under §12.2 of subpart A of part 12 of this chapter, or

(b) Marginal lands that predominantly include soils that are in Class IV, V, VI, VII, or VIII in the SCS's Land Capability Classification System. However, marginal land shall

not include wetlands as defined in §12.2 (a)(26) of subpart A of part 12 of this chapter and which is attachment 1 of exhibit M of subpart G of part 1940 of this chapter.

(3) *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 timber production 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 it other than a lien for ST loans.

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

(4) Be an FmHA or its successor agency under Public Law 103-354 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 timber operation.

(6) Have one or more distressed FmHA or its successor agency under Public Law 103-354 loans as defined by this exhibit.

(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 its successor agency under Public Law 103-354 or other sources including cost-sharing programs for forestry purposes for the planting, caring, and harvesting of the softwood timber trees.

II. REAMORTIZATION REQUIREMENTS.

(A) 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. The plan will outline the necessary site preparation, planting practices, environmental protection practices, tree varieties, the harvesting projection, the planned use of the timber, etc.

(B) The following requirements must also be met:

(1) 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 on the present farm operation is not possible without using the provisions of this section. The County Supervisor must calculate the borrower's plan of

operation, using the maximum terms for the rescheduling, reamortization and deferral authorities set out in this subpart. If a feasible 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 feasible plan 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. A copy of this documentation must also be given to the borrower. If a feasible plan 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 FmHA or its successor agency under Public Law 103-354 denial, as provided in §1951.909(i) of this subpart after the County Supervisor determines the borrower's eligibility for the other servicing programs in this subpart.

(2) If a feasible plan cannot be developed on the present farm operation, the County Supervisor will determine if a feasible plan would be 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 produce a feasible plan. However, the amount of the loan cannot exceed the \$1,000 per acre specified in paragraph I (C)(7) of this exhibit. 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.

(3) For applications received before November 28, 1990, when a loan is reamortized the accrued interest less than 90 days overdue will not be capitalized. For new applications, as defined in §1951.906 of this subpart, the total amount of outstanding accrued interest will be added to the principal at the time of reamortization. Payments may be deferred for up to 45 years or until the timber crop produces revenue, whichever comes first, except as required in paragraph VIII(B) of this section. If income is available, payments will be required as determined in paragraph II(B)(4) of this exhibit. 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 section IX(H) of this exhibit.

(4) 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 or its successor agency under Public Law 103-354 440-9, "Supplementary Payment Agreement."

(5) Applicable requirements of subpart G of part 1940 of this chapter must be met.

(C) 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.

(D) 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 FmHA or its successor agency under Public Law 103-354 State supplement allows otherwise. The mortgage must ensure that FmHA or its successor agency under Public Law 103-354 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.

(E) The County Supervisor will release all other liens securing FmHA or its successor agency under Public Law 103-354 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 or its successor agency under Public Law 103-354's release of liens. No additional liens can be placed on the marginal land and timber after the closing of a ST loan.

III. INTEREST RATE OF ST LOANS.

See Exhibit B of FmHA or its successor agency under Public Law 103-354 Instruction 440.1 for the applicable interest rate (available in any FmHA or its successor agency under Public Law 103-354 office). 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.

IV. SPECIAL REQUIREMENTS.

(A) *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.

(B) *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.

(C) *Graduation of ST borrowers.* If, at any time, it appears that the borrower may be able to obtain a refinancing loan from cooperative or private credit source at reasonable rates and terms, the borrower will, upon FmHA or its successor agency under Public Law 103-354 request, apply for and accept such financing.

V. 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.

VI. DISTRESSED REAMORTIZED LOAN APPROVAL OR DISAPPROVAL.

County Supervisors are authorized to approve or disapprove the reamortization of distressed FmHA or its successor agency under Public Law 103-354 loans as described in this section. No more than 50,000 acres nationwide can be placed in the program. Acres for the program will be allocated to borrowers on a first-come, first-serve basis. "Administrative Notices" containing reporting requirements will be issued to field offices so that the National Office can keep a tally of the acres placed in the program. The County Supervisor 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 FmHA or its successor agency under Public Law 103-354 field office will process the reamortization via the FmHA or its successor agency under Public Law 103-354 field office terminal system in accordance with Form FmHA or its successor agency under Public Law 103-354 1940-18.

VII. 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. The borrower will be given written notice of the opportunity to appeal as provided in §1951.909 (i) of this subpart after the County Supervisor has determined whether the borrower is eligible for the remaining servicing programs authorized by this subpart.

VIII. PROCESSING OF ST LOANS.

(A) If the reclassified ST loan is approved, all other FmHA or its successor agency under Public Law 103-354 loans must be current on or before the date the reclassified ST notes are signed except for FmHA or its successor agency under Public Law 103-354-authorized 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 borrower's account current.

(B) 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 loan(s):

(1) The total of which will be at least equal to the market value rent for the dwelling as determined by the County Supervisor, or

(2) 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 scheduled payment for the reclassified ST loan.

(C) Form FmHA or its successor agency under Public Law 103-354 1940-18, "Promissory Note for ST Loans," will be used for ST loans. Form FmHA or its successor agency under Public Law 103-354 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 Forms Manual Inset.

(D) For applications for Primary and Preservation Loan Service Programs received before November 28, 1990, interest payments which are 90 days or more past due will be added to the principal balance to form a new

principal balance upon which interest will accrue over the Softwood Timber deferral period; interest less than 90 days past due will not be capitalized and will be payable at the end of the Softwood Timber deferral period. For new applications, as defined in §1951.906 of this subpart, the total amount of outstanding accrued interest will be added to the principal balance to form a new principal balance upon which interest will accrue over the Softwood Timber deferral period. The FMI for Form FmHA or its successor agency under Public Law 103-354 1940-17 has examples (IV, V) which explain this procedure. The Finance Office will apply the payments made on the note in accordance with subpart A of part 1951 of this chapter.

(E) The following addendum will be typed and signed by the borrower and attached to the promissory note:

Addendum For Deferred Interest For Softwood Timber Loans

Addendum to promissory note dated _____ in the original amount of \$_____ at an annual interest rate of _____ percent. This agreement amends and attaches to the above note. \$_____ of each regular payment on the note will be applied to the interest which will accrue during the deferral period. The remainder of the regular payment will be applied in accordance with 7 CFR part 1951, subpart A. I (we) agree to sign a supplementary payment agreement and make additional payments if during the deferral period we have a substantial increase in income and repayment ability.

Borrower

(F) New mortgages on farm property or related assets must be filed unless otherwise excused from being filed by 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 in the manner described by the State supplement. In many cases a survey of the land securing the ST loan will be required.

(G) The borrower will obtain any required releases for previous mortgages from other lienholders and the County Supervisor will release any other FmHA or its successor agency under Public Law 103-354 liens in accordance with paragraph II (E) of this exhibit.

IX. SERVICING.

ST loans will be serviced in accordance with Subpart A of Part 1965 of this chapter with the following exceptions:

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

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

(C) During the life of the ST loan, 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 chapter and which is in Attachment 1 of Exhibit M of subpart G of part 1940 of this chapter.

(D) 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 the death of the borrower. Deceased borrower cases involving transfers will be handled by FmHA or its successor agency under Public Law 103-354 in accordance with Subpart A of Part 1962 of this chapter.

(E) 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 provisions of Subpart A of Part 1965 of this chapter. *Any appeal to FmHA or its successor agency under Public Law 103-354 must be concluded before any adverse action can be taken on the loan.*

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

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

(H) An ST loan will only be reamortized if:

(1) The timber is not harvested in the year stated in the initial promissory note, and

(2) The borrower is unable to pay the note as agreed.

Interest charges more than 90 days overdue will be capitalized at the time of the reamortization. The term of the reamortized note will not exceed 50 years from the date of the initial ST 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.

(3) For applications received before November 28, 1990, the interest less than 90 days past due will not be capitalized. For new applications, the total amount of outstanding accrued interest will be capitalized. The term of the reamortized note will not exceed 50 years from the date of the initial ST 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.

S. State supplements.

State supplements will be issued immediately and updated as necessary to implement this section.

ATTACHMENT 1—NOTICE OF AVAILABILITY OF OPTION TO REAMORTIZE CERTAIN LOANS SECURED BY FUTURE REVENUE PRODUCED BY PLANTING SOFTWOOD TIMBER

(Used by the County Supervisor to inform borrowers of the availability of Softwood Timber Loans)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
(Name and Address)

Dear _____:

To implement a provision in the 1985 Farm Bill, the Farmers Home Administration or its successor agency under Public Law 103-354 (FmHA or its successor agency under Public Law 103-354) is offering the additional loan servicing option of reamortizing Farmer Program loans with repayment secured by and postponed until the harvesting of a Softwood timber crop. Eligible applicants may request or receive an operating loan to cover the actual cost of the required planting. If you are using marginal land for farming or pasture, and desire to use at least 50 acres of this marginal land to plant and produce softwood timber, contact this office within 15 days of the receipt of this letter to apply for this option so that your request can be processed in a timely manner. Please note the following limitations to this program: FmHA or its successor agency under Public Law 103-354 must be the sole lienholder of both the land growing the softwood timber and the revenues from the timber; the total amount of loans secured by the land and softwood timber cannot exceed \$1,000 per acre; and the program is limited to 50,000 acres of softwood timber nationwide.

Sincerely,
County Supervisor

[53 FR 35718, Sept. 14, 1988, as amended at 56 FR 3396, Jan. 30, 1991; 57 FR 18661, Apr. 30, 1992]

EXHIBIT H—PRIMARY LOAN SERVICE AND CONSERVATION EASEMENT PROGRAMS

I. GENERAL.

A Conservation Easement (CE) may be exchanged, when requested by a borrower (current or delinquent), for a cancellation of a portion of his/her FmHA or its successor agency under Public Law 103-354 indebtedness. The CE may be considered alone, or with the Primary Loan Servicing Programs as set forth in §1951.909 of this subpart and the requirements of this exhibit. These easements can be established for conservation, recreational, and wildlife purposes on farm

property that is wetland, wildlife habitat, upland or highly erodible land. Such land must be suitable for the purposes involved and, except in the case of wetland and wildlife habitat as defined in paragraphs (a) and (d) of this section, must have been row cropped each year of a three-year period ending on December 23, 1985. All Farmer Programs loans which are secured by real estate may be considered for a CE. Non-program loan debtors are not eligible to receive any benefits under this section. Conservation easements do not have to result in net recovery to the government at least equal to the recovery from liquidation. If a borrower who has applied for Primary Loan Servicing initially declines an easement, but the debt writedown program fails to establish a feasible plan, the borrower will be considered for a CE combined with debt writedown to determine whether these options establish a feasible plan.

Definitions.

(1) *Conservation purposes.* These include protecting or conserving any of the following environmental resources or land uses:

(a) *Wetland*, except when such term is part of the term "Converted wetland," is land that Soil Conservation Service (SCS) has determined has a predominance of hydric soils and that is inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions, except that this term does not include lands in Alaska identified as having a high potential for agricultural development and a predominance of permafrost soils.

(i) *Hydric soils* means soils that, in an undrained condition, are saturated, flooded, or ponded long enough during a growing season to develop an anaerobic condition that supports the growth and regeneration of hydrophytic vegetation;

(ii) *Hydrophytic vegetation* means a plant growing in—

(A) Water; or

(B) A substrate that is at least periodically deficient in oxygen during a growing season as a result of excessive water content;

(b) *Highly erodible land* is land that SCS has determined has an erodibility index of 8 or more.

(c) *Upland* is a term used in the law to refer to land other than highly erodible land and wetland. Although upland in its normal use implies many types of land, it has been more narrowly defined for this purpose to include land and/or water areas that meet any one of the following criteria:

(i) One-hundred year floodplain,

(ii) Aquatic life, or wildlife habitat or endangered plant habitat of local, regional, State or Federal importance,

(iii) Aquifer recharge area of local, regional or State importance, including lands in the wellhead protection program for public water supplies authorized by the Safe Drinking Water Act Amendments of 1986,

(iv) Area of high water quality or scenic value,

(v) Area containing historic or cultural property, which is listed in or eligible for the National Register of Historic Places, as provided by the National Historic Preservation Act (NHPA),

(vi) Area that provides a buffer zone necessary for the adequate protection of proposed conservation easement areas,

(vii) Area within or adjacent to a National Park, U.S. Fish and Wildlife Service administered area, State Fish and Wildlife agency administered area, a National Forest, a Bureau of Land Management administered area, a Wilderness Area, a National Trail, a unit of the Coastal Barrier Resource System, abandoned railroad corridors contained in local, State or Federal open space, recreation or trail plans, Federal or State Wild or Scenic River, U.S. Army Corps of Engineers land designated for flood control or recreation purposes, State and local recreation, natural or wildlife areas or State Conservation Agency administered areas.

(viii) Area that SCS determines contains soil(s) that is generally not suited for cultivation such as soils in land capability classes IV, V, VI, VII or VIII in the SCS's Land Capability Classification System.

(d) *Wildlife habitat* is a term used to include the area that provides direct support for given wildlife species, species life stages, populations, or communities determined appropriate by the Conservation Agency within the State as being of State, regional or local importance or as determined by the Fish and Wildlife Service to be of national importance. This wildlife habitat area includes all acceptable environmental features such as air quality, water quality, vegetation, and soil characteristics.

(2) *Enforcement authority.* Any agency of the United States, a State, or a unit of local Government of a State or a person that is designated by FmHA or its successor agency under Public Law 103-354 and specified within an easement area to enforce the terms and conditions of that easement.

(3) *Management authority.* Any agency of the United States, a State, or a unit of local Government of a State, a person, or an individual that is designated in writing by an enforcement authority to carry out all or a portion of the activities necessary to manage and implement the terms and conditions of an easement and/or its management plan. The borrower whose land is subject to the easement may be eligible to be designated as a management authority.

(4) *Person.* Any agency of the United States, a State, a unit of local Government

within a State, or a private or public non-profit organization.

(5) *Recreational purposes.* These activities include providing public use for both consumption (e.g., hunting, fishing) and nonconsumption (e.g., camping, hiking) recreational activities, a manner that conserves wildlife and their habitats, ensures public safety, complies with applicable laws, regulations, and ordinances and permits the operation of the remaining farm enterprise(s).

(6) *Row Cropped.* The term refers to growing agricultural products, including small grains, by the annual tilling of the land (including one trip planters and sugar cane). This farming approach refers to land that was in grasses and/or legumes as part of a commonly practiced row crop rotational system in the local area as well as land that was set aside, diverted or otherwise not cultivated under a program administered by USDA to reduce production of an agricultural product or to conserve soil and water.

(7) *Wildlife.* The term includes fish and/or wildlife and means any wild animal, whether alive or dead, including any wild mammal, bird, reptile, amphibian, fish, mollusk, crustacean, arthropod, coelenterate, or other invertebrae, whether or not bred, hatched, or born in captivity, and includes any part, product, egg, or offspring.

(8) *Wildlife purposes.* These program objectives include establishing and managing areas that contain fish and wildlife habitats of local, regional, State or Federal importance.

II. ELIGIBILITY.

The following steps must be taken to determine if the borrower is eligible for a conservation easement. If the borrower is found to be ineligible, the FmHA or its successor agency under Public Law 103-354 County Supervisor will notify the borrower of the opportunity to appeal the adverse decision on the eligibility for the easement after a final decision is made on whether the borrower qualifies for any other servicing options. The County Supervisor must find that:

(1) All Farmer Program loans which are secured by real estate may be considered for a CE. A real estate mortgage or deed of trust taken on a borrower's real estate as additional security for a Farmer Programs loan qualifies as real estate security.

(2) The proposed easement helps a qualified borrower to repay the loan in a timely manner.

(3) The proposed easement land except in the cases of wetland and wildlife habitat was row cropped each year of the three-year period ending on December 23, 1985; and

(4) If the land being proposed for the easement is within the Agricultural Stabilization and Conservation Service (ASCS) Conservation Reserve Program, both the requirements of that program and this section can be met.

III. ESTABLISHING EASEMENT REVIEW TEAM.

The County Supervisor will establish an easement review team by notifying the appropriate field offices of the Soil Conservation Service (SCS), U.S. Fish and Wildlife Service (FWS), State Fish and Wildlife Agencies, Conservation District, National Park Service, Forest Service (FS), State Historic Preservation Officer, State Conservation Agencies, State Environmental Protection Agency, State Natural Resources Agencies, adjacent public landowner, and any other entity that may have an interest and qualifies to be an enforcement authority for an easement. The notified parties may in turn notify other eligible entities. SCS, for example, may want to notify the appropriate Conservation District. As part of the notification, the County Supervisor will provide an approximate location and a general description of the potentially affected land. All notified parties will be invited to serve on an easement review team.

IV. RESPONSIBILITIES OF THE EASEMENT REVIEW TEAM.

SCS will lead the easement review team which in every case will be composed of an SCS and FmHA or its successor agency under Public Law 103-354 representative (and in the case of wetlands, the U.S. FWS), plus all other parties that accepted the invitation to participate. To the extent practicable, a site visit will be conducted within fifteen days from the date the review team members are invited to participate. Any lien holder(s) and the borrower will be informed of the site visit time/date and invited to attend. Within thirty days after the site visit, a report will be developed by the review team and provided to the County Supervisor. The report will cover the items listed in paragraphs (A) through (F) of this paragraph. The report will be prepared by an organization, selected by FmHA or its successor agency under Public Law 103-354, that has indicated its willingness to be the enforcement authority except in the instance discussed in paragraph (C) below. Whenever review team members have differing positions on any items to be addressed in the report, each team member will prepare a separate report and submit these reports to the organizations responsible for the report. These differing views will be noted in the report. When no differences exist within the review team, written summaries of team members' positions need not be submitted to the preparer of the report unless either the preparer requested

them or an individual team member desires to submit a report. The items to be addressed in the review team report are:

(A) The amount of land, if any, which is wetland, wildlife habitat, upland or highly erodible land and the approximate boundaries of each type of land. If applicable, easement boundaries may be recommended which go beyond the wetland, upland, or highly erodible land but are necessary for either the establishment of identifiable easement boundaries or are required for the efficient management of the easement's terms and conditions.

