

PART 1951 - SERVICING AND COLLECTIONS

Subpart K - Predetermined Amortization Schedule System (PASS)
Account Servicing

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PART 1951 - SERVICING AND COLLECTIONS

Subpart K - Predetermined Amortization Schedule System (PASS)
Account Servicing

§1951.501 General.

(a) This subpart prescribes the policies, authorizations, and procedures for implementing and servicing PASS for all of the following Rural Housing Service (RHS) Multiple Family Housing (MFH) loan recipients which includes Farm Labor Housing (LH) and Rural Rental Housing (RRH) including Rural Cooperative Housing (RCH) and Congregate Housing and includes:

(1) All MFH loans, credit sales, reamortizations, and transfers closed on or after May 1, 1985, and

(2) All MFH loan recipients converting from the Daily Interest Accrual System (DIAS) to PASS according to §1951.517 of this subpart, except:

(i) Seasonal LH and LH loans to individual farmers may be closed on monthly or annual payment schedules and also may be closed on Daily Interest Accrual under Subpart A of Part 1951 of this chapter. Instructions for scheduling payments are according to the Forms Manual Insert (FMI) for Form RD 1944-52, "Multiple Family Housing Promissory Note."

(ii) Rural Housing Site loans and Site Option (SO) loans will be closed and serviced on Daily Interest Accrual under Subpart A of Part 1951 of this chapter. Payment billing is subject to §1951.506 of this subpart.

(b) All MFH loan recipients not described in paragraph (a) of this section will continue to be subject to the servicing and collection requirements of Subpart A of Part 1951 of this chapter. For the purposes of this subpart, all references to "County Supervisor" in Subpart A of Part 1951 shall be construed to mean "District Director."

(c) All RHS MFH loans (RRH, RCH, LH, RHS, and SO) whether DIAS or PASS, are subject to the definitions contained in §1951.504 of this subpart, and payment application as outlined in §1951.510 of this subpart.

(d) All MFH loan payments will be processed using Exhibit A of this subpart (available in any Rural Development office).

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Account Servicing
Servicing and Collections

§1951.502 [Reserved]

§1951.503 Authorities and responsibilities.

District Directors are responsible for administering this subpart under the general guidance and supervision of the State Director. The District Office Management System will be fully used to accomplish this responsibility.

§1951.504 Definitions and statements of policy. (Revised 05-07-97, SPECIAL PN.)

Advance regular payment. Regular payments made at election of the borrower to pay the account ahead of schedule. These payments may be either full or partial payments and will be applied to the amortized payment schedule by the Finance Office.

Amortization schedule. An amortization schedule is the projected application of periodic payments to principal and interest at the promissory note rate so the debt will be paid in full over the number of periods specified in the promissory note, assumption agreement (new terms), or reamortization agreement. Computation is based on a 30-day month and a 360-day year.

Amortized recoverable costs. Recoverable cost items may be amortized over a period up to 5 years. This function will allow the servicing official to voucher recoverable cost items such as taxes.

- (1) Payment of real estate taxes. When a borrower's taxes are paid by voucher, the amortization period of the tax advance will be the number of months for which the taxes are being vouchered with a maximum of 5 years.
- (2) Costs other than real estate taxes. Advances for costs other than real estate taxes will be amortized for 12 months unless, based on the borrower's repayment ability, a longer period is needed. An amortization period of more than 12 months will be used only when the cost is of a nonrecurring type. In no case, however, will the repayment period exceed 5 years.
- (3) Retroactive amortization of recoverable costs. Recoverable costs which have been vouchered since May 1, 1985, may, with National Office approval, be retroactively amortized for applicable time periods as shown in paragraphs (c)(1) and (c)(2) of this Section, if payments made since the costs were vouchered are sufficient to bring both the loan and cost accounts current. The following information should be forwarded to the National Office for

§1951.504 (c)(3) (Con.)

approval of the reclassification to amortized status, and forwarded to the Finance Office for processing: An audit showing all costs vouchered along with payments made since the Date of the cost item and to be made prior to the reclassification; the estimated reapplication of the payments due to reclassification showing that the account will be current after the reclassification; and the proposed budget and management case files.

Audit receivables. Loan, grant or subsidy funds which were used by the borrower for unauthorized purposes; have been identified by the Office of Inspector General (OIG) in an audit; and, which RHS is requiring the borrower to repay.

Conversion. The act of changing a borrower's account from DIAS to PASS.

Daily Interest Accrual System (DIAS). A system whereby interest is charged daily from the Date a payment is received in the District Office to the next Date a payment is received. A daily interest accrual factor is computed by multiplying the outstanding principal balance by the effective interest rate and dividing by 365 days. Computation is always based on a 365 day year. Interest on each payment is charged on the actual number of days that a principal balance is outstanding.

District Director. For the purpose of this subpart the term includes the Assistant District Director, and other qualified District staff who may be delegated responsibilities according to §1930.143 of Subpart C of Part 1930 of this chapter, and the provisions of Subpart F of Part 2006 of this chapter (available in any Rural Development office). In the case of LH loans still being serviced in the County Office, this definition also includes qualified County Office staff. This definition further includes the Area Loan Specialists in Alaska, Island Directors in Hawaii, Directors of Western Pacific Territories, and other qualified staff members in Alaska, Hawaii, and Western Pacific Territories, respectively.

Extra payment. Extra payments are applied all to principal on the end of the loan and are funds derived from:

- (1) Sale of basic chattel or real estate security, including rental or lease of real estate security of a depreciating or depleting nature.

- (2) Refinancing of real estate debt.
- (3) Mineral royalties.
- (4) Cash proceeds of real property insurance as provided in Subpart A of Part 1806 of this chapter (RD Instruction 426.1).
- (5) Sale of real estate not mortgaged to the Government, pursuant to a condition of loan approval.
- (6) Transactions of a similar nature which reduce the value of the security for the loan(s).

