

§ 1955.57

7 CFR Ch. XVIII (1-1-09 Edition)

not violate the provisions of the Coastal Barrier Resources Act (CBRA). Pursuant to the requirements of the CBRA, and except as specified in paragraphs (b) and (c) of this section, no maintenance or repair action may be taken for property located within a CBRS where:

(1) The action goes beyond maintenance, replacement-in-kind, reconstruction, or repair and would result in the expansion of any roads, structures or facilities. Water and waste disposal facilities as well as community facilities may be improved to the extent required to meet health and safety requirements but may not be improved or expanded to serve additional users, patients, or residents;

(2) The action is inconsistent with the purposes of the CBRA; or

(3) The property to be repaired or maintained was initially the subject of a financial transaction that violated the CBRA.

(b) *Administrator's review.* Any proposed maintenance or repair action that does not conform to the requirements of paragraph (a) of this section must be forwarded to the Administrator for review and approval. Approval will not be granted unless the Administrator determines, through consultation with the Department of the Interior, that the proposed action does not violate the provisions of the CBRA.

(c) *Emergency provisions.* In emergency situations to prevent imminent loss of life, imminent substantial damage to the inventory property or the disruption of utility service, the approval official may take whatever minimum steps are necessary to prevent such loss or damage without first consulting with the appropriate Regional Director of the U.S. Fish and Wildlife Service. However, the Regional Director must be immediately notified of any such emergency action.

**§ 1955.57 Real property containing underground storage tanks.**

Within 30 days of acquisition of real property into inventory, FmHA or its successor agency under Public Law 103-354 must report certain underground storage tanks to the State agency identified by the Environmental Protection

Agency (EPA) to receive such reports. Notification will be accomplished by completing an appropriate EPA or alternate State form, if approved by EPA. A State supplement will be issued providing the appropriate forms required by EPA and instructions on processing same.

(a) Underground storage tanks which meet the following criteria must be reported:

(1) It is a tank, or combination of tanks (including pipes which are connected thereto) the volume of which is ten percent or more beneath the surface of the ground, including the volume of the underground pipes; and

(2) It is not exempt from the reporting requirements as outlined in paragraph (b) of this section; and

(3) The tank contains petroleum or substances defined as hazardous under section 101(14) of the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. 9601. The State Environmental Coordinator should be consulted whenever there is a question regarding the presence of a regulated substance; or

(4) The tank contained a regulated substance, was taken out of operation by FmHA or its successor agency under Public Law 103-354 since January 1, 1974, and remains in the ground. Extensive research of records of inventory property sold before the effective date of this section is not required.

(b) The following underground storage tanks are *exempt* from the EPA reporting requirements:

(1) Farm or residential tanks of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes;

(2) Tanks used for storing heating oil for consumptive use on the premises where stored;

(3) Septic tanks;

(4) Pipeline facilities (including gathering lines) regulated under: (i) The Natural Gas Pipeline Safety Act of 1968; (ii) the Hazardous Liquid Pipeline Safety Act of 1979; or (iii) for an intrastate pipeline facility, regulated under State laws comparable to the provisions of law referred to in (b)(4) (i) or (ii) of this section;

(5) Surface impoundments, pits, ponds, or lagoons;

(6) Storm water or wastewater collection systems;

(7) Flow-through process tanks;

(8) Liquid traps or associated gathering lines directly related to oil or gas production and gathering operations; or

(9) Storage tanks situated in an underground area (such as a basement, cellar, mineworking, drift, shaft, or tunnel) if the tank is situated upon or above the surface of the floor.

(c) A copy of each report filed with the designated State agency will be forwarded to and maintained in the State Office by program area.

(d) Prospective purchasers of FmHA or its successor agency under Public Law 103-354 inventory property with a reportable underground storage tank will be informed of the reporting requirement, and provided a copy of the form filed by FmHA or its successor agency under Public Law 103-354.

(e) In a State which has promulgated additional underground storage tank reporting requirements, FmHA or its successor agency under Public Law 103-354 will comply with such requirements and a State supplement will be issued to provide necessary guidance.

(f) Regardless of whether an underground storage tank must be reported under the requirements of this section, if FmHA or its successor agency under Public Law 103-354 personnel detect or believe there has been a release of petroleum or other regulated substance from an underground storage tank on an inventory property, the incident will be reported to the appropriate State Agency, the State Environmental Coordinator and appropriate program chief. These parties will collectively inform the servicing official of the appropriate response action.

**§§ 1955.58–1955.59 [Reserved]**

**§ 1955.60 Inventory property subject to redemption by the borrower.**

If inventory property is subject to redemption rights, the State Director, with prior approval of OGC, will issue a State Supplement giving guidance concerning the former borrower's rights, whether or not the property may be leased or sold by the Government, payment of taxes, maintenance, and any

other items OGC deems necessary to comply with State laws. Routine care and maintenance will be provided according to §1955.64 of this subpart to preserve and protect the property. Repairs are limited to those essential to prevent further deterioration of the property or to remove a health or safety hazard to the community in accordance with §1955.64(a) of this subpart unless State law permits full recovery of cost of repairs in which case usual policy on repairs is applicable. If the former borrower with redemption rights has possession of the property or has a right to lease proceeds, FmHA or its successor agency under Public Law 103-354 will not rent the property until the redemption period has expired unless the State Director obtains prior authorization from OGC. Further guidance on sale subject to redemption rights is set forth in §1955.138 of Subpart C of this part.

[54 FR 20522, May 12, 1989]

**§ 1955.61 Eviction of persons occupying inventory real property or dispossession of persons in possession of chattel property.**

Advice and assistance will be obtained from OGC where eviction from realty or dispossession of chattel property is necessary. Where OGC has given written authorization, eviction may be effected through State courts rather than Federal courts when the former borrower is involved, or through local courts instead of Federal/State courts when the party occupying/possessing the FmHA or its successor agency under Public Law 103-354 property is not the former borrower. In those cases, a State Supplement will be issued to provide explicit instructions. For MFH, eviction of tenants will be handled in accordance with 7 CFR part 3560, subpart D and with the terms of the tenant's lease. If no written lease exists, the State Director will obtain advice from OGC.

[54 FR 20522, May 12, 1989, as amended at 69 FR 69106, Nov. 26, 2004]

**§ 1955.62 Removal and disposition of nonsecurity personal property from inventory real property.**

If the former borrower has vacated the inventory property but left items