(B) A finding of whether the land is suitable for conservation, recreation and/or wildlife habitat purposes and a priority ranking of purposes included, if the land can be so classified and ranked. First, priority will be given to land easement opportunities to benefit wildlife species of Federal Trust responsibility (e.g., migratory birds and endangered species) and their habitats (e.g., wetlands). Special consideration will be given to opportunities to benefit a combination of conservation, recreation and wildlife habitat purposes. When there are other land easements already established or under review within the local area and the intent of these easements has been established, the review team will consider these actions as purpose rankings are developed.

(C) The name of the qualified enforcement authority which is willing to be assigned enforcement authority for the easement as well as the name(s) of any entity(s), if known, that the enforcement authority may use to manage the easement. Whenever more than one qualified entity desires to be the enforcement authority, the report will be prepared by SCS and will indicate this fact.

(D) If appropriate, any special terms or conditions that would need to be placed on the easement plus unique or important features of the property which would not be adequately addressed by the standard easement terms and conditions.

(E) A proposed management plan consistent with the purpose or purposes for which the easement would be established. The management plan will outline the various management alternatives for the proposed easement. The enforcement authority's eventual selection of the alternative(s) to be followed will be based upon future needs, fund availability, and identification within the management plan. The management plan will provide guidance as to the conservation practices to be followed and the costs which may occur in the establishment and maintenance of the easement. This management plan will specifically recommend whether or not public recreational use and/or public hunting should be allowed on the easement and provide supporting reasons for the recommendation(s) made. Whenever changes

are required in the management plan, the enforcement authority, with the concurrence of FmHA or its successor agency under Public Law 103-354, may update the management plan to reflect the changes.

(F) The recommended term length of the easement. See paragraph VI of this exhibit.

V. FMHA OR ITS SUCCESSOR AGENCY UNDER PUBLIC LAW 103-354'S REVIEW OF EASEMENT TEAM'S REPORT.

Upon receipt, the County Supervisor will review the easement team's report. If the report indicates that an easement is not feasible given the nature of the land, or the failure of a qualified entity to volunteer to become an enforcement authority, the County Supervisor will inform the borrower of the reason(s) that the easement has been denied and that the borrower may appeal the denial of the easement. If the report is favorable to an easement and more than one qualified entity has indicated its desire to be an enforcement authority, the County Supervisor will select a Federal entity over a non-Federal entity since the easement involves reduction of a Federal debt. If two Federal agencies each want to be the enforcement authority, the County Supervisor will select the Federal agency that owns or controls property adjacent to the easement or the Federal agency whose mission or expertise best matches the priority use purpose(s) for which the easement would be established. In selecting between non-Federal entities, the County Supervisor will select the entity that has the greatest capability to enforce the terms and conditions of the easement during the proposed term of the easement.

VI. TERMS OF EASEMENTS.

A conservation easement may be obtained for a period of not less than 50 years and a borrower cannot crop the easement land during the term of the easement. A longer period of time or a perpetual easement shall be established if the easement review team determines that there is justification for extending the conservation easement past the 50-year minimum. Justification will exist if the easement would:

(A) Contribute directly to achievement of benefits to species protected by international treaty (e.g. migratory birds);

(B) Contribute directly to protection of habitat or restoration of habitat or benefit to threatened, endangered and/or candidate species;

(C) Serve as the site for wildlife habitat improvements which may be required to offset the unfavorable impact of a permit, license or project when improvements need to be longer than 50 years;

(D) Serve as the site for substantial investment of public or private funds in order to

achieve stated resource conservation and/or management purposes;

(E) Be desirable that property be removed from production for a long period due to the type of land; or

(F) Serve as a significant historical site, ground water recharge area or other significant eligible easement objective.

VII. DETERMINING THE AMOUNT OF FARMER PROGRAM DEBT THAT CAN BE CANCELLED.

(A) Calculate the amount of debt to be cancelled as follows:

(1) *Step 1.* Determine what percent the number of easement acres is of the total acres of land that secures the borrower's farmer program loans by dividing the easement acres that secure the borrower's farmer program loans by the total acres that secure the borrower's farmer program loans.

(2) *Step 2.* Determine the amount of farmer program debt that is secured by the easement acreage by multiplying the borrower's total unpaid farmer program loan balance (principal, interest and recoverable costs already paid by FmHA or its successor agency under Public Law 103-354) by the percentage calculated in Step 1.

(3) *Step 3.* Determine the current value of the land in the easement by multiplying the present market value of the farm that secures the borrower's farmer program loans by the percent calculated in Step 1.

(4) *Step 4.* Select the lesser of the values calculated in Steps 2 and 3.

(5) *Step 5.* Subtract the current value of the easement acres in Step 3 from the farmer program debt that is secured by the easement acres in Step 2.

(6) *Step 6.* Select either the value arrived at in Step 4 or 5, whichever is the greater.

An Example For Determining The Amount That Can Be Cancelled:

Situation

Total Acres, 300
 Easement Acres, 60
 Amount of unpaid farmer program debt secured by farm, \$450,000
 Current value of farm, \$300,000
 Step 1. 60 easement acres; 300 total acres=20 percent
 Step 2. \$450,000 debt x 20 percent, Step 1=\$90,000
 Step 3. \$300,000 value x 20 percent, Step 1=\$60,000
 Step 4. Select the lower amount of Step 2 or Step 3 Calculations=\$60,000
 Step 5. \$90,000 in Step 2—\$60,000 in Step 3=\$30,000, Amount FmHA or its successor agency under Public Law 103-354 is under-secured on Easement Land
 Step 6. Select the greater of Step 4 or 5=\$60,000
 \$60,000 of the debt would be the maximum amount available for the debt cancellation.

In the case of a nondelinquent borrower, the amount cancelled shall not exceed 33 percent of the indebtedness secured by the real estate.

(B) *Feasibility of debt cancellation.* The County Supervisor will determine whether or not the borrower, if provided the amount of debt cancellation allowed by paragraph (VII) coupled with other servicing options will be able to develop a feasible plan for farm operations for the current and coming year. In no instance will the total debt cancellation exceed the maximum value as calculated in paragraph (VII) Step 6 of this section. If the borrower would not be able to develop a feasible plan, the County Supervisor will notify the borrower of the reason that the easement has been denied and that the borrower may appeal this adverse decision after the County Supervisor has decided whether the borrower qualifies for the additional servicing programs in this subpart.

(C) *Updating the title opinion.* Title examination will be the same procedure as provided for in subpart B of part 1927 of this chapter. A preliminary title opinion will not be required. The final title opinion will cover the period following the recordation of the initial loan mortgage. Title opinion costs will be considered nonrecoverable costs and will be paid in accordance with FmHA or its successor agency under Public Law 103-354 Instruction 2024-A (Instructions and forms are available in any FmHA or its successor agency under Public Law 103-354 Office).

(D) *Consent of other lienholders.* If there are any prior or junior lienholders, their consent to the terms of the easement must be obtained in writing by the borrower. The consent will be filed in the borrower's case file and need not be recorded unless required by State law. No change in the terms can be proposed by the prior or junior lienholders. If it is not possible to obtain the lienholders' consent, the easement will be denied and the borrower so informed. The borrower will have no appeal rights for an FmHA or its successor agency under Public Law 103-354 denial on this basis.

(E) *Identifying the boundaries of the easement.* A professional survey of the easement's boundaries will be required. FmHA or its successor agency under Public Law 103-354 will provide this service by contracting for the survey in accordance with FmHA or its successor agency under Public Law 103-354 Instruction 2024-A, Exhibit J (available in any FmHA or its successor agency under Public Law 103-354 office).

(F) *Reaching an agreement with the borrower.* The borrower will be informed of the easement's value, the impact on the remaining financial obligation, and the terms and conditions of the easement. The borrower also will be provided a copy of the easement review team's report. If the borrower decides to give the easement, approval will be made

by the County Supervisor, the enforcement authority, and the borrower by signing Form FmHA or its successor agency under Public Law 103-354 1951-39, "Grant of Easement," if the enforcement authority is the U.S. Fish and Wildlife Service, or Form FmHA or its successor agency under Public Law 103-354 1951-39A, "Grant of Easement," if the enforcement authority is other than the U.S. Fish and Wildlife Service, or a similar form approved by the Office of General Counsel (OGC). (These FmHA or its successor agency under Public Law 103-354 forms are available in any FmHA or its successor agency under Public Law 103-354 office.) A similar form may not contain provisions whose purposes conflict with the purposes of this regulation or with the terms of Forms FmHA or its successor agency under Public Law 103-354 1951-39 or 1951-39A. If the borrower requests a modification of the proposed easement, such modification cannot conflict with the purpose or purposes for which the easement would be established. The County Supervisor cannot approve a modification of the proposed easement's terms and conditions without first obtaining the concurrence of the enforcement authority. If the modification is substantial, in terms of the easement review team's recommendations, the members of the easement review team must be consulted. If an agreement cannot be reached with the borrower on the easement's terms and conditions, the County Supervisor will notify the borrower in writing that the easement is denied and that the borrower may appeal this denial after the County Supervisor determines the borrower's eligibility for the other servicing options in this subpart.

(G) *Recording of noncash credit.* Upon approval of the easement, the County Supervisor will complete Form FmHA or its successor agency under Public Law 103-354 1951-47, "Farmer Program Noncash Credit for Purchase of Easement Rights," for entry into the FmHA or its successor agency under Public Law 103-354 field office terminal system. For applications received from delinquent borrowers, all of the borrower's Farmer Programs loans are eligible to be credited. The total credit to the borrower's account will not exceed the greater of the value of the land on which the easement is acquired; or the difference between the amount of the outstanding indebtedness secured by the real estate, and the value of the real estate. In the case of a non-delinquent borrower, the amount to be credited will not exceed 33 percent of the amount of the loan secured by the real estate on which the easement is obtained. In all cases, the amount credited will be applied on the FmHA or its successor agency under Public Law 103-354 loan(s) as an extra payment in order of lien priority on the security. The loan may be reamortized if needed.

(H) *Recording of the easement.* The County Supervisor will record Form FmHA or its successor agency under Public Law 103-354 1951-39 or Form FmHA or its successor agency under Public Law 103-354 1951-39A (or other acceptable form that has been approved by OGC) to comply with State laws. The County Supervisor then will retain a copy of the easement in the borrower's file and will provide a copy of the easement to the enforcement authority and to the borrower. Cost of recording the easement will be considered a nonrecoverable cost and will be paid by FmHA or its successor agency under Public Law 103-354 in accordance with FmHA or its successor agency under Public Law 103-354 Instruction 2024-A (Instructions and forms are available in any FmHA or its successor agency under Public Law 103-354 Office).

VIII. VIOLATION OF TERMS AND CONDITIONS.

If the borrower violates any of the terms or conditions of the easement, the account will be liquidated in accordance with §1965.26(b) of subpart A of part 1965 of this chapter. The borrower will also be responsible for all costs incurred by FmHA or its successor agency under Public Law 103-354 and the enforcement agency in the course of enforcing such terms and conditions. Enforcement expenses may include attorney's fees, costs of any litigation, and the cost of repair or restoration of the easement land to a condition compatible with conservation, recreational and wildlife purpose(s) for which the easement was established. Should the borrower wish to convey or sell the property subject to the easement during the term of the easement, the borrower must first notify the enforcement authority and the purchaser(s) will also be responsible for the same type of costs should the successor(s) violate the terms and conditions.

IX. RESPONSIBILITIES OF THE ENFORCEMENT AUTHORITY.

The enforcement authority will be named in any approved easement and once named agrees to accept the following responsibilities and duties:

(A) Upon receipt of an FmHA or its successor agency under Public Law 103-354 approved easement, provide FmHA or its successor agency under Public Law 103-354 with a legally binding document acknowledging its acceptance of the role as enforcement authority for that easement.

(B) Monitor compliance with the easement's terms and conditions.

(C) Ensure that the easement property is safely maintained to the extent required by relevant State law and accept all liabilities associated with implementing and carrying out its management responsibilities under

the easement's terms and conditions and management plan.

(D) At its discretion, delegate or contract management functions to one or more management authorities, with all associated cost being the responsibility of the enforcement authority or the management authority, as agreed in that contract. Monitoring Compliance with the terms and conditions of the easement cannot be so delegated or contracted.

(E) For the first five years of the easement's life, report annually to FmHA or its successor agency under Public Law 103-354 on the status of compliance with the easement's terms and conditions. Thereafter, this report must be provided every five years. If circumstances develop which would result in substantial compliance problems or claims, or litigation involving the easement property, then the enforcement authority immediately must notify FmHA or its successor agency under Public Law 103-354 by certified letter.

X. MONITORING COMPLIANCE.

The enforcement authority is responsible for monitoring compliance with the easement's terms and conditions and management plan. However, when under the circumstances stated in the easement's terms and conditions (Form FmHA or its successor agency under Public Law 103-354 1951-39 and Form FmHA or its successor agency under Public Law 103-354 1951-39A), the grantor needs the Government's written authorization to proceed with an action, a written request for such authorization must be provided by the grantor to the County Supervisor. In order to provide the requested written authorization, the County Supervisor must determine that the request does not violate the easement's terms and conditions and must receive the written concurrence of the enforcement authority. In reaching this determination, the County Supervisor should consult with the State Director and OGC, as necessary.

[53 FR 35718, Sept. 14, 1988, as amended at 57 FR 18662, Apr. 30, 1992; 57 FR 36591, Aug. 14, 1992]

EXHIBIT I—GUIDELINES FOR DETERMINING ADJUSTMENTS FOR NET RECOVERY VALUE OF COLLATERAL

This exhibit provides guidance to State Directors and County Supervisors for determination of the factors to be used in adjusting current market value.

I. STATE DIRECTOR RESPONSIBILITIES

The State Director's analysis to County Supervisors will specify costs which are determined to be consistent statewide, and provide specific guidance on the determination

of costs which are somewhat consistent within the State, but may vary on a county to county or property to property basis. All studies or surveys should be conducted so that all necessary information can be distributed at the same time.

A. Real Estate Costs

The analysis for liquidation and disposition costs should, as a minimum, address the following items and considerations:

(1) *Months Held in Inventory.* The average holding period will be the average number of months that suitable properties, which are not leased, are held in inventory. The average holding period is derived from report code 597, "Farmer Program Inventory," for the period ending June 30. However, in situations where States have no suitable inventory, or have a very limited number (generally less than 5) of suitable properties for which the holding period for those properties is not representative (*i.e.*, one property in inventory held 75 months due to local litigation), the average of the holding periods of surrounding States should be used. National Office guidance may be requested in such cases.

(2) *Sales Commission Rate.* A study will be conducted, at least annually, to determine the typical method for disposition of FmHA or its successor agency under Public Law 103-354 inventory farms in the State. The findings will be used to determine whether commissions should be included as resale expenses, or whether FmHA or its successor agency under Public Law 103-354 normally disposes of inventory farms without the assistance of brokers or auctioneers. However, if a County Office is covered by an exclusive listing agreement or contract for auctioneering services, commissions will always be included as resale expenses in that office. The percentage of commission will be the rate specified on the listing agreement(s) or contract(s) in effect for the County Office.

(3) *Cost Per Advertisement.* The County Supervisor will contact at least one local newspaper to obtain a cost for advertising inventory farms in accordance with subpart C of part 1955 of this chapter.

(4) *Rate of Change in Value.* Yearly percentage decrease or increase in value is the rate of change in value. To provide a fair assessment of projected trends in farm land values, each State Director will establish a farm land market advisory committee (FLMAC). The committee will consist of the FmHA or its successor agency under Public Law 103-354 State Director, the State Executive Director of the Agricultural Stabilization and Conservation Service (ASCS), the State Conservationist for the Soil Conservation Service (SCS), and an Extension Specialist from a Land Grant University (if available) or other Agriculture Extension Service em-

ployee with knowledge of the farm real estate market.

The FLMAC will meet at least each July, and will consider the following information:

(a) The actual change in farm land values in the State during the previous year, as indicated in the most recent "Agricultural Land Values and Market Situation Outlook Report" issued by the USDA Economic Research Service.

(b) Current conditions in the State and national agricultural economics.

(c) Availability and cost of credit to purchase farm land.

(d) The amount of repossessed farm land held by FmHA or its successor agency under Public Law 103-354, the Farm Credit System, and other private sector lenders.

(e) Any special conditions which would effect farm land values in the State.

(f) Any studies or research conducted by the State Agricultural University or similar scholarly source.

The FLMAC should, if possible, determine anticipated value changes on a regional basis with the State, if the State has agricultural regions with discernable differences.

The committee's meetings and decisions, including the basis for those decisions, will be documented, retained in the State Office as part of the State supplement file and provided to interested parties upon request.