Non-recoverable costs. Payments charged to a loan program insurance fund by use of a fund code. These costs are only incurred after Government acquisition of title to the property, and are therefore charged to an inventory account.

Overage. This term refers to both "overage" and "surcharge" described in Exhibit H to Subpart C of Part 1930 of this chapter. (Revised 01-27-92, SPECIAL PN.)

Payment effective Date. The payment effective Date is the day of the month on which payments will be effectively applied to the account by the Finance Office for the month payment is due regardless of the payment reception Date. On PASS all payments will be applied as of the first day of the month.

Payment reception Date. The day of the month the payment is received in the District Office.

Predetermined Amortization Schedule System (PASS). System whereby RHS will apply loan payments based on an amortization schedule.

Project late fee. The amount charged a borrower's project account for a delinquent payment according to §1951.510 (c)(2) of this subpart, or when an uncollectible regular payment has been processed according to §1951.506 (c) of this subpart.

Promissory note installment. The unrounded amortized installment shown on the promissory note, conversion agreement, assumption agreement or reamortization agreement, whichever is currently in effect.

Recoverable costs. Additional project costs such as vouchered insurance or taxes which RHS requires a borrower to pay.

Refund payment. Payments from unused loan funds which are applied to principal on the end of the loan account.

Regular payment. All monthly payments scheduled according to PASS. Does not include extra payments, advance regular payments, refund payments or voluntary additional principal payments.

Subsidized installment. The promissory note installment reduced by the terms of Form RD 1944-7, "Multiple Family Housing Interest Credit and Rental Assistance Agreement." The subsidized installment is the unrounded amortized installment computed at the subsidized interest rate.

Subsidy credit. The difference between a borrower's monthly promissory note installment and the monthly subsidized installment.

Voluntary additional principal payment. Payments applied all to principal which are made at the election of the borrower in addition to regularly scheduled payments and with RHS approval. Such payments will not affect the schedule payment status or change the amount of the regular monthly payments. Funds for voluntary additional principal payments are derived from sources other than extra payment sources. Payments will be applied to current loans only.

§1951.505 [Reserved]

§1951.506 Processing payments.

(a) Regular payments. Regular payments and advance regular payments will be processed as follows:

(1) All payments will be based on tenants occupying the units as of the first day of the month prior to the payment due date. For example, a payment due on July 1 is based on tenants occupying the units June 1. For the purposes of this subpart, the word "tenant" also means RCH "members." (Revised 08-30-93, SPECIAL PN.)

(2) The borrower must deliver all Forms RD 1944-8, "Tenant Certification," or for tenants receiving Section 8 assistance, the acceptable Department of Housing and Urban Development (HUD) form to the District Director according to paragraph VII F 1 of Exhibit B to Subpart C to Part 1930 of this chapter. The District Director will date stamp each certification and will verify the information on the tenant certification also as required in paragraph VII F of Exhibit B to Subpart C of Part 1930 of this chapter. The data from the tenant certifications must be entered into the Multi-Family Housing Tenant File System (MTFS) which will calculate the tenant's rent payment. (Revised 08-30-93, SPECIAL PN.)

(i) If the calculations on the tenant certification do not agree with MTFS, the District Office will contact the borrower/management to resolve the discrepancy. MTFS calculations will be used to calculate interest credit and rental assistance due the borrower.

(ii) A copy of the MTFS "Project Worksheet - Interest Credit and Rental Assistance," an automated printout report will be generated and compared to the borrower's Form RD 1944-29, "Project Worksheet for Interest Credit and Rental Assistance." Only tenants with current tenant certifications shown on MTFS will be certified for interest credit or rental assistance when processing payments.

(iii) A copy of the monthly MTFS project worksheet report will be filed with Form RD 1944-29 to document the approved subsidies.

(iv) At the borrower's request, a copy of the MTFS project worksheet report may be used as Parts I and II in lieu of Form RD 1944-29. The District Office will provide a copy of the MTFS project worksheet report to the borrower about the about the 20th of the month. When using

§1951.506 (a)(2)(iv) (Con.)

the MTFFS project worksheet report as Parts I and II of Form RD 1944-29, the borrower will verify the data, sign the MTFFS project worksheet report and return it with the monthly payment to the District Office. Borrowers using the MTFFS project worksheet report as Part II, only, will complete, sign and attach Part I of Form RD 1944-29 to the MTFFS project worksheet report, before returning it with the monthly payment. Borrowers with Section 8 units who are reporting overage payment, and/or excess HUD contract rent to the reserve account are required to complete Part I of either Form RD 1944-29 or the MTFFS project worksheet report.

(3) On or about the 11th day of each month, the Finance Office will generate and mail to each borrower that is delinquent and/or has late fees Form RD 1944-9A, "Multiple Family Housing Statement of Payment Due," showing the current monthly payment due, unpaid late fees, and delinquent payments, if any, due on the first day of the following month. This payment statement will be determined from current Finance Office records but will not reflect overage due from the borrower or rental assistance (RA) due the borrower. (Revised 05-07-97, SPECIAL PN.)

(4) Each borrower will submit to the District Office Form RD 1944-29 with the required monthly payment indicated or adjusted as indicated in paragraph (a)(5) of this section regardless of whether or not Form RD 1944-9A is received. (Revised 11-02-94, PN 236.)

(5) Form RD 1944-29, prepared by the borrower must reflect the following:

(i) Only tenants occupying units the first day of the month prior to the payment due date. (Revised 08-30-93, SPECIAL PN.)

(ii) Interest credit and RA may be claimed only for tenants with current tenant certification as specified in paragraph VII F of Exhibit B to Subpart C of Part 1930 of this chapter. (Revised 08-30-93, SPECIAL PN.)