Prior to providing the FLMAC determinations to FmHA or its successor agency under Public Law 103-354 field offices, the State Director will contact the FmHA or its successor agency under Public Law 103-354 State Directors in surrounding States to determine if the committee's findings are fairly consistent with those of surrounding States. If there are significant differences, the State Director may reconvene the committee to reconsider its findings.

(5) *Management charges.* In situations where State or district wide contracts for management of inventory farms are in effect, the State Director will specify those rates to be used in management cost calculations. Generally, those costs should be specified on an annual per-acre basis or annual income percentage basis. If there are no area wide contract rates for some or all counties, guidance should be given on how to calculate rates based upon local costs. Such guidance should include customary management activities and their frequency to promote a consistent approach.

B. Chattel Costs

(1) *Months held in inventory.* FmHA or its successor agency under Public Law 103-354 rarely acquires chattel property because it can be sold much more quickly and easily than real estate. Therefore, the average holding period for chattel property will be zero, unless significant acquisitions occur

and the Administrator determines that chattels do have a holding period.

(2) *Sales commission rate.* A study will be conducted, at least annually, to determine typical and reasonable commission rates for sales of chattel property in the State. The results of the study will be provided as guidance to field personnel. [The County Supervisor will conduct a survey of auctioneers to determine the average commission rate for chattel sales in the area.]

(3) *Other sales cost.* These are miscellaneous cost typically incurred when selling acquired chattels. County Offices should be advised to obtain specific guidance in unusual cases.

(4) *Rate of change in value.* This is a yearly percentage decrease or increase in the value. Because FmHA or its successor agency under Public Law 103-354 rarely acquires chattel property, the average holding period for chattel property will normally be zero, unless significant acquisitions occur and the Administrator determines that chattel do have a holding period. Therefore, there will normally not be a rate of change in value of chattels.

C. Legal and Administrative Costs

(1) *Administrative liquidation cost for each loan type.* This is the FmHA or its successor agency under Public Law 103-354 administrative cost of liquidation. The FmHA or its successor agency under Public Law 103-354 Resource Management System (RMS) work standards (FmHA or its successor agency under Public Law 103-354 Instruction 2006-J, exhibit A, available in any FmHA or its successor agency under Public Law 103-354 Office) for liquidation should be used to determine the administrative costs associated with liquidation for each loan type. The following equation will be used for each loan type:

(RMS standard for loan type in minutes divided by 60) x hourly pay rate for GS-11/1-Administrative cost of liquidation for the loan type.

(2) *Real estate costs and chattel only costs.* This is the administrative liquidation cost for Government attorney time. The State Director will consult with the appropriate Regional OGC to determine the average amount of government attorney time involved in an individual involuntary liquidation of both real estate and chattels. The legal costs associated with liquidation for real estate and chattels will be arrived at separately by multiplying the attorney time, in hours, by \$75.

(3) *Property management cost.* This is the administrative cost of managing an inventory property, while it is in inventory. This cost will be deducted in those cases involving real property. The costs should also be derived from the RMS standards. It will be necessary to determine the average number of property actions per month. This figure is obtained from the RMS-7 Report, which is issued to

the State Offices quarterly. The following equation is used to compute the total property management cost:

(average actions per property per month x average holding period) x (RMS standard for property management for FO loans divided by 60) x (GS-11/1 hourly pay rate) + (RMS standard for FO property sale actions divided by 60) x GS-11/1 hourly pay rate-Administrative costs for inventory period.

II. COUNTY SUPERVISOR RESPONSIBILITIES

The County Supervisor will use the state-wide costs and give careful consideration to the cost and other guidance provided by the State Director. The County Supervisor will determine certain localized liquidation costs based upon guidance in the State supplement at least annually. These figures will be documented and provided to borrowers upon request.

A. *Management Expenses.* If the County Office is not covered by State or district wide property management contracts, the management expense rates will be based upon local level contract rates.

B. *Repairs.* Approximate costs for typical essential repairs may be developed, considering the guidance in the State supplement. Repair items must be related to physical condition (*i.e.*, roof, windows, doors, etc.) and not to functional or economic obsolescence.

C. *Advertisements.* The County Supervisor will contact at least one local newspaper to obtain a cost for advertising inventory farms in accordance with subpart C of part 1955 of this chapter.

D. *Commissions.* A survey of auctioneers will be made to determine the average commission rate for chattel sales in the area. Real estate commissions, if any, will follow the State supplement.

E. *Legal Expense.* A survey of local closing agents will be performed to determine the cost FmHA or its successor agency under Public Law 103-354 will incur for closing transactions (title opinions, recorder's fees and the like).

F. *Miscellaneous.* Miscellaneous expenses such as land surveys, which are routinely incurred should be determined by a local survey and documented.

III. INCOME

Income will be added to net recovery value only when it is relatively certain that the income will be realized. Lease income will not be planned unless a lease is already in effect at the time the calculations are being made, and it appears that the lease will continue after FmHA or its successor agency under Public Law 103-354 acquires title. The amount of mineral or other lease or royalty income will be based upon the historical

record of such income generated by the property. Chattels will not generate income unless they have a holding period.

IV. DEPRECIATION

The amount of depreciation anticipated for buildings and other improvements will be based upon the summation value and estimated remaining life of the improvement as reflected in the real estate appraisal. For example, a dwelling with a summation value of \$40,000 and a remaining life of 20 years will depreciate at a rate of \$2,000 per year. The depreciation calculations will be documented in the borrower's case file and provided to the borrower upon request. Chattels will not be depreciated unless they have a holding period.

[57 FR 18662, Apr. 30, 1992]

EXHIBIT J—THE DEBT AND LOAN RESTRUCTURING SYSTEM (DALRS)

Farmers Home Administration or its successor agency under Public Law 103-354 (FmHA or its successor agency under Public Law 103-354) primary loan service programs provide a large number of alternatives for restructuring an FmHA or its successor agency under Public Law 103-354 loan. The number of loans a borrower has increases the number of combinations of possible alternatives. It is difficult and extremely time consuming to manually calculate all the potential combinations of servicing actions. To assure that the various combinations of programs are considered, FmHA or its successor agency under Public Law 103-354 has developed the Debt and Loan Restructuring System (DALRS) for operation of the County Office computer system. FmHA or its successor agency under Public Law 103-354 personnel will not manually perform the calculations in this exhibit. This exhibit is provided as a benefit to those who may want to perform manual calculations, or understand the procedures DALRS goes through.

What is DALRS?

DALRS is a computerized decision support tool. This means that the computer assists the FmHA or its successor agency under Public Law 103-354 loan officer in making a decision. For example, FmHA or its successor agency under Public Law 103-354 regulations specify criteria for determining the interest rate when loans are restructured. DALRS will select an interest rate using the criteria in the regulations. Judgement decisions are made by the FmHA or its successor agency under Public Law 103-354 loan officer in evaluating the Farm and Home Plan and other information entered into the DALRS system.

DALRS Operating System

DALRS operates on the AT&T 3B2 computer system in FmHA or its successor agency under Public Law 103-354 field offices. It runs under the UNIX (registered tm, AT&T) computer operating system. DALRS also utilizes Prelude (registered tm, Venturcom) for data entry and storage functions. To operate DALRS, UNIX System V, version 2.0.5 and Prelude version 2.1 are required.

FmHA or its successor agency under Public Law 103-354 developed DALRS to run under UNIX and Prelude because those systems have the capabilities necessary to allow for relatively rapid development, and are available in all FmHA or its successor agency under Public Law 103-354 offices. DALRS will not run under DOS on personal computers. Due to lack of resources, FmHA or its successor agency under Public Law 103-354 does not plan to develop duplicate computing capabilities on personal computers. FmHA or its successor agency under Public Law 103-354 will provide copies of program diskettes and/or source code to interested parties upon request.

Advantages of DALRS

The DALRS system provides several benefits to FmHA or its successor agency under Public Law 103-354 borrowers:

1. Speed of calculation. Calculations which would take hours or days are reduced to minutes. This not only speeds the processing of servicing requests, but provides the flexibility to consider several alternative plans of operation within the same time constraints.
2. Consistency. The use of DALRS assures that all calculations will be performed in the same way, and that the feasibility of all requests will be evaluated on the same calculation methods.
3. Full consideration. DALRS considers primary loan service programs and combinations of those programs for every borrower entered into the system. Thus, borrowers can be assured that they will be considered for as many of these actions as necessary to develop a feasible plan, if a feasible plan is possible.
4. Reduction of errors. Use of DALRS greatly reduces the potential for errors and inadvertent denial of assistance due to those errors. DALRS eliminates errors in the calculations. The only potential errors related to the calculations are input errors, which are much easier to detect and correct than calculation errors. It is important to note, however, that DALRS results are only as reliable as the input data.

What DALRS Does

DALRS performs a series of mathematical calculations based upon predetermined criteria. These same calculations and procedures would be followed when calculations

are performed manually. DALRS also generates a printed summary of its computations for FmHA or its successor agency under Public Law 103-354 and the borrower.

Overview

In arriving at a debt restructuring plan, DALRS will take advantage of all primary loan service programs to maximize the borrower's ability to repay debt and remain on the farm and avoid loss to the government.

Several combinations of primary loan service programs may be necessary to keep the borrower on the farm and avoid losses to FmHA or its successor agency under Public Law 103-354. DALRS will examine each combination until a feasible plan is reached or it is determined a feasible plan is not possible with full utilization of primary service programs.

DALRS considers each primary serving option in the order described below until an appropriate solution is found. Each step increases FmHA or its successor agency under Public Law 103-354's level of assistance to the Borrower and, when applicable, includes the primary loan service programs provided by previous steps.

1. Apply payments, including proceeds from the sale of non-essential assets, which the borrower plans to apply to outstanding FmHA or its successor agency under Public Law 103-354 debt.

2. Reschedule/reamortize loans at maximum terms with interest rates at the minimum or original note interest rate or regular loan program rate. Loans may be considered for consolidation in accordance with §1951.909 of this subpart prior to being entered into the DALRS system.

3. Reschedule/reamortize loans at maximum terms with interest rates at the minimum of original note interest rate or applicable limited resource loan program rate.

4. Defer loans at the maximum term and minimum interest rate permitted by program regulation until a feasible plan is obtained in the first year. Loans are selected for deferral so as to minimize debt repayments in the years after the deferral period. If deferral of a loan will result in an excess cash flow margin in the first year then a partial deferral of the loan is used to eliminate the excess cash flow margin. A partial deferral has the added benefit of reducing the payment amount in the years after the deferral period.

5. Provide Softwood Timber loan deferral, when requested by borrower, to the maximum limits permitted by program regulations. Loan deferrals will be recalculated selecting Softwood Timber loans first so as to:
 - a. Minimize any decrease in present value caused by conversion to Softwood Timber loans, and
 - b. If regular deferrals are still needed to facilitate a feasible plan in the first year, minimize the increase in payments in the year after the expiration of deferral period.

- a. Minimize any decrease in present value caused by conversion to Softwood Timber loans, and

- b. If regular deferrals are still needed to facilitate a feasible plan in the first year, minimize the increase in payments in the year after the expiration of deferral period.

imize the increase in payments in the year after the expiration of deferral period.

A Softwood Timber loan deferral has the same effect on existing FmHA or its successor agency under Public Law 103-354 debt repayment as a full write down of the same amount of debt. A Softwood Timber loan deferral, however, will always have a greater present value. Therefore, after a loan is selected for Softwood Timber deferral it will not be considered for write down since this will always reduce present value.

6. Write Down—

Write down loans in the order, at the interest rates, and in combination with other primary loan service programs to maximize the ability of the borrower to remain on the farm and avoid FmHA or its successor agency under Public Law 103-354 loan losses.

a. Conservation Easements

Conservation Easement write-down (when requested by the borrower) will be considered over debt write-down whenever such FmHA or its successor agency under Public Law 103-354 Instruction 1951-S consideration will not prevent development of a debt restructuring plan which will keep the borrower on the farm.

b. Security Considerations

The FmHA or its successor agency under Public Law 103-354 County Supervisor will evaluate each loan and determine its write-down priority considering the degree of collateralization. Loans which are secured but have no collateral value will generally be selected for write down before loans which are at least somewhat collateralized. There are three write-down security/collateral categories.

- (1) Low: These loans may be secured or unsecured and have no collateral value.

- (2) Medium: These loans are secured but do not have sufficient collateral value to fully protect the Government's interest.

- (3) High: These loans are secured and fully collateralized; the Government's interest is fully protected.

c. Methodology

- (1) Method 1 (See Section VI B of this exhibit) will be used first to develop an acceptable restructuring plan which will keep the borrower on the farm. If a restructuring plan is not found which will keep the borrower on the farm then Method 2 (See Section VI C of this exhibit for a full description) will be used to develop a restructuring plan.

- (2) For both Method 1 and Method 2 loan terms will be the maximum permitted by program regulations. Also, write down amounts will be calculated so that the "Balance Available" to repay debt is equal to or as close as possible to the "Debt Repayment".

(3) Loans selected for regular deferral will remain deferred, but will be fully or partial written down if needed to obtain positive cash flow margins. Loans converted to Softwood Timber loans (if requested) will remain Softwood Timber loans and will not be written down because writing down Softwood Timber loans decreases present value.

7. If a restructuring plan is not found to keep the borrower on the farm, the borrower, FmHA or its successor agency under Public Law 103-354 County Supervisor, and other Lenders may reevaluate/rework the borrower's farm plan to increase income, reduce other debt, sell non-essential assets, improve security on FmHA or its successor agency under Public Law 103-354 debt, and consider Softwood Timber loans and Conservation Easements (if not originally requested by the Borrower and is permitted by program regulation).

Each of these measures will increase the computed present value. DALRS will use the new/revised information provided by the borrower and the FmHA or its successor agency under Public Law 103-354 County Supervisor to assure that the restructuring of existing FmHA or its successor agency under Public Law 103-354 debt will maximize the potential for the borrower to repay debt and remain on the farm and avoid FmHA or its successor agency under Public Law 103-354 loan losses.

Iterative Calculation Process

I. EXISTING LOAN INTEREST RATES

A. Obtain status information on each loan. The status information date (accrual date) must be a date after the last payment or other transaction on the loan.

1. Principal balance.
2. Accrued interest balance.
3. Non-capitalizable interest balance.

B. For each loan compute the interest accrual to the proposed effective date for servicing actions.

Interest Accrual = $P \times I_{ex} \times N\text{-DAYS}$.

Where:

1. "P" is the outstanding principal balance on the date on which loan status information was obtained.

2. "I_{ex}" is the daily interest accrual (decimal equivalent) based on the existing interest rate for the loan. Daily interest accrual is equal to the existing annual interest rate divided by 365.

3. "NDAYS" is the number of days between the effective date and the status information date. If February 29 occurs between these two days it is not added to the number of days.

C. Determine the amount of Non-capitalizable accrued interest.

1. Deferred loans.

All accrued interest is non-capitalizable interest.

2. Other loans:

Interest less than 90 days past due is non-capitalizable interest.

II. REGULAR PROGRAM INTEREST RATES

A. Determine balance of funds available for debt repayment in the next planning year. This is the "Balance Available in Year 1". If loan deferrals are anticipated or are needed, also determine the Balance Available for debt repayment in the year after the end of the specified deferral period.

B. Determine total debt repayment in the next planning year. This is the "Debt Repayment in year 1." If loan deferrals are anticipated or are needed, also determine the debt repayment in the year after the end of the specified deferral period. Included in this amount are:

1. New loans:

New loans planned may affect repayment in the first planning year and/or the year after the end of the specified deferral period, depending on when the loan will be made and the repayment term. The equal annual payments on these new loans are included in the debt repayment calculations. Regular program interest rates (not limited resource rates) are used for all new loans.

Note: In subsequent steps the regular loan program interest rate is changed to limited resource rates, if it is determined that it is not possible to develop a feasible plan at regular program rates.

2. FmHA or its successor agency under Public Law 103-354 Loan for annual operating expenses.

Repayment of FmHA or its successor agency under Public Law 103-354 loans for annual operating expenses are based on regular loan program interest rates.

Included in this amount is the annual operating expense loan principal which is due in the applicable planning year.

Interest accrual on this loan may be estimated by multiplying the principal to be paid in the applicable planning year by the regular loan program interest rate (monthly decimal equivalent) and then by the average number of months the principal will be outstanding. See Attachment 1, Formulas, for details.

If some of the principal will be carried over to future years then that portion is either:

a. Included with the new loan payments computed using the amortization factor over the applicable loan term at regular loan program interest rates, or

b. If the amount to be carried over is already included in an existing loan, it is rescheduled with the existing loan over the maximum term permitted by program regulation.

Note: In subsequent steps the regular loan program interest rate is changed to limited resource rates, if it is determined that a feasible plan is not possible with regular program rates.

3. Existing FmHA or its successor agency under Public Law 103-354 loans:

Also included are all repayments on existing FmHA or its successor agency under Public Law 103-354 debt as it stands now without servicing actions. As DALRS steps through the debt restructuring process this repayment amount will change.

Some existing loans may include in whole or in part an FmHA or its successor agency under Public Law 103-354 loan for annual operating expenses which is expected to be repaid in the current year. Since the debt repayment on FmHA or its successor agency under Public Law 103-354 annual operating expense loans is estimated in the previous step, the repayment of this debt should not be included with the repayment of existing loans. Only the repayment of long term debt should be included.

C. Apply loan payments which are planned to be made on the effective date of the servicing actions.

1. Payments are first applied to reduce/eliminate delinquent interest, then non-delinquent interest and then remaining principal balance.