(iii) Overage up to the market rent must be paid to RHS by the borrower for tenants without current tenant certifications unless there is a formal eviction in process, then the payment will be based on the expired tenant certification. The District Director may determine that the tenant may be required to reimburse the borrower for that overage as allowed in paragraph VII F 6 c of Exhibit B to Subpart C of Part 1930 of this chapter. (Revised 08-30-93, SPECIAL PN.)

(iv) The borrower may subtract any RA due the project (supported by current tenant certifications) from the payment due and remit a "net" payment. Calculations supporting the "net" payment must be shown on Part I of Form RD 1944-29. The Finance Office will net enough RA to bring the account status current and pay any unpaid overage, late fees, interest on delinquent principal, etc., based on the payment reception date. If the account is on or ahead of schedule on the payment reception date, enough RA will be netted to pay one full installment and any unpaid overage, interest on delinquent principal, etc. (Renumbered and Revised 05-07-97, SPECIAL PN.)

(6) The District Director will verify that data on current tenant certifications held in the District Office supports claims on Form RD 1944-29. The District Director will prepare Form RD 1951-55, "Collection Log" and input the payments through District Office terminals.

(7) Payment input by RHS will be based on correct amounts regardless of the amount remitted by the borrower.
(Added 08-30-93, SPECIAL PN.)

(b) Other payments. Payments made through the District Office will be processed according to Subpart B of Part 1951 of this chapter (available in any Rural Development office).

(c) Uncollectible payment. Uncollectibles will be handled under Subpart B of Part 1951 of this chapter. The payment effective date will be the day of the month on which the replacement payment is received in the District Office. (Revised 08-30-93, SPECIAL PN.)

§1951.507 Maintaining borrower accounts.

(a) Accounts of active borrowers. The foundation for proper and timely debt payment is sound budgeting and monthly review of income and expenses by the borrower and, as necessary, the District Office staff. Account maintenance, therefore, must begin with initial planning and must be an integral part of ongoing analysis, planning and follow-up management assistance.

(b) Accounts of collection-only borrowers. Collection only accounts will be serviced according to §1951.7 (b) of Subpart A of this part.

(c) Notifying borrowers of late fees and past due payments. The Finance Office will automatically notify each borrower of late fees for payments which were unpaid on the 10th day of the month. A copy of the notice will be mailed to the District Office servicing the account.

(d) Subsequent servicing. Delinquent accounts will be serviced according to the respective program requirements. Accounts will also be serviced under Subpart B of Part 1965 of this chapter.

(e) District Office monitoring. District Offices should review each account at least monthly by accessing the Automated Multi-Housing Accounting System (AMAS) through field office terminals. For projects on PASS the Management System card will be flagged with an orange signal between Position "5" and "RRH." Exhibit A-1 of this subpart (available in any Rural Development office) should be used to track payments. (Revised 08-30-93, SPECIAL PN.)

§1951.508 [Reserved]

§1951.509 Occupancy surcharges. (Revised 01-27-92, SPECIAL PN.)

(a) Authorization to Collect Occupancy Surcharge. Public Law 101-235 enacted December 15, 1989, and amended by Public Law 101-625, prescribed provisions for RHS to collect an additional monthly amount from borrowers on all initial Section 515 loans made or insured pursuant to a contract entered into on or after December 15, 1989. (Revised 05-07-97, SPECIAL PN.)

(1) A contract entered into for this purpose is when a completed Form RD 1944-51, "Multiple Family Housing Obligation - Fund Analysis," is properly delivered to the borrower on or after December 15, 1989. (That delivery date is the date entered in Item 51 on Form RD 1944-51).

RD Instruction 1951-K
§1951.509 (a) (Con.)

(2) The term "occupancy surcharge" shall be used hereafter to describe this additional monthly charge.

(b) Termination of Authority to Collect Occupancy Surcharge. Public Law 104-193, enacted August 22, 1996, eliminated the collection of occupancy surcharge payments. (Revised 05-07-97, SPECIAL PN.)

§1951.509 (b) (Con.)

unit each year thereafter for 19 years. The amount of the surcharge assessment which the tenant pays will be based on the income level of each tenant household. Tenant households who pay more than 30 percent of their annual adjusted income in rent and utilities will not be required to pay occupancy surcharge.

(1) Annual increases will cease 20 years from the date of the first surcharge payment due on the initial or oldest loan in the project.

(2) Surcharge payments will continue after the annual increase period has expired, but surcharge unit assessments will remain at the levels established at year 20 of the initial loan for the remaining life of the loan.

(3) If a subsequent loan is made and the initial loan in the project is subject to occupancy surcharge, the annual increase period will still expire 20 years from the first surcharge payment due on the initial loan.

(c) Increases in Tenant Contribution Due to Occupancy Surcharges.

Borrower/Managers are responsible for initiating and monitoring surcharge annual increases and all surcharge increases and decreases due to change in tenant contributions. These changes require no prior review by RHS. All tenants must be notified of any changes in their surcharge contribution in the following manner:

(1) Tenants moving into newly constructed projects in their first year of operation should be informed of the occupancy surcharge requirements when their lease and initial tenant certification is signed. They should also be apprised at that time of possible surcharge changes based on their income levels.

(2) When there are surcharge changes due to income changes and regular recertifications, the current signed tenant certification showing the level of surcharge due will serve as notification of the change.

(3) Tenants who experience surcharge changes due to the annual \$2 per unit increase on the surcharge anniversary date must be sent a notification of the change in accordance with exhibit B of this subpart.

§1951.509 (Con.)