2. If any loan is paid off in full because of these payments, recompute the debt repayment in year 1.

3. If the balance available is greater than or equal to the debt repayment in year 1 and there are no delinquent loans then no further servicing actions in DALRS are required.

D. Reschedule/reamortize loans as needed to eliminate any delinquency.

1. Criteria:

a. Loans will be rescheduled/reamortized over the maximum term permitted by program regulation.

b. The interest rate will be the minimum of:

(1) The original note the interest rate.

(2) The regular loan program interest rate which will be in effect on the date the servicing actions are calculated.

c. Interest payments which are 90 days or more past due will be added to the principal balance to form a new principal balance to be rescheduled/reamortized.

d. Interest less than 90 days past due will be spread equally over the new loan term and will be added to the repayment amount of the new rescheduled/reamortized debt.

e. The transaction records from the last payment date and last due date may be used to assist in determining the dollar amount of interest less than 90 days past due.

2. The Process.

a. Identify delinquent loans. All of these loans will be rescheduled/reamortized.

b. Recompute debt repayment in year 1.

c. If the balance available is greater than or equal to the debt repayment in year 1 then no further servicing actions are required.

E. Reschedule/reamortize the remaining non-delinquent loans.

1. Criteria.

a. Loans will be rescheduled/reamortized over the maximum term permitted by program regulation.

b. The interest rate will be the minimum of:

(1) The original note interest rate.

(2) The regular loan program interest rate which will be in effect on the date the servicing actions are calculated.

c. Interest payments which are 90 days or more past due will be added to the principal balance to form a new principal balance to be rescheduled/reamortized.

d. Interest less than 90 days past due will be spread equally over the new loan term and will be added to the repayment amount of the new rescheduled/reamortized debt.

NOTE: Interest is not due until the loan installment is due. The date the servicing action takes place relative to the due date will effect how much interest can be capitalized. For example:

(i) A borrower is current January 1, 1988.

An analysis in December 1988 indicates the borrower cannot pay installments due January 1, 1989. Based on the 1989 farm plan, the debts can be restructured. The loans will be restructured on January 10, 1989. None of the accrued interest is 90 days past due and no interest will be capitalized.

(ii) Same situations (i) , except the restructuring occurs on April 2, 1989. The interest which accrued prior to January 1, 1989, will be capitalized. Interest which accrued after January 1, 1989, will not be capitalized.

2. Loan Selection.

a. In selecting the loans for rescheduling/reamortizing, the loans will be ordered so that the loan having the greatest reduction in interest rate will be rescheduled/reamortized first.

b. If the change in interest rate is equal for two or more loans then this subgroup will be ordered so that the loans having the smallest new principal balance will be rescheduled/reamortized first.

c. If the repayment on any rescheduled/reamortized loan exceeds the current repayment amount for that loan then that loan will not be rescheduled/reamortized unless the County Supervisor indicates that rescheduling should be carried out to eliminate unequal payment schedules or balloon payments.

3. The Process.

a. After each rescheduling/reamortization recompute debt repayment in year 1.

b. If the balance available is greater than or equal to the debt repayment in year 1 then no further servicing actions are required.

III. LIMITED RESOURCE INTEREST RATES

A. Recompute debt repayment in year 1.

1. Criteria.
 - a. New loans will have the maximum term permitted by program regulation, using the limited resource interest rates (when applicable) which will be effective on the date of the servicing actions.
 - b. Interest accrual on the FmHA or its successor agency under Public Law 103-354 loan(s) for annual operating expenses will be at the limited resource rate (when applicable).
2. The Process.
 - a. Recompute debt repayment in year 1.
 - b. If the balance available is greater than or equal to the debt repayment in year 1, no further servicing actions are required.
 - B. Reschedule/Reamortize existing loans eligible for limited resource rates to obtain a positive cash flow margin in the 1st planning year.
 1. Criteria.
 - a. Loans will be rescheduled/reamortized over the maximum term permitted by program regulation.
 - b. The interest rate will be the minimum of:
 - (1) The original note interest rate.
 - (2) The loan program limited resource interest rate in effect on the date the servicing actions are calculated.
 - c. Interest payments which are 90 days or more past due will be added to the principal balance to form a new principal balance to be rescheduled/reamortized.
 - d. Interest less than 90 days past due will be spread equally over the new loan term and will be added to the repayment amount of the new rescheduled/reamortized debt.
 2. Loan Selection.
 - a. In selecting the loans for rescheduling/reamortizing, the loans will be ordered so that the loan having the greatest reduction in interest rate will be rescheduled/reamortized first.
 - b. If the change in interest rate is equal for two or more loans then this subgroup will be ordered so that the loans having the smallest new principal balance will be rescheduled/reamortized first unless it is delinquent.
 - c. If the repayment on any rescheduled/reamortized loan exceeds the current repayment amount for that loan then that loan will not be rescheduled/reamortized.
 3. The Process.
 - a. After each rescheduling/reamortization recompute debt repayment in year 1.
 - b. If the balance available is greater than or equal to Debt Repayment then no further servicing actions are required.

IV. DEFERRALS

- A. Deferrals Period.
 1. Deferral will only be beneficial if the cash flow margin will improve after the deferral period. This improvement must begin no later than six years after the current

planning year, since the maximum deferral period is 5 years.

2. To determine the appropriate deferral period the County Supervisor and borrower will review the farm operation over the next five years. Loans should be deferred to the year when the improvement from the first planning year is the greatest and the improvement in the following years are at least as good.

3. It is not necessary that deferrals provide a positive cash flow margin after the deferral period because it is still possible to obtain a positive cash flow margin with a combination of deferrals, debt write down and the other primary loan service programs. However, to maximize the potential for the borrower to remain on the farm and avoid losses on FmHA or its successor agency under Public Law 103-354 loans, a new farm plan must be prepared by the FmHA or its successor agency under Public Law 103-354 County Supervisor and borrower for the year after the end of the selected deferral period.

4. If there is no anticipated improvement in cash flow margin, then a deferral year plan need not be prepared since other combinations of primary service programs will maximize the potential for the borrower to remain on the farm and avoid losses on FmHA or its successor agency under Public Law 103-354 loans.

B. Deferrals.

1. Criteria.

- a. Loans which have been rescheduled/reamortized previously in DALRS will be rescheduled/reamortized at the same interest and term.

- b. Other loans which have not been previously rescheduled/reamortized in DALRS will be rescheduled/reamortized as follows:

- (1) Loans will be rescheduled/reamortized over the maximum term permitted by program regulation.

- (2) The interest rate will be the minimum of:

- (a) The original note interest rate.

- (b) The loan program interest rate (limited resource, if applicable) in effect on the date of the servicing action calculations.

- (3) Interest payments which are 90 days or more past due will be added to the principal balance to form a new principal balance to be rescheduled/reamortized.

- (4) Interest less than 90 days past due will be spread equally over the new loan term and will be added to the repayment amount of the new rescheduled/reamortized debt.

2. Loan Selection.

This selection process will assure that after a positive cash flow margin is achieved in the 1st year, the cash flow margin in the year after the deferral period will be the greatest.

- a. Calculate the payment after the deferral period for each loan eligible for deferral. This is only a side calculation to determine

the best order of selection. A deferral will decrease the payments in the 1st planning year and increase the payments in the year after the deferral expires.

b. For each loan compute the ratio of the increase in "after deferral period" payment to the decrease in 1st year payment.

c. The loan with the smallest ratio is deferred first and so on until the balance available is greater than or equal to debt repayment in year 1.

3. The Process.

a. Taking one loan at a time, defer the selected loan, recompute the debt repayment in year 1. Also compute the debt repayment in the year after the end of the deferral period.

b. If the balance available is equal to debt repayment in year 1 and the balance available is greater than or equal to debt repayment in the year after the end of the deferral period then no further servicing actions are required.

c. If the balance available is greater than the debt repayment in year 1, then this implies that the last loan deferred did not require a full deferral.

(1) Compute amount of deferral of the last loan necessary to achieve equality between balance available and debt repayment in year 1.

(2) Recompute payments for this loan during the deferral period and the years after the expiration of the deferral period.

(3) If the balance available in the year after the deferral period is greater than or equal to the debt repayment then no further servicing actions are required.

4. Partial Deferrals.

a. Whenever deferral of a loan results in an excess cash flow margin in the first year, a partial deferral of that loan will result in a higher present value and will also decrease future payments on that loan. See Attachment 1 to this exhibit for applicable formulas for partial deferrals.

b. Examples:

Case 1: Partial Deferral without Write Down.

Situation: A full deferral is more than is needed to achieve a positive cash flow margin in year 1. A full payment on the loan will produce a negative cash flow margin in year 1.

The Process.

1. Determine amount of deferral of necessary to achieve a feasible plan in the first year.

"d" is the fraction of the loan which must be deferred. This fraction is applied to both the principal (P) and the non-capitalizable interest (N).

"r" is the amount of cash flow margin in the first year with a full deferral. "R" is the debt repayment on the loan in the first year without deferral.

$$d = 1 - (r/R).$$

2. Calculate Portion of debt to be deferred and portion of non-deferred debt to meet cash flow margin criteria in the first year.

Non-deferred portion.

$$P_1 = (1-d) \times P = (r/R) \times P.$$

$$N_1 = (1-d) \times N = (r/R) \times N.$$

Deferred Portion

$$P_2 = P - P_1.$$

$$N_2 = N - N_1.$$

Case 2: Partial Deferral with Write Down.

Write down is required for a feasible plan.

In this situation the write down and partial deferral must yield a payment which exactly meets the borrower's ability to repay debt. This will maximize the "Present Value" and the borrower's ability to remain on the farm.

Situation: The loan is partially deferred to achieve a feasible plan in the 1st year. The payments in the year after the end of the deferral period exceed the borrower's ability to pay even with a partial deferral. Write down is necessary to achieve a feasible plan. The loan which is partially deferred has been selected as the next loan to write down based upon write down selection criteria.

Write down sequence:

1. The non-capitalizable interest (of the deferred portion of the loan) will be written down first until a feasible plan is achieved or the non-capitalized interest (of the deferred portion of the loan) is fully written down.

2. The remaining principal (on the deferred portion of the loan) is then written down until a feasible plan is achieved or the principal is fully written down.

3. At the point the deferred portion of the loan has been fully written down, but a feasible plan has not yet been found. The subject loan is now a non-deferred loan with reduced principal and reduced non-capitalizable interest. This new loan must now compete for selection for write down with all remaining loans based on the write down selection criteria.

V. SOFTWOOD TIMBER

A. Criteria.

1. Loan terms will be the maximum permitted by program regulation.

2. The interest rate will be the minimum of:

a. The original note interest rate, or

b. The Softwood Timber program interest rate which will be in effect on the date of the servicing action calculations.

3. Interest payments which are 90 days or more past due will be added to the principal balance to form a new principal balance upon which interest will accrue over the Softwood Timber deferral period.

4. Interest less than 90 days past due will not be capitalized and accrue interest, and will be payable at the end of the Softwood Timber deferral period.

5. The rescheduled/reamortized principal amount plus any non-capitalized interest of Softwood Timber loans will not exceed the

maximum amount permitted by program regulation or the amount needed to develop a feasible plan, whichever is less.

B. Loan Selection.

Loans will be selected for the Softwood Timber loan program to maximize the present value after conversion to Softwood Timber, thus avoiding loan losses.

1. Cancel all previously calculated deferrals.

2. For each loan compute the present value before and after conversion to a Softwood Timber loan. Then compute the decrease in present value (note: for loans in which the present value increases this will be negative number).

3. For each loan compute the ratio of the decrease in present value to the decrease in first year repayment after conversion to a Softwood Timber loan.

4. Select the loan with the smallest (or most negative) ratio first.

5. If loans have equal ratios select the loan having the least security among these loans first. Softwood Timber loans will have new security instruments. This will improve the FmHA or its successor agency under Public Law 103-354 security and could increase present value if write down is required for other loans.

C. The Process.

1. Starting with the first loan in the list of loans ordered to minimize decrease in present value convert the loan to Softwood Timber.

2. Continue this process until the maximum limit for Softwood Timber conversion is reached or a feasible plan is possible in the first year.

3. If a loan is only partially converted then create a new loan identity for the partially converted loan. The portion not converted retains the same interest rate and term prior to the conversion to Softwood Timber.

4. If fully utilizing Softwood Timber loan conversion authorities do not result in a feasible plan in the first year rework the loan deferral calculation described in Section IV of this exhibit (if applicable). Do not include the loans selected for Softwood Timber loans in the reworking of the deferral calculations.

5. If conversion to a Softwood Timber loan will permit a feasible plan to be developed (with or without deferrals) no further servicing actions are required.

VI. WRITE-DOWN

Write-down of loans will proceed with Method 1 (contained in VI B) first. If a debt restructuring plan which will keep the borrower on the farm cannot be found using Method 1, then write-down will be recalculated using Method 2.

A. Status.

Debt repayments are at their absolute minimum, a feasible plan is still not possible

in the first year and/or the year after the end of the deferral period (if applicable).

1. At this point consideration of primary loan service programs has had the following result:

a. All delinquent loans have been rescheduled/reamortized.

b. If the borrower plans to make payments prior to the servicing actions, these payments have been applied to loans to reduce indebtedness.

c. All existing FmHA or its successor agency under Public Law 103-354 loans have been considered for rescheduling/reamortization.

d. Deferrals have been computed for borrowers when the cash flow margin in the year after the deferral period was higher than the cash flow margin in the first year.

e. Loans have been converted to Softwood Timber loans (when requested by the Borrower) to the maximum extent permitted by program regulations.

2. FmHA or its successor agency under Public Law 103-354 loans for annual operating expenses and all proposed new loans have been computed at limited resource rates (when applicable).

3. All loans are at the lowest interest rate and maximum term permitted by program regulations.

B. Method 1.

Provide Conservation Easement write down on eligible loans, when requested by the borrower, to the maximum limits permitted by program regulations. Conservation Easements will be the first write down considered in this method. If a feasible plan is not obtained using conservation easements then the remaining loans will be written down using debt write-down authority.

1. Criteria.

a. Only loans secured by real estate are eligible for conservation easement write-down.

b. Interest rates, loan terms, loans selected for deferral (if applicable) do not change from the status described in Section VI A of this exhibit. That is, debt repayment is at the absolute minimum.

c. Loans converted to Softwood Timber loans will not be written down.

2. Loan Selection.

Loans will be selected in the following order for full or partial write-down as necessary:

a. Place all loans eligible for conservation easements in a single group. Of these loans order them for selection as follows:

(1) Least collateralized loans first.

(2) For loans with equivalent collateralization, loans with the largest "Amortization Factor" first. (See Amortization Factors in Attachment 1 to this exhibit.)

b. If a feasible plan is not obtained using conservation easements or conservation easement write-down had not been requested order the remaining loans as follows:

(1) Unsecured and/or least collateralized loans first.

(2) For loans with equivalent security, loans with the largest “Amortization Factor” first. (See Amortization Factors in attachment to this exhibit.)

3. The Process.

Each time a new loan is selected for write-down, deferrals (if applicable) must be recalculated as described in Section IV of this exhibit.

a. Conservation Easement write-down.

(1) Starting with the first loan selected for conservation easement write-down, determine whether a full write-down will permit a feasible plan in the applicable year. The applicable year is the first planning year if deferrals have not been considered. If deferrals have been considered it is the year after the end of the deferral period.

(2) If a full conservation easement write-down will achieve positive cash flow compute the amount of conservation easement write-down so that the balance available equals debt repayment. Reschedule/reamortize the loan for the new principal amount. No further servicing actions are required.

(3) If a full conservation easement write-down does not achieve a positive cash flow margin in the applicable year, recompute the debt repayment in the first planning year and the debt repayment in the year after the end of the deferral period (if applicable). Deferrals will have to be recalculated using the methods described in Section IV of this part.

(4) Continue selecting loans for conservation easement write-down and repeat this process until an acceptable cash flow margin is obtained in the applicable year or the maximum conservation easement write-down permitted by program regulation is obtained.

b. Debt Write-Down.

(1) Conservation easement write-down (if applicable) did not attain a positive cash flow margin in the applicable planning year. With the remaining loans, reprioritize their selection without regard to eligibility for conservation easements using the criteria described in section VI B 3 of this exhibit.

(2) Using debt write-down authority write down each of these loans until a positive cash flow margin is obtained in the applicable year. Compute the amount of write-down for that loan so that the balance available is equal to the debt repayment.

(3) If the present value of the future payment stream on remaining debt equals or exceeds the net recovery value of the collateral for FmHA or its successor agency under Public Law 103-354 loans then no further servicing actions are required.

C. Method 2.

Use this method only if Method 1 does not find a debt restructuring plan which will allow FmHA or its successor agency under

Public Law 103-354 to continue with the borrower.

1. Criteria.

a. Loan terms are the maximum permitted by program regulation.

b. All other loans (except Softwood Timber loans), including the loan selected for write down will be at the minimum of the original note interest rate or the limited resource interest rate (if applicable).

2. Loan Selection.

Loans will be selected in the following order for full or partial write-down as required.

a. Unsecured and/or least collateralized loans first.

b. For loans with equivalent security, loans with the smallest present value factor first. (See Present Value Factor in Attachment 1 of this exhibit.) Note the Present Value Factor is independent of loan interest rate.

c. For loans with equal present value factor, loans with highest interest rate first.

3. The Process

Each time a new loan is selected for write-down all loans whose interest rates change according to the criteria in Section VI C1b of this exhibit will be rescheduled/reamortized using the new interest rate. Deferrals (if applicable) must also be recalculated as described in Section IV of this part.

a. Starting with the first loan selected for debt write-down, determine whether a full write-down will result in a positive cash flow margin in the applicable year. The applicable year is the first planning year if deferrals have not been used. If deferrals have been used, it is the year after the deferral period.

b. If a full debt write-down results in a positive cash flow compute the amount of write-down so that the balance available equals debt repayment. Reschedule/reamortize the loan for the new principal amount and test present value with net recovery value.

D. Net Recovery Value Test

1. Conservation Easements have been requested. The Net Recovery Value test is not applicable and no further servicing actions are required if all of the following are applicable:

a. The loan is eligible for conservation easement.

b. The write-down amount does not exceed the conservation easement write-down limit specified by program regulations.

c. All other loans written down were based on conservation easement authority.

2. If the present value of the repayment on remaining FmHA or its successor agency under Public Law 103-354 debt equals or exceeds the net recovery value of collateral a debt restructuring plan has been found which will keep the borrower on the farm and no further serving actions are required.

3. If a full write-down of a loan does not achieve a positive cash flow margin in the applicable year continue selecting loans for write-down and repeat this process until a positive cash flow margin is obtained in the applicable year or there are no other loans left to write-down.

VII. NET RECOVERY VALUE

DALRS computes the net recovery value of collateral to obtain a value to use for the net recovery value test outlined in section VI C3b of this exhibit, as required in §1951.909(f) of this subpart. See exhibit I, "Guidelines for Determining Adjustments for Net Recovery Value of Collateral," for guidance in determining the value of specific items in the net recovery value calculations outlined here.

Net recovery value is computed for all FmHA or its successor agency under Public Law 103-354 Farmer Program loan security. If FmHA or its successor agency under Public Law 103-354's lien position or the amount of prior liens vary from item to item, separate net recovery values will be computed for each item which has a different lien structure. Example: FmHA or its successor agency under Public Law 103-354 has a first lien on a borrower's equipment, except for two tractors. One tractor was financed by non-FmHA or its successor agency under Public Law 103-354 credit, and FmHA or its successor agency under Public Law 103-354 has a junior lien subject to the purchase money financing. In the case of the second tractor, FmHA or its successor agency under Public Law 103-354 subordinated its lien to another lender to finance repairs, thus, FmHA or its successor agency under Public Law 103-354 has a junior lien subject to the amount subordinated. In this example there would be three net recovery calculations, one for each tractor and one for the remaining equipment. The sum of the three calculations would be the net recovery value. The same logic applies to real estate security. Thus, the sum of all individual calculations will be the total net recovery value.

The general formula for net recovery value is as follows:

market value of security
 minus prior liens
 minus property taxes while in inventory
 minus depreciation on property
 minus management charges
 minus repairs necessary for resale
 minus legal and administrative fees
 minus sales costs
 minus advertising cost
 Plus/minus increase/decrease in value while
 in inventory
 minus interest cost while in inventory
 minus miscellaneous expenses, if any
plus anticipated income while in inventory
 equals net recovery value for security prop-
 erty

total of net recovery value for individual property items-net recovery value of collateral.

The individual items in the net recovery value formula are computed as follows:

1. Market value of security—the market value of the security based upon a current appraisal.

2. Prior liens—the total of all liens preceding FmHA or its successor agency under Public Law 103-354's security interest, including past due taxes and assessments and subordinates.

3. Property taxes and assessments while in inventory—(annual tax and assessments due divided by 12) × average holding period in months.

4. Depreciation on property—Annual amount of depreciation determined by the County Supervisor, divided by 12) × average holding period in months.

5. Management charges—based upon methods of management used (acres under management × annual rate per acre) divided by 12 × average holding period in months, or (net income on a monthly basis × percentage fee charged) × average holding period in months, or the anticipated monthly management and maintenance expense × average holding period in months, or the total of the appropriate combination of these.

6. Repairs—as determined necessary by County Supervisor.

7. Legal fees—determined with guidance from the State Director.

8. Sales costs—commission rate × market value of security.

9. Advertising—cost of three-week advertisement 1 time × (average holding period in months divided by 6, rounded to the nearest whole number).

10. Value increase/decrease—annual percentage divided by 12 × average holding period in months × market value.

11. Interest cost during inventory period—(interest rate on 90-day T-Bills × current market value) divided by 12 × average holding period, in months.

12. Average holding period for inventory, in months—determined by the State Director in accordance with FmHA or its successor agency under Public Law 103-354 Instructions.

13. Miscellaneous—any unusual or other expenses associated with acquiring, holding, or selling the property which are not covered by itemized expense items, such as hazardous waste cleanup and surveys.

14. Income—income received every month × average holding period in months + (total of non-monthly income received for the year divided by 12) × average holding period in months.

VIII. SUMMARY

At this point, DALRS has finished its calculations. DALRS will consider service programs to the point where a feasible plan has been achieved, or all farmer program loans have been written down completely. DALRS will provide a report of the results of the calculations performed, including the present value test.

If DALRS does not find a solution that will provide a feasible plan, FmHA or its successor agency under Public Law 103-354 will proceed with the other actions authorized in this subpart, including mediation, offer the opportunity to purchase collateral for net recovery value, and consideration for Preservation Service Programs.

ATTACHMENT 1—FORMULAS USED IN DALRS CALCULATIONS

I. AMORTIZATION FACTORS (AF)

There are two amortization factors used to compute equal annual installment debt repayments: (1) The amortization factor for interest bearing debt and, (2) The AF for non-interest bearing debt. The first AF is a function of both loan term and interest. The second AF is a function of loan term only.

A. Amortization factor for interest bearing debt

1. Notation: [AF](i,t) (AF=amortization factor)

$$2. [AF](i,t) = [ix(1+i)^t] / [(1+i)^t - 1]$$

where

- a. "t" is the loan term (years)
b. "i" is the annual interest rate (decimal equivalent)

3. Calculation of the amortization factor for interest bearing debt

example: loan terms are 5% interest, 15 years (i=.05, t=15)

$$AF = (.05 \times (1 + .05)^{15}) / ((1 + .05)^{15} - 1)$$

$$AF = .09635$$

B. AF for non-interest bearing debt

1. Notation: [AF](0,t)

The notation is similar to the notation used for the AF of interest bearing debt except the interest rate is set equal to zero (0).

2. Formula

$$[AF](0,t) = 1/t$$

Where

"t" is the term of the loan (Years)

This factor is used to determine annual repayment of Non-capitalized debt. Accrued interest less than 90 days past due is one type of non-capitalized debt. Note: The AF formula for interest bearing debt reduces to this formula when interest is zero.

3. Calculation of the amortization factor non-interest bearing

example: loan term is 15 years

$$AF = 1/15$$

$$AF = .06667$$

II. PRESENT VALUE FACTOR (PVF)

Present value is calculated when debt writedown is used. The present value of restructured loans is the sum of the present values of individual loans computed using these formulas.

There are two present value factors used to compute the present value of future payments. (1) The present value factor for single payments and (2) the present value factor for uniform series payments.

A. PVF for single repayments

1. Notation: [PV1] (id,t) (PV1=Present value 1 payment)

2. Formula

$$[PV1] (id,t) = 1/(1+id)^t$$

where

- a. "t" is the number of payments (years) from the "present" date. In all calculations, the "present" date is the effective date of proposed servicing actions.
b. "id" is the "discount rate" (annual decimal equivalent)

example: a payment will be received 45 years from the present date.

The discount rate is 7%

$$id = .07 \quad t = 45$$

$$PV1 = 1/(1 + .07)^{45} = .047613$$

if the payment to be received is \$50,000

$$PV = PV1 \times 50,000 = 2381$$

B. PVF for uniform series of payments (equally amortized installments)

1. Notation: [PVS] (id,t) (PVS=Present value of series of equal payments)

2. Formula

$$[PVS] (id,t) = [(1+id)^t - 1] / [id \times (1+id)^t]$$

Where

- a. "t" is the number of payments (years) from the "present" date. In all calculations, the "present" date is the effective date of proposed servicing actions.
b. "id" is the "discount rate" (annual decimal equivalent)

example: a series of equal annual installments will be received annually for 30 years.

The discount rate is 7%

$$id = .07 \quad t = 30$$

$$PVS = [(1 + .07)^{30} - 1] / [.07 \times (1 + .07)^{30}] = 7.6031$$

if the annual installment is \$10,000

$$PV = PVS \times 10,000 = 76,031$$

III. JOINT AMORTIZATION FACTOR

This factor is used in the selection of loans for deferral and for write down. It is the weighted average of the amortization factors for interest bearing debt and non-interest bearing debt. When this factor is multiplied by the remaining balance on the loan it yields the equal annual installments for the loan.

A. Calculations

1. Notation: [JAF] (i,t)

2. Formula

RHS, RBS, RUS, FSA, USDA

Pt. 1951, Subpt. S, Exh. J-1

$$[JAF] (i,t) = [(P \times [AF] (i,t)) + (P_{nc} \times [AF](O,t))] / P_T$$

where:

“P” is the sum of the principal balance plus the past due accrued interest.

“P_{nc}” is the non-capitalizable portion of the accrued interest.

“P_T” is the total debt and equal to P + P_{nc}

“[AF] (i,t)”, “[AF] (O,t)”, “t” and “i” are as defined in paragraphs I.A. and I.B. in this attachment.

example: P=5,886 P_{nc}=581 P_T=6,467

i=.05(5%) t=15 (years)

[AF] (i,t)=.09635 [AF](O,t)=.06667

JAF=[(5886×.09635)+(581×.06667)/6467

JAF=.09369

Annual installment=P_T JAF

Annual installment=\$606 (always round to next dollar)

IV. AVERAGE MONTH OUTSTANDING

(FmHA or its successor agency under Public Law 103-354 Annual Operating Expense Loan):

This is the average number of months an FmHA or its successor agency under Public Law 103-354 loan of annual operating expenses will be outstanding. It may be estimated or calculated from the projected advance and payment schedule for the loan.

For example, loan(s) for annual operating expenses are estimated to be \$15,000 and the projected advance and repayment schedule is planned as follows:

Principal balance outstanding	Number of months
15,000	3
8,000	2
6,000	4

Average Months=(3×15,000)+(2×8,000)+(4×6,000)

15,000 (total loans for annual oper. exp.)

Average Months=(45,000+16,00+24,000)/15,000

Average Months Outstanding=85,000/15,000

Average Months Outstanding=5.7 months

(Round to nearest tenth of month)

V. PARTIAL DEFERRAL

Whenever deferral of a loan results in an excess cash flow margin in the first year, a partial deferral of that loan will result in a higher present value and will also decrease future payment on that loan. Calculation of the partial deferral proceeds as follows:

Input Data

P: Loan Principal plus capitalizable accrued interest without write down.

N: Non-capitalizable interest without write down.

i: Interest Rate (decimal, annual basis)

t: Loan Term (Years)

n: Deferral period

r: Excess cash flow margin created in the first year with a full deferral of a loan.

Calculated/Formula Variables

R: Full payment on loan without deferral or write down

$$R = [(px[AF](i,t)) + (N/t)]$$

R: Full payment on loan with deferral but no write down.

d: fraction of loan deferred, d=1-(r/R).

Output Information

Non-deferred Portion of Loan

P₁: Loan Principal plus capitalizable interest on nondeferred portion of loan.

N₁: Non-capitalizable interest on non-deferred portion of loan.

Deferred Portion of Loan

P₂: Loan Principal plus capitalizable interest on deferred portion of loan.

N₂: Non-capitalizable interest on deferred portion of loan.

The Process

1. Determine the order in which loans will be deferred based upon the JAF (section III of this attachment).

2. Determine amount of deferral necessary to achieve a feasible plan in the first year (compute variable d).

3. Calculate Portion of debt to be deferred and portion of non-deferred debt to meet cash flow margin criteria in the first year.

Non-deferred portion

$$P_1 = (1-d) \times P = (r/R) \times P$$

$$N_1 = (1-d) \times N = (r/R) \times N$$

Deferred Portion

$$P_2 = P - P_1$$

$$N_2 = N - N_1$$

[53 FR 35718, Sept. 14, 1988]

EXHIBIT J-1—THE DEBT AND LOAN RESTRUCTURING SYSTEM (DALRS)

(For applications filed for restructuring on or after November 28, 1990)

Farmers Home Administration or its successor agency under Public Law 103-354 (FmHA or its successor agency under Public Law 103-354) primary loan service programs provide a large number of alternatives for restructuring an FmHA or its successor agency under Public Law 103-354 loan. The number of loans a borrower has increases the number of combinations of possible alternatives. It is difficult and virtually impossible to manually calculate all the potential combinations of servicing actions. To assure that all the various possible combinations of programs are considered, FmHA or its successor agency under Public Law 103-354 has developed the Debt and Loan Restructuring System (DALRS) for operation on the County Office computer system. FmHA or its successor agency under Public Law 103-354 personnel

will not manually perform the calculations in this exhibit. This exhibit is provided as a benefit to those who may want to perform manual calculations, or understand the procedures DALR\$ goes through.

I. WHAT IS DALR\$?

DALR\$ is a computerized decision support tool. This means that the computer assists the FmHA or its successor agency under Public Law 103-354 loan officer in calculating the various alternatives. For example, FmHA or its successor agency under Public Law 103-354 regulations specify criteria for determining the interest rate when loans are restructured. DALR\$ will select an interest rate using the criteria in the regulations. Judgment decisions are made by the FmHA or its successor agency under Public Law 103-354 loan officer in evaluating the Farm and Home Plan and other information entered into the DALR\$ system. DALR\$ performs a series of mathematical calculations based upon predetermined criteria. These same calculations and procedures would be followed when calculations are performed manually. DALR\$ also generates a printed summary of its computations for FmHA or its successor agency under Public Law 103-354 and the borrower.

II. DALR\$ OPERATING SYSTEM

DALR\$ operates on the AT&T 3B2 computer system in FmHA or its successor agency under Public Law 103-354 field offices. It runs under the UNIX (registered tm, AT&T) computer operating system. DALR\$ also utilizes Prelude (registered tm, Venturcom) for data entry and storage functions. To operate DALR\$, UNIX System V, version 2.0.5 or later and Prelude version 2.1 are required.

FmHA or its successor agency under Public Law 103-354 developed DALR\$ to run under UNIX and Prelude because those systems have the capabilities necessary to allow for relatively rapid development, and are available in all FmHA or its successor agency under Public Law 103-354 offices. DALR\$ will not run under DOS on personal computers. Due to lack of resources, FmHA or its successor agency under Public Law 103-354 does not plan to develop duplicate computing capabilities on personal computers. FmHA or its successor agency under Public Law 103-354 will provide copies of program diskettes and/or source code to interested parties upon request.

III. ADVANTAGES OF DALR\$

The DALR\$ system provides several benefits to FmHA or its successor agency under Public Law 103-354 borrowers:

A. *Speed of calculation.* Calculations which would take hours or days are reduced to minutes. This not only speeds the processing of servicing requests, but provides the flexibil-

ity to consider several alternative plans of operation within the same time constraints.

B. *Consistency.* The use of DALR\$ assures that all calculations will be performed in the same way, and that the feasibility of all requests will be evaluated on the same calculation methods.

C. *Full consideration.* DALR\$ considers primary loan service programs and combinations of those programs for every borrower entered into the system. Thus, borrowers can be assured that they will be considered for as many of these actions as necessary to develop a feasible plan, if a feasible plan is possible.

D. *Reduction of errors.* Use of DALR\$ greatly reduces the potential for errors and inadvertent denial of assistance due to those errors. DALR\$ eliminates errors in the calculations. The only potential errors related to the calculations are input errors, which are much easier to detect and correct than calculation errors. It is important to note, however, that DALR\$ results are only as reliable as the input data.

IV. OVERVIEW

In arriving at a debt restructuring plan, DALR\$ will take advantage of all primary loan service programs to maximize the borrower's ability to repay debt and remain on the farm and avoid loss to the government.

Several combinations of primary loan service programs may be necessary to keep the borrower on the farm and avoid losses to FmHA or its successor agency under Public Law 103-354. DALR\$ will examine each combination until a feasible plan is reached or it is determined a feasible plan is not possible with full utilization of primary service programs.

DALR\$ considers each primary servicing option order described in this exhibit until an appropriate solution is found. Each step increases FmHA or its successor agency under Public Law 103-354's level of assistance to the Borrower and, when applicable, includes the primary loan service programs provided by previous steps. If a feasible plan cannot be obtained by the use of primary loan servicing options, DALR\$ will calculate the net recovery value of collateral. The following is a list of features in DALR\$ for both primary loan servicing actions and net recovery value calculation.

A. DALR\$ will apply the payment, including proceeds from the sale of non-essential assets, when loans are to be paid in full on the projected effective date shown in DALR\$.

B. DALR\$ will display a warning message to the operator when the Balance Available is sufficient to pay the account current without debt restructure. However, DALR\$ will also continue to proceed with restructure of the debt.

C. DALR\$ will reschedule/reamortize loans up to maximum terms with interest rates at

the minimum of original note interest rate or regular loan program rate.

D. DALRS will reschedule/reamortize loans up to maximum terms with interest rates at the minimum of original note interest rate or applicable limited resource loan program rate.

E. DALRS will defer loans at the maximum term and minimum interest rate permitted by program regulation until a feasible plan is obtained in the first year. Loans are selected for deferral so as to minimize debt repayments in the years after the deferral period. If deferral of a loan will result in an excess cash flow margin in the first year then a partial deferral of the loan is used to eliminate the excess cash flow margin. A partial deferral has the added benefit of reducing the payment amount in the years after the deferral period.