(c) Occupancy Surcharge Account. Occupancy surcharge monies collected by RHS were deposited in the Rural Housing Insurance Fund (RHIF) in such a manner as to accrue interest on the total amount of funds collected. These monies will be made available only for payments of principal and interest on guaranteed equity loans made under the authorization of Section 515 of the HUD Act of 1989. Payments from the occupancy surcharge account will only be in amounts necessary to ensure that additional project expense from the incurred guaranteed equity loan does not raise rent payments above prescribed maximum rent levels necessary to operate the project. Any monies not expended in the project from which the payments were made will be used in other projects to make payments of principal and interest on a guaranteed equity loan.

(d) Occupancy Surcharge Takeout. The method for allowing payments on these guaranteed equity loans out of the occupancy surcharge account will be forthcoming at such time as needed and will conform with appropriate legislative requirements in effect at that time.

§1951.510 Payment application.

(a) Regular payment due Date. The regular payment due date is the first day of each month. All months will be counted as 30 days (360 day year).

(b) First regular payment.

(1) The first regular amortized payment after loan closing for transfers (new terms), reamortizations, voluntary conversions, credit sales, or loans closed after interim financing must be at least one (1) month from closing. For example, if a loan is closed on January 31, the first regular amortized payment will be due March 1. For multiple advance loans the first payment must be at least one (1) month after the final advance.

(2) For transfers (same terms) payments on loans already on PASS will be due on the next scheduled due date.

(3) Transfers (same terms) converting from DIAS to PASS are loans retaining the same interest rate and final due date and regular amortized payments will be due 30 days from either the date of closing or the interest only installment, whichever is later.

(c) Delinquent payments.

(1) A loan payment is due on the first day of a month. A loan payment is considered past due when it is received on the second day or a subsequent day through the close of business of the tenth day of the month. A loan payment is late when it is received after normal business hours of the tenth day of the month, without regard to weekends, holidays, or payment transmission factors. Thereafter, a late fee will be charged as described in paragraphs (c)(2) and (c)(4) of this section. (Revised 08-30-93, SPECIAL PN.)

(2) The project account will be charged a late fee when the regular payment is not received in the District Office by close of business of the tenth (10) day of the month the payment is due or when the payment is applied by the Finance Office and does not fully pay the regular payment and other charges for each project loan. Late fees collected by the Finance Office will be deposited in the Rural Housing Insurance Fund (RHIF). (Revised 08-30-93, SPECIAL PN.)

(i) The project late fee is six percent of the total regular payment(s) due shown on the promissory note(s), conversion agreement(s), assumption agreement(s) or reamortization agreement(s).

(ii) A project late fee will be charged for any unpaid portion of the regular payment(s) exceeding \$15.00.

(iii) A project late fee will be charged one time only, for each regular payment.

(iv) Except for cooperative housing, project late fees may not be paid from project income as specified in paragraph XIII B 2 a (4) of Exhibit B to Subpart C of Part 1930 of this chapter.

(v) Exceptions may be made to late fee charges only as follows:

(A) The State Director may allow an exception for any project for three (3) monthly project late fee charges in any calendar year, based on the State Director's determination that the late fees place an unfair burden on the project. For each exception requested, the borrower must provide a written explanation of the circumstances which caused the late payment and what actions will be taken to bring the account current.

(B) The National Office may authorize exceptions to late fees for borrowers who have late fees exceeding the State Director's exception authority. When the State Director determines that the application of a late fee would place an unfair burden on the borrower, the State Director may submit a request for an exception to the late fee to the National Office. The request will include an explanation of the circumstances, a recommendation for action and all relevant case file material. The National Office will review the request and notify the State Director what action should be taken on the account.

(C) When an exception to late fees is granted, the State Director will notify the Finance Office and the borrower on Form RD 1951-51, "Multiple Family Housing Exception to Late Fees," completed according to the FMI.

(D) When an application for late fee exception is denied the State Director must give the borrower appeal rights under Subpart B of Part 1900 of this chapter.

(3) A project is considered delinquent on the 30th day of the month when any due amount is unpaid. (Added 08-30-93, SPECIAL PN.)

(4) When a regular PASS payment continues to be delinquent on the first of the month following the delinquent payment due date, interest will be charged on the unpaid delinquent principal at the note rate from the date the principal was due until all regular payments, recoverable cost charges, late fees and occupancy surcharges have been paid current in accordance with the number of full installments required by the promissory note. This interest will be in addition to the scheduled interest of the regular payment. The interest on delinquent principal will be added to the regular payment amount due for the month. (Revised and renumbered 08-30-93, SPECIAL PN.)

(d) Subsidy credit. When the Finance Office receives the regular payment, subsidy credit will be applied to the loan account before any payment or other credit is applied to the account. Subsidy credit will be applied first to accrued interest and then to principal after all interest is paid. Subsidy credit will not be applied to late fees, audit receivables, or recoverable cost charges.

(e) Regular payments. Regular payments will be applied in the following priority:

- (1) Amortized audit receivables.
- (2) Unamortized audit receivables.
- (3) All project late fees due.
- (4) Occupancy Surcharges.
- (5) Amortized recoverable costs due.
- (6) Unamortized recoverable costs due.
- (7) Overage.
- (8) All other interest due.
- (9) Principal.

(10) Any remaining regular payment will be applied as an advance regular payment unless specifically designated otherwise.

(f) Advance regular payments. These payments affect the payment status of the loan. The loan account must be current before a payment can be applied as an advance payment. The payment effective date will be the due date of the next regular payment which is not fully paid.

(g) Extra and refund payments. Both will be applied as principal to the last installment to become due under the note.

(h) Voluntary additional principal payments. These payments will only be credited to the account when all regularly scheduled payments on the account have been paid. Voluntary additional principal payments are credited all to principal, as of the payment effective date, and do not affect the payment status of the loan.