F. DALRS will calculate a debt payment margin level which provides a 5 percent residual of the balance available to repay the restructured debt. If a feasible plan is not found using any combination of Primary Loan Servicing Options, then the calculations are redone using a 4 percent margin. This margin is reduced by whole percentage points until a feasible plan is found or until the margin falls below zero.

G. DALRS will provide Softwood Timber (ST) loan deferral, when requested by borrower, to the maximum limits permitted by program regulations. Loan deferrals will be recalculated selecting ST loans first so as to:

1. Minimize any decrease in present value caused by conversion to ST loans, and
2. If regular deferrals are still needed to facilitate a feasible plan in the first year, minimize the increase in payments in the year after the expiration of deferral period.

A ST loan deferral has the same effect on current FmHA or its successor agency under Public Law 103-354 debt repayment as a full writedown of the same amount of debt. A ST loan deferral, however, will always have a greater present value. Therefore, after a loan is selected for ST deferral it will not be considered for writedown since this will always reduce present value.

H. DALRS will writedown loans in the order, at the interest rates, and in combination with other primary loan service programs to maximize the ability of the borrower to remain on the farm and avoid FmHA or its successor agency under Public Law 103-354 loan losses.

1. Conservation Easements

Conservation Easement writedown (when requested by the borrower) will be considered over debt writedown whenever such FmHA or its successor agency under Public Law 103-354 Instruction 1951-S consideration will not prevent development of a debt restructuring plan which will keep the borrower on the farm.

2. Security Considerations

The FmHA or its successor agency under Public Law 103-354 County Supervisor will evaluate each loan and determine its writedown priority considering the degree of collateralization. Loans which are secured but have no collateral value will generally be selected for writedown before loans which are at least somewhat collateralized. There are three writedown security/collateral categories.

- a. *Low*: These loans may be secured or unsecured and have no collateral value.
- b. *Medium*: These loans are secured but do not have sufficient collateral value to fully protect the Government's interest.
- c. *High*: These loans are secured and fully collateralized; the Government's interest is fully protected.

3. Methodology

a. Method 1 (See section IX B of this exhibit) will be used first to develop an acceptable restructuring plan which will keep the borrower on the farm. If a restructuring plan is not found which will keep the borrower on the farm then Method 2 (See section IX C of this exhibit for a full description) will be used to develop a restructuring plan.

b. For both Method 1 and Method 2 loan terms will be the maximum permitted by program regulations. Also, writedown amounts will be calculated so that the "Balance Available" to repay debt is equal to or as close as possible to the "Debt Repayment" plus a 5 percent cash flow margin.

c. Loans selected for regular deferral will remain deferred, but will be fully or partially written down if needed to obtain positive 5 percent cash flow margin. Loans converted to ST loans (if requested) will remain ST loans and will not be written down because writing down ST loans decreases present value.

I. If a restructuring plan is not found to keep the borrower on the farm, the borrower, FmHA or its successor agency under Public Law 103-354 County Supervisor, and other Lenders may reevaluate/rework the borrower's farm plan to increase income, reduce other debt, sell assets, and/or improve security on FmHA or its successor agency under Public Law 103-354 debt. DALRS will use the new/revised information which will include consideration or reconsideration of ST and/or conservation easement offers provided by the borrower and the FmHA or its successor agency under Public Law 103-354 County Supervisor. This will help to assure that the restructuring of existing FmHA or its successor agency under Public Law 103-354 debt will maximize the potential for the borrower to repay debt and remain on the farm and avoid FmHA or its successor agency under Public Law 103-354 loan losses.

J. DALRS has the capability to accommodate the lifetime limitation on the number of writedowns/buyouts that a borrower may qualify for and the \$300,000 statutory ceiling for debt writedown and debt writeoff.

K. DALRS will calculate the Net Recovery Value for secured assets and other non-essential assets. In the Net Recovery Value calculation process, DALRS will add or subtract the applicable liquidation costs to the current market value of the security.

V. INFORMATION NEEDED FOR THE CALCULATION PROCESS

The following information will be determined prior to running DALRS.

A. Determine Balance Available

Determine balance of funds available for debt repayment in the next planning year. This is the "Balance Available in Year 1." This figure should be obtained from Form FmHA or its successor agency under Public Law 103-354 431-2, "Farm and Home Plan." If loan deferrals and/or debt writedown is anticipated or is needed, also determine the Balance Available for debt repayment in the year after the end of the specified deferral period.

B. Determine Total Debt Repayment

Determine total debt repayment in the next planning year. This is the "Debt Repayment in year 1." The total debt repayment should also be obtained from Form FmHA or its successor agency under Public Law 103-354 431-2, "Farm and Home Plan." If loan deferrals and/or debt writedown is anticipated or needed, also determine the debt repayment in the year after the end of the specified deferral period. Included in this amount are:

1. *New FmHA or its successor agency under Public Law 103-354 long term loans.* New loans planned may affect repayment in the first planning year and/or the year after the end of the specified deferral period, depending on when the loan will be made and the repayment term. The equal annual payments on these new loans are included in the debt repayment calculations. Regular program interest rates (not limited resource rates) are input for all new loans. If it is determined that it is not possible to develop a feasible plan at regular program interest rates, DALRS will use applicable limited resource rates in the final calculation process.

2. *FmHA or its successor agency under Public Law 103-354 Loan for annual operating expenses.* The amount of FmHA or its successor agency under Public Law 103-354 loan for annual operating expenses is the amount of annual operating expense loan principal which is due in the applicable planning year. The estimated average number of months the an-

nual operating loan will be outstanding is also input into DALRS.

DALRS will calculate the interest accrual on an annual production loan by multiplying the principal to be paid in the applicable planning year by the regular loan program interest rate (monthly decimal equivalent) and then by the average number of months the principal will be outstanding. See attachment 1, Formulas, for details.

Repayment of FmHA or its successor agency under Public Law 103-354 loans for annual operating expenses are first based on regular loan program interest rates. If it is determined that it is impossible to develop a feasible plan using regular loan program interest rates, DALRS will change the interest rate to limited resource rates, if applicable.

If some of the principal will be carried over to future years then that portion is either:

- a. Included with the new loan payments computed using the amortization factor over the applicable loan term at regular loan program interest rates, or

- b. If the amount to be carried over is already included in an existing loan, it is re-scheduled with the existing loan at the applicable term permitted by program regulation.

3. *Non-FmHA or its successor agency under Public Law 103-354 repayment and taxes.* It is necessary to include the total non-FmHA or its successor agency under Public Law 103-354 debt payments (principle and interest) and taxes (income and social security) to be repaid annually. If future loans are planned which will effect the first year or the year after the deferral period, the annual debt repayment for these future non-FmHA or its successor agency under Public Law 103-354 loans should also be included. This information should be obtained from Form FmHA or its successor agency under Public Law 103-354 431-2, "Farm and Home Plan."

C. Determination and Calculation of Unpaid Balance on Existing Loans

1. Obtain status information on each loan. The status information date (accrual date) must be a date after the last payment or other transaction on the loan.

- a. Principal balance.
- b. Accrued interest balance including any deferred interest, if applicable.

2. For each loan DALRS will compute the interest accrual to the proposed effective date for servicing actions.

Interest Accrual = $P \times I_{ex} \times NDAYS$.

Where

- a. "P" is the outstanding principal balance on the date on which loan status information was obtained.

- b. "I_{ex}" is the daily interest accrual (decimal equivalent) based on the existing interest rate for the loan. Daily interest accrual is equal to the existing annual interest rate divided by 365.

c. "NDAYS" is the number of days between the effective date and the status information date. If February 29 occurs between these two days it is not added to the number of days.

VI. ITERATIVE CALCULATION PROCESS

Once the Basic Borrower and loan information is determined and input into DALRS, the calculation process can begin. During the calculation process DALRS will step through a computational procedure in which replication of the cycle will continue in an attempt to find a feasible plan.

A. Loan Payments To Be Made on the Effective Date

DALRS will apply loan payments which are planned to be made on the effective date of the servicing actions. DALRS only considers full pay off of loans. If a partial payment is anticipated, this amount must be processed prior to the running of DALRS.

If the balance available is greater than or equal to the 105 percent of debt repayment in year 1 and there are no delinquent loans, then no further servicing action in DALRS are required.

B. Reschedule/Reamortize Delinquent Loans at Regular Rates

1. *Criteria.* DALRS will attempt to reschedule/reamortize loans as needed to eliminate any delinquency. All delinquent loans will be rescheduled/reamortized.

The interest rate will be the minimum of:

a. the original note interest rate, or
b. the regular loan program interest rate which will be in effect on the date the servicing actions are calculated.

2. *The Process.* a. Identify delinquent loans.

b. Recompute debt repayment in year 1.

c. Loans will be rescheduled/reamortized over the maximum term permitted by program regulation, unless such maximum term will result in an excess cash flow margin above 5 percent. If such an excess cash flow margin exists, the following procedure will be used to obtain the optimum term for debt repayment.

(1) Loans will be selected in the order of the lowest security first.

(2) For loans with equal security, the secondary selection will be based on the loan with the lowest amortization factor.

(3) The final criteria will be the loan with the lowest present value.

(4) Reschedule/reamortize the loans at the new terms.

(5) Recompute the excess cash flow margin.

(6) Repeat steps (1) through (5) until there is no reduction in term whose increase in payments is less than or equal to the excess cash flow margin.

C. Reschedule/Reamortize Non-Delinquent Loans at Regular Rates

1. *Criteria.* If rescheduling/reamortization of the delinquent loans at regular rates and maximum terms fails to produce a feasible plan, DALRS will attempt to reschedule/reamortize nondelinquent loans at regular rates.

The interest rate will be the minimum of:

a. the original note interest rate, or
b. the regular loan program interest rate which will be in effect on the date the servicing actions are calculated.

2. *Loan Selection.* a. In selecting the loans for rescheduling/reamortization the loans will be ordered so that the loan having the greatest reduction in interest rate will be rescheduled/reamortized first.

b. If the change in interest rate is equal for two or more loans, then this subgroup will be ordered so that the loans having the smallest new principal balance will be rescheduled/reamortized first.

c. If the repayment on any rescheduled/reamortized loan exceeds the current repayment amount for that loan, then that loan will not be rescheduled/reamortized.

3. *The Process.* a. After each rescheduling/reamortization recompute debt repayment in year 1.

b. Loans will be rescheduled/reamortized over the maximum term permitted by program regulation, unless such maximum term will result in an excess cash flow margin above 5 percent. If such an excess cash flow margin exists, loan term(s) will be reduced to minimize cash flow margin according to the process described above in section VI B 2 c of this exhibit.

D. Rescheduling/Reamortizing Non-Delinquent and Delinquent Loans at Limited Resource Rates

1. *Criteria.* If rescheduling/reamortization of all loans at regular rates and maximum terms fails to provide a feasible plan, DALRS will attempt to reschedule delinquent loans at limited resource rates, if applicable.

New loans will have the maximum term permitted by the program regulation, using the limited resource interest rates (when applicable) which will be effective on the date of the servicing actions.

Interest accrual on the FmHA or its successor agency under Public Law 103-354 loan(s) for annual operating expenses will be at the limited resource rate (when applicable). The interest rate will be the minimum of:

a. The original note interest rate, or
b. The limited resource interest rate which will be in effect on the date the servicing actions are calculated.

2. *Loan Selection.* Refer to section VI C 2 of this exhibit for loan selection criteria.

3. *The Process.* Refer to the process outlined in section VI B 2 c of this exhibit. Loan normally will be rescheduled/reamortized at the maximum terms when limited resource rates are given.

VII. DEFERRALS

A. Deferral Period

1. Deferrals will only be beneficial if the cashflow margin will improve or debt service repayment decreases after the deferral period. This improvement must begin no later than six years after the current planning year, since the maximum deferral period is five years.

2. To determine the appropriate deferral period the County Supervisor and borrower will review the farm operation over the next five years. Loans should be deferred to the year when the improvement from the first planning year is the greatest and the improvement in the following years are at least as good.

3. It is not necessary that deferrals provide a positive cash flow margin after the deferral period because it is still possible to obtain a positive cashflow margin with a combination of deferrals, debt writedown and the other primary loan service programs. However, to maximize the potential for the borrower to remain on the farm and avoid losses on FmHA or its successor agency under Public Law 103-354 loans, a new farm plan must be prepared by the FmHA or its successor agency under Public Law 103-354 County Supervisor and borrower for the year after the end of the selected deferral period.

B. Deferrals

1. *Criteria.*

a. Loans which have been rescheduled/reamortized previously in DALRS will be rescheduled/reamortized at the same interest and term.

b. Other loans which have not been previously rescheduled/reamortized in DALRS will be rescheduled/reamortized as follows:

(1) Loans will be rescheduled/reamortized over the maximum term permitted by program regulation.

(2) The interest rate will be the minimum of:

(A) The original note interest rate, or

(B) The loan program interest rate (limited resource, if applicable) in effect on the date of the servicing action calculations.

2. *Loan selection.* This selection process will assure that after a positive cash flow margin is achieved in the 1st year, the cash flow margin in the year after the deferral period will be the greatest.

a. Calculate the payment after the deferral period for each loan eligible for deferral. This is only a side calculation to determine the best order of selection. A deferral will decrease the payments in the 1st planning year

and increase the payments in the year after the deferral expires.

b. For each loan compute the ratio of the increase in "after deferral period" payment to the decrease in 1st year payment.

c. The loan with the smallest ratio is deferred first and so on until the balance available is greater than or equal to debt repayment in year 1.

3. *The Process.* a. Reschedule/reamortize unequal payment schedule loans and other loans not previously rescheduled except ST loans which have not been rescheduled/reamortized in previous steps. Such rescheduling may result in a temporary decrease in cash flow margin.

b. Taking one loan at a time, defer the selected loan, recompute the debt repayment in year 1. Also compute the debt repayment in the year after the end of the deferral period.

c. If a five percent margin exists between the balance available and the debt repayment in year 1 and the five percent margin exists in the year after the end of the deferral period, then no further servicing actions are required.

d. If the margin between balance available and the debt repayment in year 1 is greater than five percent, then this implies that the last loan deferred did not require a full deferral.

(1) For the last loan selected, compute amount of partial deferral necessary to achieve the required margin between balance available and debt repayment in year 1.

(2) Recompute payments for this loan during the deferral period and the years after the expiration of the deferral period.

(3) If in the year after the end of the deferral period, a five percent margin exists between the balance available and the debt repayment, then no further servicing actions are required.

4. *Partial deferrals.* a. Whenever deferral of a loan results in an excess cash flow margin in the first year, a partial deferral of that loan will result in a higher present value and will also decrease future payments on that loan. A partial deferral is created by splitting an existing loan into two distinct parts (nondeferred and deferred). Within the deferral/writedown module, the two parts are seen as two separate loans. When partial loans are created a new loan entry is added to the deferral/write down module data table. The loan that is split to make the partially deferred loan is split so that the principal and interest are separated by the same amount (percent wise), i.e., a new partially deferred loan may consist of 25% of the original loan principal, 25% of the original interest.

b. Examples:

Case 1: Partial Deferral Without Writedown

Situation: A full deferral is more than is needed to achieve a positive cash flow margin in year 1. A full payment on the loan will produce a negative cash flow margin in year 1.

The Process

(1) Determine amount of deferral necessary to achieve a feasible plan in the first year.

"d" is the fraction of the loan which must be deferred. This fraction is applied to the principal (P).

"r" is the amount of cash flow margin in the first year with a full deferral. "R" is the debt repayment on the loan in the first year without deferral.

$$d=1 - (r/R)$$

(2) Calculate portion of debt to be deferred and portion of non-deferred debt to meet cash flow margin criteria in the first year.

Non-Deferred portion

$$P1=(1-d) \times P=(r/R) \times P$$

Deferred Portion

$$P2=P - P1$$

Case 2: Partial Deferral With Writedown

Writedown is required for a feasible plan. In this situation the writedown and partial deferral must yield a payment which exactly meets the borrower's ability to repay debt. This will maximize the "Present Value" and the borrower's ability to remain on the farm.

Situation: The loan is partially deferred to achieve a feasible plan in the first year. The payments in the year after the end of the deferral period exceed the borrower's ability to pay even with a partial deferral. Writedown is necessary to achieve a feasible plan. The loan which is partially deferred has been selected as the next loan to writedown based upon writedown selection criteria.

Writedown Sequence: (A) The principal (on the deferred portion of the loan) is then written down until a feasible plan is achieved or the principal is fully written down.

(B) At this point the deferred portion of the loan has been fully written down, but a feasible plan has not yet been found. The subject loan is now a nondeferred loan with reduced principal and reduced interest. This new loan must now compete for selection for writedown with all remaining loans based on the writedown selection criteria.

VIII. SOFTWOOD TIMBER

A. Criteria

1. Loan terms will be the maximum permitted by program regulation.

2. The interest rate will be the minimum of: a. the original note interest rate, or

b. the Softwood Timber program interest rate which will be in effect on the date of the servicing action calculations.

3. The rescheduled/reamortized principal amount of Softwood Timber loans will not exceed the maximum amount permitted by program regulation or the amount needed to develop a feasible plan, whichever is less.

B. Loan Selection

Loans will be selected for the Softwood Timber loan program to maximize the present value after conversion to Softwood Timber, thus avoiding loan losses.

1. Cancel all previously calculated deferrals.

2. For each loan compute the present value before and after conversion to a Softwood Timber loan. Then compute the decrease in present value (note: for loans in which the present value increases this will be a negative number).

3. For each loan compute the ratio of the decrease in present value to the decrease in first year repayment after conversion to a Softwood Timber loan.

4. Select the loan with the smallest (or most negative) ratio first.

5. If loans have equal ratios, select the loan having the least security among these loans first. Softwood Timber loans will have new security instruments. This will improve the FmHA or its successor agency under Public Law 103-354 security and could increase present value if writedown is required for other loans.

C. The Process

1. Starting with the first loan in the list of loans ordered to minimize decrease in present value, convert the loan to Softwood Timber.

2. Continue this process until the maximum limit for Softwood Timber conversion is reached or a feasible plan is possible in the first year.

3. If a loan is only partially converted then create a new loan identity for the partially converted loan. The portion not converted retains the same interest rate and term prior to the conversion to Softwood Timber.

4. If fully utilizing Softwood Timber loan conversion authorities do not result in a feasible plan in the first year rework the loan deferral calculation described in section IV of this exhibit (if applicable). Do not include the loans selected for Softwood Timber loans in the reworking of the deferral calculations.

5. If conversion to a Softwood Timber loan will permit a feasible plan to be developed (with or without deferrals) no further servicing actions are required.

IX. WRITEDOWN

DALRS will attempt to find a feasible plan with debt writedown when all primary loan servicing options fail. Writedown of loans will proceed with Conservation Easement

writedown (Method 1 below) first. If Conservation easement writedown does not provide a feasible plan, then regular debt writedown (Method 2 below) will be attempted.

A. Status

Debt repayments are at their absolute minimum, a feasible plan is still not possible in the first year and/or the year after the end of the deferral period (if applicable).

1. At this point consideration of primary loan service programs has had the following result:

a. If the borrower plans to make payments prior to the servicing actions, these payments have been applied to loans to reduce indebtedness.

b. All delinquent loans have been rescheduled/reamortized.

c. All existing FmHA or its successor agency under Public Law 103-354 loans have been considered for rescheduling/reamortization.

d. Deferrals have been computed for borrowers when the cash flow margin in the year after the deferral period was higher than the cash flow margin in the first year.

e. Loans have been converted to Softwood Timber loans (when requested by the Borrower) to the maximum extent permitted by program regulations.

(1) FmHA or its successor agency under Public Law 103-354 loans for annual operating expenses and all proposed new loans have been computed at limited resource rates (when applicable).

(2) All loans are at the lowest interest rate and maximum term permitted by program regulations.

B. Method 1

Provide Conservation Easement writedown on eligible loans, when requested by the borrower, to the maximum limits permitted by program regulations. Conservation Easements will be the first writedown considered in this method. If a feasible plan is not obtained using conservation easements, then the remaining loans will be written down using debt writedown authority.

1. *Criteria.* a. Only loans secured by real estate are eligible for conservation easement writedown.

b. Interest rates, loan terms, loans selected for deferral (if applicable) do not change from the status described in section IX A of this exhibit. That is, debt repayment is at the absolute minimum.

c. Loans converted to Softwood Timber loans will not be written down.

2. *Loan Selection.* Loans will be selected in the following order for full or partial writedown as necessary:

a. Place all loans eligible for conservation easements in a single group. Of these loans, order them for selection as follows:

(1) Least collateralized loans first.

(2) For loans with equivalent collateralization, loans with the largest "Amortization Factor" first. (See Amortization Factors in Attachment 1 to this exhibit.)

b. If a feasible plan is not obtained using conservation easements or conservation easement writedown had not been requested, order the remaining loans as follows:

(1) Unsecured and/or least collateralized loans first.

(2) For loans with equivalent security, loans with the largest "Amortization Factor" first. (See Amortization Factors in attachment to this exhibit.)

3. *The Process.* Each time a new loan is selected for writedown, deferrals (if applicable) must be recalculated as described in section VII of this exhibit.

a. *Conservation Easement writedown.* (1) Starting with the first loan selected for conservation easement writedown, determine whether a full writedown will permit a feasible plan in the applicable year. The applicable year is the first planning year if deferrals have not been calculated. If deferrals have been calculated, it is the year after the end of the deferral period.

(2) If a full conservation easement writedown will achieve positive cash flow, compute the amount of conservation easement writedown so that a five percent margin exists between the balance available and debt repayment. Reschedule/reamortize the loan for the new principal amount. No further servicing actions are required.

(3) If a full conservation easement writedown does not achieve a positive cash flow margin in the applicable year, recompute the debt repayment in the first planning year and the debt repayment in the year after the end of the deferral period (if applicable). Deferrals will have to be recalculated using the methods described in section VII of this part.

(4) Continue selecting loans for conservation easement writedown and repeat this process until an acceptable cash flow margin is obtained in the applicable year or the maximum conservation easement writedown permitted by program regulation is obtained.

b. *Debt writedown.* (1) Conservation easement writedown (if applicable) did not attain a positive cash flow margin in the applicable planning year. With the remaining loans, reprioritize their selection without regard to eligibility for conservation easements using the criteria described in section IX B 2 of this exhibit.

(2) Using debt writedown authority write down each of these loans until a positive cash flow margin is obtained in the applicable year. Compute the amount of writedown for that loan so that a five percent margin exist between the balance available and the debt repayment.

(3) If the present value of the future payment stream on remaining debt plus the value of conservation easements exchanged for debt writedown equals or exceeds the net recovery value of the collateral for FmHA or its successor agency under Public Law 103-354 loans, then no further servicing actions are required.

C. Method 2

Use this method only if Method I does not find a debt restructuring plan which will allow FmHA or its successor agency under Public Law 103-354 to continue with the borrower.

1. *Criteria.* a. Loan terms are the maximum permitted by program regulation.

b. All other loans (except Softwood Timber loans), including the loan selected for writedown will be at the minimum of the original note interest rate or the limited resource interest rate (if applicable).

2. *Loan selection.* Loans will be selected in the following order for full or partial writedown as required.

a. Unsecured and/or least collateralized loans first.

b. For loans with equivalent security, loans with the smallest present value factor first. (See Present Value Factor in attachment 1 of this exhibit.) Note the Present Value Factor is independent of loan interest rate.

c. For loans with equal present value factor, loans with highest interest rate first.

3. *The process.* Each time a new loan is selected for writedown all loans whose interest rates change according to the criteria in section IX C 1 b of this exhibit will be rescheduled/reamortized using the new interest rate. Deferrals must also be recalculated as described in section VII of this part.

a. Starting with the first loan selected for debt writedown, determine whether a full writedown will result in the appropriate cashflow margin in the applicable year. The applicable year is the first planning year if deferrals have not been used. If deferrals have been used, it is the year after the deferral period.

b. If a full debt writedown results in a positive cash flow compute the amount of writedown so that a five percent margin exists between the balance available and debt repayment. Reschedule/reamortize the loan for the new principal amount and test present value with net recovery value.

c. If the amount of debt writedown calculated in Method 2 exceeds \$300,000 in order to obtain a positive cash flow, no other calculations will be computed. The criteria and calculations explained in section X, "Net Recovery Value," will be used.

X. NET RECOVERY VALUE

DALRS computes the net recovery value of collateral to obtain a value to use for the net recovery value test referred to in section IX 6 3 b of this exhibit, as required in §1951.909 (f) of this subpart. See exhibit I, "Guidelines for Determining Adjustments for Net Recovery Value of Collateral," for guidance in determining the value of specific items in the net recovery value calculations outlined below.

Net recovery value is computed for all FmHA or its successor agency under Public Law 103-354 Farmer Program loan security and other non-essential assets. If FmHA or its successor agency under Public Law 103-354's lien position or the amount of prior liens vary from item to item, separate net recovery values will be computed for each item which has a different lien structure. Example: FmHA or its successor agency under Public Law 103-354 has a first lien on a borrower's equipment, except for two tractors. One tractor was financed by non-FmHA or its successor agency under Public Law 103-354 credit, and FmHA or its successor agency under Public Law 103-354 has a junior lien subject to the purchase money financing. In the case of the second tractor, FmHA or its successor agency under Public Law 103-354 subordinated its lien to another lender to finance repairs, thus, FmHA or its successor agency under Public Law 103-354 has a junior lien subject to the amount subordinated. In this example there would be three net recovery calculations, one for each tractor and one for the remaining equipment. The sum of the three calculations would be the net recovery value. The same logic applies to real estate security. Thus, the sum of all individual calculations will be the total net recovery value.

A. The general formula for net recovery value is as follows:

market value of security
 minus prior liens
 minus property taxes while in inventory
 minus depreciation on property
 minus management charges
 minus repairs necessary for resale
 minus legal and administrative fees
 minus sales costs
 minus advertising cost
 plus/minus increase/decrease in value while
 in inventory
 minus interest cost while in inventory
 minus miscellaneous expenses, if any
 plus anticipated income while in inventory
 equals net recovery value for security property
 total of net recovery value for individual
 property items—net recovery value of col-
 lateral

The above formula is modified for non-essential assets and unaccounted for security.

B. The individual items in the net recovery value formula are computed as follows:

1. Market value of security—the market value of the security based upon a current appraisal.

2. Prior liens—the total of all liens preceding FmHA or its successor agency under Public Law 103-354's security interest, including past due taxes and assessments and subordinations.

3. Property taxes and assessments while in inventory—(annual tax and assessments due divided by 12) × average holding period in months.

4. Depreciation on property—Annual amount of depreciation determined by the County Supervisor, divided by 12 × average holding period in months.

5. Management charges—based upon methods of management used, (acres under management × annual rate per acre) divided by 12 × average holding period in months, or (net income on a monthly basis × percentage fee charged) × average holding period in months, or the anticipated monthly management and maintenance expense × average holding period in months, or the total of the appropriate combination of these.

6. Repairs—as determined necessary by County Supervisor.

7. Legal fees—determined with guidance from the State Director.

8. Sales costs—commission rate × market value of security.

9. Advertising—cost of three-week advertisement 1 time × (average holding period in months divided by 6, rounded to the nearest whole number).

10. Value increase/decrease—annual percentage divided by 12 × average holding period in months × market value.

11. Interest cost during inventory period—(interest rate on 90-day T-Bills × current market value) divided by 12 × average holding period, in months.

12. Average holding period for inventory, in months—determined by the State Director in accordance with FmHA or its successor agency under Public Law 103-354 Instructions.

13. Miscellaneous—any unusual or other expenses associated with acquiring, holding, or selling the property which are not covered by itemized expense items, such as hazardous waste cleanup and surveys.

14. Income—income received every month × average holding period in months + (total of non-monthly income received for the year divided by 12) × average holding period in months.

XI. SUMMARY

At this point, DALRS has finished its calculations. DALRS will consider service programs to the point where a feasible plan has been achieved, or all farmer program loans have been written down completely. DALRS

will provide a report of the results of the calculations performed, including the present value test.

If DALRS does not find a solution that will provide a feasible plan, FmHA or its successor agency under Public Law 103-354 will proceed with the other actions authorized in this subpart, including mediation, offer the opportunity to purchase collateral for net recovery value, and consideration for Preservation Service Programs.

ATTACHMENT 1—FORMULAS USED IN DALRS CALCULATIONS

(For Applications filed for restructuring on or after November 28, 1990)

I. LOAN AMORTIZATION FACTORS

Loan amortization factors are calculated using the following equations:

A. Non-deferred Loan

$$A = [(i(1+i)^n) / ((1+i)^n - 1)]$$

A—amortization factor

i—interest rate

n—term

B. Deferred Loan

$$A = [((i(1+i)^n - i) / ((1+i)^n - 1)) + ((ixt) / (n - t))]$$

A—amortization factor

i—interest rate

n—term

t—deferral period

C. Deferred Interest $A = 1 / (n - t)$

A—amortization factor

n—term

t—deferral period

II. LOAN PAYMENT CALCULATIONS

Loan payments are calculated using the amortization factors rounded to five places. The equations used to calculate the loan payments are:

$$P_1 = (p + c)(a_1)$$

P₁—payment

p—loan principal

c—interest

a₁—amortization factor

Note—P₁ (payment rounded up to the next dollar if it is not an even dollar payment.

$$P_2 = (n)(a_2)$$

P₂—payment on the deferred interest

n—deferred interest

a₂—amortization factor for the deferred interest portion

Note—P₂ (payment on the deferred loan portion) is rounded up to the next dollar if it is not an even dollar payment.

$$P_3 = P_1 + P_2$$

P₃—final loan payment

RHS, RBS, RUS, FSA, USDA

Pt. 1951, Subpt. S, Exh. J-1

P₁—payment on the loan portion
 P₂—payment on the deferred interest portion

III. PRESENT VALUE CALCULATIONS

The net present value factors for each loan are calculated using the following equations:

A. Non-Deferred Loan

$P = \frac{P_1((1+i)^n - 1)}{i(1+i)^n}$
 P—net present value factor
 i—discount rate
 n—term

B. Deferred Loan

$P = \frac{P_1((1+i)^{n-t} - 1)}{i(1+i)^{n-t}} + \frac{P_2}{(1+i)^t}$
 P—net present value factor
 i—discount rate
 n—term
 t—deferral period

The loan net present is calculated using the following equation:

$NPV = P(p)$
 NPV—loan net present value
 P—loan net present value factor
 p—loan payment

IV. CALCULATION FOR UP TO 105% OF DEBT SERVICE MARGIN

Explanation of Terms:
 Original Balance Available is the Balance available established by the Loan Officer.

Debt Service Margin is set by the System initially at 1.05 and reduced incrementally by .01 to 1.00.

Following are the calculation and processing logic.

Debt Service Margin=1.05

While the Debt Service Margin >= 1.00 Do The Following

Balance Available=Original Balance Available/Debt Service Margin

Deferral Balance Available=Original Deferral Balance Available/Debt Service Margin

Process all debt restructuring calculation within the While Loop, i.e.

Reschedule/Reamortize Loans

Deferral of Payments

Write-down the Principal of the Loan, No Deferral of Payments

Write-down the Principal of the Loan, with Deferral of Payments

If a Feasible Plan has not been found or Debt Service Margin <= 1.00 Then:

Debt Service Margin=Debt Service Margin-.01

Loop back up to the "While" loop

End of While Do Loop

(Break out of the "While" loop and complete processing of the DALRS SYSTEM)

V. CALCULATION AND LOGIC FOR \$300,000 DEBT WRITEDOWN AND DEBT WRITEOFF LIMITATION

Explanation of Terms:

Present Value of the Restructured Principal is the value of the debt payments made over the life of the loan in today's dollars.

Principal After Restructuring is the total debt after any outstanding interest is included and any writedown amount is deducted.

Writedown Amount is the amount the principal of the FmHA or its successor agency under Public Law 103-354 debt was reduced to yield a feasible plan.

Debt Service Margin=Balance Available/Total Debt Payments

Net Recovery Value of the Assets=Dollar Value realized by the liquidation of Assets Writeoff=FmHA or its successor agency under Public Law 103-354 Debt Before Attempting Restructuring (i.e. principal and interest before servicing)–Net Recovery Value of the Assets

Basic Code Logic:

Following are the calculation and processing logic in the program.

If 1st year cash available is less than or equal to 0 and Debt Service Margin is equal to 1.00—

Then

If Writeoff is greater than \$300,000

Then

Borrower is not eligible for Net Recovery Buyout

Else

Offer Net Recovery Buyout

Else

If Writedown Amount <= \$300,000

Then

If Present Value of the Restructured Principal >= Net Recovery Value of the Assets

Then

A Feasible Plan has been found to restructure the farmer's debt

Else

If Debt Service Margin is equal to 1.00

Then

If Writeoff <= \$300,000

Then

Offer Net Recovery Buyout

End Processing of Debt Restructuring

Else

The Borrower is not eligible for debt forgiveness

End Processing of Debt Restructuring

Else

Reduce Debt Service Margin by .01

Retry Debt Restructuring at the lower Debt Service Margin

VI. CALCULATION OF AVERAGE NUMBER OF MONTHS OUTSTANDING FOR AN FMHA OR ITS SUCCESSOR AGENCY UNDER PUBLIC LAW 103-354 ANNUAL OPERATING LOAN

This is the average number of months an FMHA or its successor agency under Public

Law 103-354 loan for annual operating expenses will be outstanding. It may be estimated or calculated from the projected advance and payment schedule for the loan.

For example, loan(s) for annual operating expenses are estimated to be \$15,000 and the projected advance and repayment schedule is planned as follows:

Principal balance outstanding	Number of months
15,000	3
8,000	2
6,000	4

Average Months=(3x15,000)+(2x8,000)+(4x6,000)
15,000 (total loans for annual operating expense)

Average Months=(45,000+16,000+24,000)/15,000

Average Months Outstanding=85,000/15,000

Average Months Outstanding=5.7 months
(Round to nearest tenth of month)

[57 FR 18664, Apr. 30, 1992, as amended at 58 FR 30106, May 26, 1993]

EXHIBIT K—NOTIFICATION OF CONSIDERATION FOR PRESERVATION LOAN SERVICE PROGRAMS

Dear (Borrower's Name):

This notice is to inform you that you are being considered for Preservation Loan Service Programs (Homestead Protection and leaseback/Buyback). You applied for these programs when you applied for Primary Loan Service Programs (debt restructuring).