(i) Projects with initial and subsequent loan(s). Regular payments on projects with an initial and subsequent loan(s) will be applied according to the priorities listed in §1951.510 (e) of this subpart. Each priority item will be paid for all project loans before moving to the next item. Payments will be applied for each priority item in accordance with the loan number, beginning with the initial loan and ending with the highest numbered subsequent loan.

(j) Final payments. Final payments will be applied on the next payment due date or the final due date shown on the promissory note, assumption agreement or reamortization agreement, whichever is sooner. The District Office will obtain the amount of final payment through field office terminals by referencing status inquiry screen M1XI, "Accrual Calculation Request." Final payment should be accepted under conditions specified in §1965.90 of Subpart B to Part 1965 of this chapter.

§1951.511 [Reserved]

§1951.512 Changes in the application of loan payments.

District Office employees with State Director authorization according to §1930.143 of Subpart C to Part 1930 of this chapter are authorized to approve reapplication of payments between accounts when payments have been applied in error. All authorization for reapplication of payments must conform to the policies expressed in this subpart. No change may be made if the loan is paid in full, the cancelled note or notes have been returned to the borrower, and the security instruments have been satisfied. Changes will be entered through field office terminals by the AMAS Coordinator. (Revised 08-30-93, SPECIAL PN.)

§1951.513 Overpayments and refunds to borrowers. Overpayments and refunds to borrowers will be processed according to §1951.13 of Subpart A of this part.

§1951.514 Recoverable and non-recoverable cost charges.

The District Director will service recoverable and non-recoverable cost items according to §1951.14 of Subpart A of this part and RD Instruction 2024-A which is available in any Rural Development office. (Recoverable and non-recoverable costs are defined in §1951.504 of this subpart). (Revised 08-13-92, SPECIAL PN.)

§1951.515 Promissory notes for borrowers who convert to PASS.

Promissory notes in the hands of investors when a loan is converted to PASS will be repurchased by the Finance Office and forwarded to the District Office for storage.

§1951.516 [Reserved]

§1951.517 Conversion from DIAS to PASS.

(a) Conversion prior to May 1, 1985. The account of any existing RRH loan recipient who elected to convert to PASS before October 1,

1983, by following instructions prescribed by RHS, and who signed their conversion documents before May 1, 1985, or any recipient of a new loan, credit sale, or transfer (new terms) closed between November 1, 1983, and April 30, 1985, who elected to convert to PASS, was converted, as if the loan had been on an amortization schedule from the date of the loan, transfer (new terms), or reamortization (new terms), whichever occurred later. (Revised 08-30-93, SPECIAL PN.)

(b) Conversion on or after May 1, 1985.

(1) Required conversion. After May 1, 1985, all MFH loans, transfers or reamortizations must be closed on PASS, except LH loans specified in §1951.501 (a)(2)(i) of this subpart. All borrowers receiving subsequent loans or reamortizations must convert all initial and subsequent loans on the project to PASS. If the subsequent loan and conversion are not closed on the first of the month, the interest from the date of closing to the first of the month will be capitalized. Recoverable costs and unpaid interest may be capitalized on conversions required by subsequent loans or reamortization of one loan on the project account.

(2) Voluntary conversion. District Directors shall approve voluntary conversion of any account from DIAS to PASS upon a request by the borrower, when the following conditions are met:

(i) The loan account and reserve account are current less any authorized withdrawals at the time of conversion.

(ii) Conversion does not result in a rent increase.

(iii) The conversion is effective the first day of the month.

(3) Processing conversions. The following actions must be taken to convert an account from DIAS to PASS:

(i) Form RD 1951-50, "Multiple Family Housing Conversion Agreement," will be completed according to the FMI except loans converted on Form RD 1965-9, "Multiple Family Housing Assumption Agreement," or RD 1965-16, "Multiple Family Housing Reamortization Agreement." The terms of Forms RD 1965-9 and RD 1965-16 convert the account to PASS.

(ii) When the borrower will continue to receive interest credit following conversion, the current interest credit plan type will be passed through to the PASS loan. However, a new Form RD 1944-7 must be prepared to reflect the PASS payment and subsidy amount. (Revised 08-30-93, SPECIAL PN.)

(iii) On the back of the original note or assumption agreement (new terms), below all signatures and endorsements, the District Director will insert the following: "A Form RD 1951-50 dated _____, 20__, in the principal sum of \$_____, has been given to modify the payment schedule of the note."

(4) Principal balance to be converted. For transfers and reamortizations, the applicable transfer or reamortization form will convert the account to PASS. The principal balance converted to PASS will be established according to the FMI for Forms RD 1965-9, RD 1965-10, "Information on Assumption of Multiple Family Housing Loans," or RD 1965-16, and the following: (Revised 05-07-97, SPECIAL PN.)

(i) For DIAS to PASS transactions (new terms):

(A) First of the month closings: The unpaid interest, overage, and late fees accrued through the last day of the previous month will be capitalized.

(B) Other than the first of the month closing: Accrued interest, overage, and late fees through the date of closing will be capitalized. An interest only installment from the date of closing through the 30th day of the month will be collected from the transferee and applied to the transferee's account. This interest only installment will be calculated on the same interest credit rate in effect for the previous borrower.

(ii) For DIAS to PASS transactions (same terms):

(A) First of the month closings: Accrued interest, overage, and late fees through the last day of the previous month will be collected from the transferor at closing and credited to the transferor's account.

§1951.517 (b)(4)(ii) (Con.)

(B) Other than the first of the month closings: Accrued interest, overage, and late fees through the date of closing will be collected from the transferor at closing and credited to the transferor's account. The date of credit is the day before closing. An interest only installment from the date of closing through the 30th day of the month will be collected from the transferee and credited to the transferee's account. This interest only installment will be calculated on the same interest credit rate in effect for the previous borrower.