FmHA or its successor agency under Public Law 103-354 was unable to assist you to restructure your FmHA or its successor agency under Public Law 103-354 loans with Primary Loan Service Programs. We will continue to consider you for Homestead Protection and Leaseback/Buyback. We will, however, need the following additional information to complete our processing of your request:

- 1.
- 2.
- 3.

Please provide the above information within 30 days from the date of this letter. If we do not receive the above requested information within 30 days, we will deny your request for Preservation Loan Servicing and you will be notified of your right to appeal FmHA or its successor agency under Public Law 103-354's adverse decision.

If you wish to withdraw your request for Preservation Loan Servicing Program, please complete and return the enclosed Attachment 1, "Response to Notification of Consideration for Preservation Loan Service Programs," within 15 days of the date of this letter.

[FOR INDIVIDUAL BORROWERS ONLY—INSERT EQUAL CREDIT OPPORTUNITY PARAGRAPH]

Sincerely,

County Supervisor, Farmers Home Administration or its successor agency under Public Law 103-354,
U.S. Department of Agriculture

ATTACHMENT 1—RESPONSE TO NOTIFICATION OF CONSIDERATION FOR PRESERVATION LOAN SERVICE PROGRAMS

TO: County Supervisor, Farmers Home Administration or its successor agency under Public Law 103-354.

FROM: (Please Print your Name and Address).

I have read the Notification of Consideration for Preservation Loan Service Programs which I received with this response form.

I want to withdraw my request for preservation loan servicing.

Borrower's Signature

(Date)

[53 FR 35718, Sept. 14, 1988]

EXHIBIT L—HOMESTEAD PROTECTION PROGRAM AGREEMENT

This agreement is entered into this _____ day of _____, 19____, by and between the Farmers Home Administration or its successor agency under Public Law 103-354 (FmHA or its successor agency under Public Law 103-354) of the United States Department of Agriculture and _____ ("Borrower").

Concurrently, with the execution of the pre-acquisition Homestead Protection Program Agreement, the borrower will deliver a completed Form FmHA or its successor agency under Public Law 103-354 1955-1 to FmHA or its successor agency under Public Law 103-354. The Homestead Protection Program Agreement is subject to the provisions of 7 CFR part 1955, subpart A. If FmHA or its successor agency under Public Law 103-354 acquires title to the Homestead Protection property by foreclosure during the processing of a pre-acquisition Homestead Protection Agreement, processing of the agreement will be terminated and the owner will be given Homestead Protection rights pursuant to §1951.911(b) (2)(iii) of 7 CFR part 1951, subpart S.

A. Borrower has received a loan or loans from FmHA or its successor agency under Public Law 103-354 secured by real property which includes the Borrower's dwelling, and adjoining land that is used to maintain the Borrower and the Borrower's family (the Homestead Protection property). In some cases the FmHA or its successor agency

under Public Law 103-354 loan(s) may also have been included one or more outbuildings that are useful to the Borrower and the Borrower's family and in such cases these outbuildings are included in the definition of Homestead Protection property.

B. Borrower's FmHA or its successor agency under Public Law 103-354 loan is in default which could result in the loss of the borrower's Homestead Protection property.

C. Borrower wants to continue to occupy the Homestead Protection property after FmHA or its successor agency under Public Law 103-354 acquires title to it.

D. FmHA or its successor agency under Public Law 103-354 has already determined that Borrower has satisfied the requirements for its Homestead Protection Program.

E. FmHA or its successor agency under Public Law 103-354 agrees to permit Borrower to retain occupancy of the Homestead Protection property on the following terms and conditions:

1. Subject to the terms and conditions set forth below FmHA or its successor agency under Public Law 103-354 agrees to lease the Homestead Protection property, as more particularly described in Attachment 1 attached hereto, to Borrower on the terms and conditions set forth in the lease attached hereto as Attachment 2 (the "lease"). Borrower agrees to enter into the lease of the Homestead Protection property.

2. FmHA or its successor agency under Public Law 103-354's obligation to enter into the lease of the Homestead Protection property is subject to the occurrence of the following conditions:

a. FmHA or its successor agency under Public Law 103-354 acquires fee title to the Homestead Protection property in connection with the liquidation of the farm property of which the Homestead Protection property is a portion.

b. All State and local governmental laws, ordinances and regulations concerning the creation of the Homestead Protection property as a separate legal parcel which can be leased and sold have been satisfied.

3. The term of the lease will begin on the date the later of the conditions set forth in paragraph 2 is satisfied and such date will be inserted into the lease.

4. The term of the lease will be _____ years. This term will be inserted in the lease.

5. The rent to be charged Borrower during the term of the lease will be determined by FmHA or its successor agency under Public Law 103-354 as of the commencement date of the lease and will be in an amount substantially equivalent to rents charged for similar residential properties in the area. This amount will be determined prior to execution of this agreement. The borrower will be notified by letter of the amount of the rent and the amount of the rent will be inserted in the lease form, Form FmHA or its succes-

sor agency under Public Law 103-354 1955-20. If the Borrower disagrees with the rent determined by the County Supervisor, the borrower can appeal this determination pursuant to 7 CFR part 1900, subpart B.

6. Borrower agrees to cooperate with FmHA or its successor agency under Public Law 103-354 in applying for and securing whatever local governmental approvals are necessary in order for the Homestead Protection property to be a separate legal parcel. FmHA or its successor agency under Public Law 103-354 will bear the cost and expense of obtaining such approvals.

7. If the term of the lease has not started on or before 2 years from the date of the agreement, the agreement shall end and be of no further force or effect.

Farmers Home Administration or its successor agency under Public Law 103-354

By: _____
Borrower: _____

Attachment 1, Legal Description of the Property.
Attachment 2, Lease Form, Form FmHA or its successor agency under Public Law 103-354 1955-20.

[57 FR 18669, Apr. 30, 1992]

EXHIBIT M—HOMESTEAD PROTECTION PROGRAM LETTER

UNITED STATES DEPARTMENT OF AGRICULTURE

FARMERS HOME ADMINISTRATION

(Insert Address)

NOTICE OF THE AVAILABILITY OF HOMESTEAD PROTECTION

(Insert Borrower's Name and Address)
(Date)

On [acquisition date], FmHA or its successor agency under Public Law 103-354 acquired the property which was security for your FmHA or its successor agency under Public Law 103-354 loan. FmHA or its successor agency under Public Law 103-354 has a program called the Homestead Protection Program under which you may be allowed to lease (with an option to purchase) the house which you owned and used as your principal residence, a reasonable number of farm outbuildings located near the house that are useful to the occupants of the house, and not more than 10 acres of land adjoining the house. If you would like to be considered for the Homestead Protection Program, you must notify this office, in writing, by [date 90 days from acquisition date] of the buildings and land you wish to retain.

If you would like more information about the Homestead Protection Program, you may contact the County Supervisor at [insert county office telephone number].

Failure to respond by the above date will terminate any rights that you have to lease and purchase the property under the Homestead Protection Program.

Sincerely,
County Supervisor.

[53 FR 35718, Sept. 14, 1988]

EXHIBIT N—LEASEBACK/BUYBACK AGREEMENT

This agreement is entered into this _____ day of _____, 19____, by and between the Farmers Home Administration or its successor agency under Public Law 103-354 ("FmHA or its successor agency under Public Law 103-354") of this United States Department of Agriculture and _____ ("Lessee").

Concurrently with execution of the agreement the borrower must deliver a completed Form FmHA or its successor agency under Public Law 103-354 1955-1 to FmHA or its successor agency under Public Law 103-354. This agreement is subject to the provisions of 7 CFR part 1955, subpart A. If FmHA or its successor agency under Public Law 103-354 acquires title to the leaseback/buyback during the processing of a pre-acquisition Leaseback/Buyback Agreement, processing of the agreement will be terminated and the owner will be given leaseback/buyback rights pursuant to § 1951.911(a)(1)(ii) of 7 CFR part 1951, subpart S.

A. Lessee is eligible for the FmHA or its successor agency under Public Law 103-354 leaseback program under 7 CFR part 1951, subpart S, for the real property described on the enclosed attachment 2 (the "leaseback property").

B. FmHA or its successor agency under Public Law 103-354 has not yet acquired title to the leaseback property but agrees to lease it to Lessee on the following terms and conditions when FmHA or its successor agency under Public Law 103-354 acquires clear title to it:

1. Subject to the terms and conditions set forth below, FmHA or its successor agency under Public Law 103-354 agrees to lease the leaseback property to Lessee on the terms and conditions set forth in the lease, Form FmHA or its successor agency under Public Law 103-354 1955-20. Borrower agrees to enter into the lease of the leaseback property.

2. FmHA or its successor agency under Public Law 103-354's obligation to enter into the lease of the leaseback property is subject to the occurrence of the following conditions.

a. FmHA or its successor agency under Public Law 103-354 acquires clear title to the

leaseback property in connection with the liquidation of the owner's interest in that property.

b. If someone other than the Lessee is eligible for and has or may exercise Homestead Protection rights under 7 CFR part 1951, subpart S, the leaseback property will be reduced by the Homestead Protection property. FmHA or its successor agency under Public Law 103-354's obligation to lease the remaining leaseback property is contingent on FmHA or its successor agency under Public Law 103-354's determination that all State and local laws, ordinances and regulations concerning the creation of the Homestead Protection property as a separate legal parcel which can be leased have been satisfied.

3. The term of the lease will begin on the date the latter of the conditions set forth in paragraph 2 is satisfied and such date will be inserted into the lease.

4. The term of the lease will be _____ years. This term will be inserted in the lease.

5. The rent will be an amount equal to that for which similar properties in the area are being leased. This amount will be determined prior to the execution of this agreement and the agreed upon rent entered in the lease form, Form FmHA or its successor agency under Public Law 103-354 1955-20. If the Lessee disagrees with the rents determined by the County Supervisor, the Lessee can appeal this determination pursuant to 7 CFR part 1900, subpart B.

6. The property, upon acquisition by FmHA or its successor agency under Public Law 103-354, will be subject to any applicable USDA restrictions regarding the use of property containing wetlands, floodplains and/or highly erodible lands.

7. If the lease term has not started on or before 2 years from the date of this agreement, the agreement will end and be of no further force or effect. The borrower may appeal this decision pursuant to 7 CFR part 1900, subpart B.

Farmers Home Administration or its successor agency under Public Law 103-354 Lessee

By: _____

County Supervisor

Date: _____

[57 FR 18670, Apr. 30, 1992]

EXHIBIT O—NOTICE OF AVAILABILITY OF LEASEBACK/BUYBACK

(For use by the County Supervisor to advise a former owner who held title to the property of the availability of leaseback/buyback)

RHS, RBS, RUS, FSA, USDA

Pt. 1951, Subpt. S, Exh. P

United States Department of Agriculture
Farmers Home Administration or its successor agency under Public Law 103-354

(Location)

Certified Mail
Return Receipt Requested

(Name and Address)

Date: _____

Dear _____:

The farm that you once owned may be available for you to buy or lease under certain conditions set out in Farmers Home Administration or its successor agency under Public Law 103-354 (FmHA or its successor agency under Public Law 103-354) leaseback/buyback regulations, 7 CFR part 1951, subpart S. FmHA or its successor agency under Public Law 103-354 acquired this property on _____. The FmHA or its successor agency under Public Law 103-354 leaseback/buyback program may permit you to lease or purchase the property. You may select the terms of the lease which may be from 1 year to 5 years. The purchase may be for cash or under certain circumstances FmHA or its successor agency under Public Law 103-354 may be able to finance the purchase of the property through a credit sale. If you would like to know more about the leaseback/buyback program, please contact the County Supervisor at _____. In order to be considered for leaseback/buyback, you must make application at the County Office not later than (enter the date 180 days from acquisition or period longer than 180 days if applicable State laws prescribe a longer period). We recommend that if you are interested in leasing or purchasing the property, you should immediately contact the County Office to determine if a lease or purchase agreement can be entered into.

[If the borrower was an individual] If you are not interested in purchasing or leasing the property and if you have a spouse or child who are actively engaged in farming, they have a preference to buy or lease the property. It will be your responsibility to notify your spouse and child of their possible rights to lease or buy the property. You should have them contact the County Supervisor if they are interested in leasing or buying the property or want more information. In order to participate in the leaseback/buyback program they must make application not later than (enter the date 190 days from date of acquisition or period longer than 190 days if applicable State laws prescribe a longer period). If you have a spouse or child that are interested in leasing or purchasing the property, we recommend they immediately contact the County Office to

determine if a lease or purchase agreement can be entered into.

[If the borrower was an entity] If you are not interested in purchasing or leasing the property the shareholders (if the borrower was a corporation owned exclusively by members of the same family), partners (if the borrower was a partnership whose partners are exclusively members of the same family), or members (if the borrower was a joint operation or cooperative whose members are exclusively members of the same family) may have a preference to lease or purchase the farm. In order to qualify for leaseback/buyback the individual must be actively engaged in farming. You must have these people contact the County Supervisor if they are interested in leasing or buying the property or want more information. In order to participate in the leaseback/buyback program they must make application not later than (enter the date 190 days from date of acquisition or period longer than 190 days if applicable State laws prescribe a longer period). If any of these individuals are interested in leasing or purchasing the property, we recommend they immediately contact the County Office to determine if a lease or purchase agreement can be entered into.

Under some circumstances, an operator (lessee) of the property at the time FmHA or its successor agency under Public Law 103-354 acquired it may have a preference in leasing and purchasing the property. Please advise us immediately of the name and address of any lessee of the farm who was operating the farm when FmHA or its successor agency under Public Law 103-354 acquired it.

[If the property has a dwelling] This property has a dwelling which is subject to the FmHA or its successor agency under Public Law 103-354 Homestead Protection regulations 7 CFR 1951, subpart S. If you are eligible for Homestead Protection, you will be notified in a separate letter. If someone else has Homestead Protection rights, then Homestead Protection rights will take priority over leaseback/buyback rights.

Failure to apply for leaseback/buyback by (insert date 180 days from date of acquisition or longer period than 180 days if applicable State laws prescribe a longer period) will terminate any rights that you have to purchase or lease the property under the leaseback/buyback regulations.

Sincerely,

COUNTY SUPERVISOR.

[57 FR 18670, Apr. 30, 1992]

EXHIBIT P—NOTICE OF AVAILABILITY OF LEASEBACK/BUYBACK

(For use by the County Supervisor to advise operators of the availability of leaseback/buyback)

UNITED STATES DEPARTMENT OF AGRICULTURE

FARMERS HOME ADMINISTRATION

(Location)

CERTIFIED MAIL RETURN RECEIPT REQUESTED

(Name and Address)

Date: _____

Dear: _____

The farm that was previously owned by _____ (former owner) and operated (leased) by you may be available for you to purchase or lease under certain conditions set out in Farmers Home Administration or its successor agency under Public Law 103-354 (FmHA or its successor agency under Public Law 103-354) leaseback/buyback regulations 7 CFR part 1951, subpart S. The FmHA or its successor agency under Public Law 103-354 leaseback/buyback program may permit you to lease or purchase the property. You may select the term of the lease which may be from 1 year to 5 years. The purchase may be for cash or under certain circumstances FmHA or its successor agency under Public Law 103-354 may be able to finance the purchase of the property through a credit sale. If you would like to know more about the leaseback/buyback program, please contact the FmHA or its successor agency under Public Law 103-354 County Supervisor at _____. In order to be considered for leaseback/buyback, you must make application for leaseback or buyback at the County Office by (enter the date 30 days from date of this letter).

Failure to respond by this date will terminate any rights that you have to purchase or lease the property.

Sincerely,

County Supervisor.

[53 FR 35718, Sept. 14, 1988]

EXHIBIT Q—WAIVER OF LEASEBACK/BUYBACK RIGHTS

(For use by the previous owner, any individual or entity to waive any rights to leaseback/buyback)

I (we) acknowledge that in accordance with the provisions of the Agricultural Credit Act of 1987 and Farmers Home Administration or its successor agency under Public Law 103-354 (FmHA or its successor agency under Public Law 103-354) leaseback/buyback pro-

gram, I (we) have certain rights to lease or purchase the property that [I (we) formerly owned— or [was formerly owned by (name of previous owner)] which was acquired by FmHA or its successor agency under Public Law 103-354 on [date of foreclosure or voluntary conveyance]. I (we) elect not to be considered for leaseback/buyback and hereby waive all rights to lease or purchase the subject property.

Date: _____

Date: _____

[53 FR 35718, Sept. 14, 1988]

Subpart T—Disaster Set-Aside Program

SOURCE: 60 FR 46756, Sept. 8, 1995, unless otherwise noted.

§ 1951.951 Purpose.

This subpart sets forth the policies and procedures for the Disaster Set-Aside (DSA) Program. The DSA program is available to Farm Credit (FC) Programs borrowers, as defined in subpart S of this part, who suffered losses as a result of a natural disaster. FC loans that may be serviced under this subpart include Farm Ownership (FO), Operating (OL), Soil and Water (SW), Emergency (EM), Economic Emergency (EE), Special Livestock (SL), Economic Opportunity (EO), Softwood Timber (ST), Recreation (RL), and Rural Housing loans for farm service buildings (RHF). Nonprogram (NP) farm type loans may be serviced under this subpart for borrowers who also have FC loans.

§ 1951.952 General.

DSA is a program whereby borrowers who are current or not more than one installment behind on any and all FC loans may be permitted to move one scheduled annual installment for each eligible FC loan to the end of the loan term. The intent of this program is to relieve some of the borrower's immediate financial stress caused by the disaster and avoid foreclosure by the Government. DSA is not intended to circumvent the servicing available under subpart S of this part.