(iii) Reamortizations will always be effective the first day of the month. Unpaid interest, including any unpaid overage, and late fees, may be capitalized as follows: DIAS to PASS transactions, through the last day of the previous month; and PASS to PASS transactions, through the 30th day of the previous month.

(iv) Audit receivables may not be transferred or reamortized. They will be established as a "Collection Only" account for the transferor and must be collected or charged off.

(5) Terms of Conversion. All conversion on Form RD 1951-50 will be at the interest rate and within the remaining terms shown on the converting promissory note, assumption agreement (new terms) or reamortization agreement (new terms).

§1951.518 Determining current loan balances for transfer.

Same terms transfers, when the transferor has been converted to PASS, must take place in a current loan status on the Date of the transfer. Any delinquent principal and interest must be brought current. Overpayments and advance regular payments made on PASS accounts result in the creation of a "future paid" status account under AMAS. These advance payments must be reversed off and applied to the transferor's principal balance prior to determining the loan balance to be transferred. If the future payments have been made through rental assistance, they must be refunded to the transferor and reapplied in the form of cash on the loan balance.

§§1951.519 - 1951.547 [Reserved]

RD Instruction 1951-K

§1951.548 Exception authority.

The Administrator of the Rural Housing Service may, in individual cases, make an exception to any requirements of this Subpart not required by the authorizing statute if the Administrator finds that application of such requirement would adversely affect the interest of the Government. The Administrator will exercise the authority only at the of the State Director. The State Director will submit the request supported by data: demonstrating the adverse impact; identifying the particular requirement involved; showing proper alternative courses of action; and, identifying how the adverse impact will be eliminated.

§§1951.549 - 1951.550 [Reserved]

ATTACHMENTS: Exhibits A and A-1

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PROCESSING MULTIPLE FAMILY HOUSING PAYMENTS

I OBJECTIVES: All regular payments for Rural Rental Housing (RRH), Rural Cooperative Housing (RCH), Labor Housing (LH) except LH serviced by the County Office, Rural Housing Site (RHS) and Site Only (SO) for Multiple Family type development projects will be processed in the Servicing Office using field office terminals.

II DEFINITIONS:

A AMAS. The Automated Multi-Housing Accounting System developed to process and track RRH, RCH, LH, RHS and SO loans and grants.

B AMAS Coordinator. The person designated by the State Director to coordinate AMAS-related tasks with the Servicing Offices, Finance Office and National Office.

C Automated Data Processing (ADP) Coordinator. The State Office employee responsible for system installation and maintenance in State, District and County Offices. Further responsibilities include application development for automated systems and coordination between the State and the Rural Development Security Officer.

D Block. The total payments for one Call Date and deposit location entered at a given time.

E Call Date. The Date the Field Office Remittance Reconciliation Report (Form RD 1951-60) and related payment documents are mailed to the Wholesale Lockbox (WLB).

F Master List. A report generated from the Multi-Family Information System (MFIS) in the format of Part II of Form RD 1944-29 "Project Worksheet for Interest Credit and Rental Assistance," maintained by the Servicing Office and reflecting all tenants in a project as of the first day of each month. The master list must be based on current Forms RD 1944-8 "Tenant Certification," transmitted to the Servicing Office by the due Date, which is the Date the tenant initially occupies the project or the Date an existing tenant certification must be renewed.

III CERTIFICATION TO ENTER PAYMENTS:

A The State Director must certify all employees who are responsible for entering payments on-line in AMAS. The AMAS Coordinator in each State is responsible for the certification process and will make recommendations to the State Director, based on certification examination. Each office should have at least two certified employees who can process payments.

1 Requirement for certification

a The employee must successfully review and process payments for three call dates.

b The employee must successfully demonstrate that they can balance AMAS payment blocks.

c Form RD 1951-60 and related payment documents must be properly prepared for submission to the WLB.

2 Procedure for certification training

a The employee will be trained by the AMAS Coordinator or a qualified State Office or Servicing Office employee. Training will cover:

(i) The process of reviewing and processing the borrower's payment transmittal as required in § 1951.506 of this subpart.

(ii) Preparation of Form RD 1951-60 and related payment documents.

(iii) Signing onto the AMAS Cash (AMAS-CSH) System.

(iv) Inputting all MFH payments in accordance with the AMAS On-line Cash Manual.

(v) Correcting out-of-balance blocks.

b The employee will sign onto the AMAS test data base (TS2) and make entries into the AMAS-CSH System. The ADP Coordinator is responsible for obtaining a TS2 identification number for the trainee.

c The trainee will make copies of all the records related to preparing the test collections and will be included in a "wholesale lockbox" envelope. The envelope will be marked "Payment Certification For (trainee name)," and submitted to the AMAS Coordinator.

3 Certification. The AMAS Coordinator will review the balanced blocks and the wholesale lockbox envelope prepared for the examination. When the employee has demonstrated an understanding of the payment process and proficiency in all steps shown in Paragraph III 2 a of this exhibit, the AMAS Coordinator will recommend certification to the State Director. The State Director will:

a Instruct the ADP Coordinator to notify the Rural Development Security Staff to add AMAS Payment Process (APP) to the employee's User Identification Number.

b Notify the Servicing Director and employee, by letter, of the employee's certification to process payments on-line in AMAS. The letter should reference the possible reasons for withdrawal of certification listed in paragraph III C of this exhibit. Use Guide Letter 1951-K-1.

B MONITORING PAYMENT PROCESSING

1 After certification, the AMAS Coordinator will monitor Servicing Office use of the on-line payment process, periodically, to ensure that payments are being input properly and blocks are balancing. Monitoring will be accomplished as follows:

a The Call Date Recap Detail Report, FOCUS Report AM 17- "Daily - Project Tracking Data," and FOCUS Report AM 16 - "Monthly - Project Tracking Data" are used to determine that payments are being processed timely and accurately and discrepancies are being reviewed and corrected expeditiously. (See AMAS On-Line Cash Manual and the AMAS Manual, Chapter 6, Discrepancy Processing Subsystem.) Contact the Servicing Director to determine why payments/discrepancies remain unprocessed.

b The State Director may establish any additional monitoring systems deemed necessary to assure effective payment processing and employee training.

c For newly certified employees, monitoring should be daily for a 30-day period.

d For experienced employees, monitoring should be no less than monthly, providing monitoring reports do not indicate any of the problems which could lead to withdrawal of certification.

2 A log of each monitoring activity should be kept by the AMAS Coordinator for documentation using Form RD 1951-64, "On-Line Payment Certification Monitoring Log."

3 An employee should be trained immediately when a payment processing problem occurs as a result of an employee error. This training may cover only the areas causing problems and should prevent recurrence of the error.

C WITHDRAWING CERTIFICATION AND RECERTIFICATION

1 Certification may be withdrawn from an employee for any of the following reasons until corrective training has been given:

a Block(s) has remained out-of-balance in AMAS On-Line Cash for five working days and the condition is due to employee error.

b The effective date of the payment and the call date differ by more than three days and there is not sufficient justification. Justification includes:

(i) On the regularly scheduled work day the payment was received, the office was closed due to meetings, travel by all employees or by direction of the State Director or National Office.

(ii) Account servicing policies allow the payment to be effective other than the date received in the Servicing Office.

(iii) Payment was received after the daily deposit was made and the weekend and holidays caused a three day delay before the payment could be processed.

2 After the third occurrence of any, or a combination of any of the aforementioned errors in a twelve-month period, the Servicing Director and employee will be notified in writing that certification may be withdrawn. Plans and requirements for remedial training to prevent further occurrences will be included in the notice.

3 Certification will be withdrawn by the State Director after the fourth occurrence in a twelve month period of any, or a combination of any of the aforementioned errors. The Servicing Director and employee will be notified, in writing, with a copy to the ADP Coordinator for the State. Using the currently approved procedure, the ADP Coordinator will notify the Rural Development Security Staff to remove on-line payment authority from the employee's identification number.

4 Retraining.

a An employee should be retrained immediately when a payment processing problem occurs as a result of an employee error. This training may cover only the areas causing problems and should prevent recurrence of the error.

b When the employee is notified that certification cancellation is imminent, a training plan should be developed and implemented.

c After certification has been withdrawn, the State Director must immediately determine if it is desirable for the employee to process payments. If it is determined that the employee should process on-line payments, retraining should be performed, immediately.

5 The employee may be recertified under the following conditions:

a Retraining has been completed.

b The employee demonstrates the skills required in paragraph III A 1 of this exhibit.

c The AMAS Coordinator recommends recertification and the State Director concurs.

6 Recertification will follow the procedure in paragraph III A 3 of this exhibit.

IV REVIEWING AND TRACKING PAYMENTS

A Payments are submitted to the Servicing Office per paragraph VII F 7 of Exhibit B of Subpart C of Part 1930 of this chapter and will be reviewed as follows:

1 A Servicing Office employee will review and correct Form RD 1944-29 based on approved tenant certifications in accordance with the AMAS On-Line Cash Manual.

2 When corrections are made on Form RD 1944-29, send a corrected copy to the borrower with an explanation of the corrections.

B If borrower is delinquent or less than one full installment ahead, complete Exhibit A-1, Attachment 1, of this subpart, or a variation of the form which allows the Servicing Office to keep a record of payments received and remitted. Before completing the Tracking Log, applicable AMAS inquiry screens should be accessed to determine the present status of the loan(s) and rental assistance balances. This information will be helpful in anticipating the applications of the payments when they are processed.

V PROCESSING REGULAR PAYMENTS

A Certified employees will process payments in accordance with the AMAS On-Line Cash Manual, mail payment packet to wholesale lockbox, and file the subject documents in accordance with subpart B of Part 1951.

B When a certified employee is not available in the Servicing Office, collections will be processed through the State Office as follows:

1 An uncertified employee in the Servicing Office will complete Form RD 1951-60, and all related payment documents. All pertinent items will be inserted into the wholesale lockbox envelope.

2 The wholesale lockbox envelope will be inserted into another envelope and mailed to the State office AMAS Coordinator for processing. Keep a copy of Form RD 1951-60 and all related payment documents in a file until the processed payment documents are returned from the State Office.

3 The AMAS Coordinator, or other certified employee designated by the State Director, will process payments in accordance with AMAS On-Line Cash Manual.

4 After the payment block has successfully processed, mail the payment packet to the wholesale lockbox, file payment documents in accordance with subpart B of 1951, and forward copies of the Form RD 1951-60, and the Call Date Recap Detail report to the Servicing Office.

5 The Servicing Office will file the Form RD 1951-60 and related payment documents in accordance with Subpart B of Part 1951.

C Each day, the certified employee should review Option 9 "PENDING TRANSACTION RECAP BY JURISDICTION CODE" on the AMAS Main Menu and correct any payments or other transactions.

VI PROCESSING UNCOLLECTIBLE ITEMS

Uncollectible items will be processed as required in § 1951.56, of Subpart B of this Part.

VII CORRECTING PAYMENT APPLICATION

A After a payment has processed, any change in application may be made in the Servicing Office when they do not involve changes in cash. Changes in cash must be made by an employee with a State Office ID, usually the AMAS Coordinator. When the necessary correction has been identified, the Servicing Office should:

- 1 Make a copy from History Recap of the M2A screen showing the original input for the payment.
- 2 In red, mark the changes on the screen showing the necessary changes.
- 3 Correct the payment data following the instructions in the AMAS Manual, Chapter 6, Discrepancy Processing Subsystem.
- 4 Make a copy of the corrected M2A and forward copies of the original and corrected M2A screens to the AMAS Coordinator for information.

B When the changes must be made in a cash field, the Servicing Office should follow steps 1 and 2 above and forward the corrected screen to the AMAS Coordinator in the State Office with the justification for the change. Include a memorandum explaining why the change must be made. The AMAS Coordinator should:

- 1 Assure that any cash collections are accounted for, i.e.,
 - a Cash collections replacing unjustified Rental Assistance (RA) have been deposited and documented by Form RD 1944-53, "Multiple Family Housing Cancellation of U.S. Treasury Check and/or Obligation."
 - b Change in application from one project to another or from one date to another are documented by M2A screens and on a copy of Form RD 1944-29. These changes should also be documented by a copy of the borrower's cancelled check for the Call Date the payment was entered.
- 2 Make the appropriate changes in accordance with the AMAS Manual, Chapter 6, Discrepancy Processing Subsystem.
- 3 After the change has been updated, send a copy of the corrected M2A screen(s) and the supporting documentation to the Servicing Office for filing.

VIII PROCESSING RA DURING ACCELERATION.

A RA may be processed during the acceleration period as authorized in paragraph XV B 4 of Exhibit E to Subpart C of Part 1930 of this chapter. Only the portion of the RA exceeding the amount necessary to pay the project installment, installment delinquency, overage, and late fees should be released to the borrower. The subsidy will be applied to the account, but no other funds may be applied to the account during the acceleration process and until the appeal period has expired. To assure that no part of the RA processes to the account installment and that no overage is charged to the account, the payment will be processed, as follow:

1 The Servicing Office must put a suspend code on the account. This is done on the M5A "Record Project Data" screen in AMAS using Suspend Code 7.

2 Before processing the payment, check inquiry screen M4YI "Project Financial Status" to assure that there is a suspend code to prevent the payments from processing.

3 Using the M2As "Project Payment" screen, process two transactions as follows:

a On the first M2A, report the overage and enough RA to cover the project delinquency, regular installment, and overage, if applicable. Retain RA for any earned late fees, which were due when the account was accelerated or will be due after this payment is applied. Do not count late fees accruing during the acceleration period if the RA being retained will bring the account current.

EXAMPLE: (\$6,000 RA due)

<u>DUE</u>		<u>PAYMENT CALCULATION</u>	
Delinquency	\$ 600	1st M2A:	
Payment	2,800	OS(Report)\$	48
Overage	291	2nd M2A:	
Occupancy		RA	\$4,500*
Surcharge	48	OV	291
Late Fee	<u>755</u>	3rd M2A:	
TOTAL DUE	\$4,494	RA & RA-C	\$1,500

*Reporting slightly more RA than the payment calculation requires leaves room for accrual of interest on delinquent principal or miscalculations.

b On the second M2A, report the balance of the RA which the Servicing Director has authorized to be released to the borrower. Also, show this amount in the RA Check Request field.

4 Let the M2As process in the nightly update. Because there is a suspend code on the account the two M2As will reject to Pending.

5 The next day (Day 2), the two payments will be on Pending with a "U" processing code.

a Take the suspend code off the account using the M5A.

b Put a "P" processing code on the M2A for the RA check.

c The payment with the "P" processing code will process in the nightly update, sending the borrower a check. The other M2A will not process because of the "U" processing code.

6 The next day (Day 3), suspend code 7 back on the account to prevent any other transactions from processing and jeopardizing your legal position on the acceleration.

B After the acceleration and appeal period has expired and foreclosure proceeds, or the acceleration is cancelled, the Servicing Office will remove the suspend code from the account and put "P" processing codes on all the suspended M2As. If foreclosure proceeds, all the M2As must be processed before the interest credit is cancelled.

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Exhibit A-1 and Attachment 1 in PDF ONLY.

TRACKING LOG
INSTRUCTIONS FOR PREPARATION

The tracking logs should only be used (maintained) for delinquent accounts, accounts that are less than one full installment ahead of schedule and any known problem accounts. A separate form should be prepared for each project. Data should be accurate to insure the borrower's payment data is verified and processed accurately to the borrower's account.

File the Tracking Logs in a loose-leaf binder, alphabetically.

- (1) through (6) - Complete using the appropriate inquiry screens to verify information.
- (7) & (8) - Enter TOTAL PROJECT installment which the borrower must pay. If the project is subsidized, enter the subsidized payment. Include Cost Items as follows:

Amortized Cost Items: Include the monthly amortized payment in the Project Payment.

Unamortized Cost Items: Insert the total amount due under the Project Payment Amount. If inserted in pencil the amount can be changed, as necessary. Unamortized Cost Items are all due and payable, and will be paid in full before any funds are applied on the loan payments.

- (9) Enter monthly subsidy on PASS loans.
- (10) Enter Project late fee on PASS Loans.
- (11) RA AGREEMENTS: Enter each agreement number and the number of units. (It is not necessary to track the balances if the 513 report is reviewed each time it is received.)
- (12) EFFECTIVE Date: Enter effective date of each transaction. The line may be divided to show the effective date in the top of the space and the month for which the payment is due in the bottom portion of the space.

NOTE: An entry will be made each month to mature the account, even though a payment is not received. Regardless of the Date the maturity entry is actually made, enter the Date as the FIRST day of the month. MATURE THE ACCOUNT ONLY ONCE EACH MONTH. IF NOT PREVIOUSLY MATURED, MATURE THE ACCOUNT PRIOR TO APPLYING ANY PAYMENT.

- (13) ACTION: Enter M - Mature
P - Payment
- (14) LATE FEE CHARGED: Enter any late fees which will be charged. A late fee is charged on a PASS account when the project status is more than \$15.00 delinquent after the 10th of the month.
- (15) OVERAGE: Enter any overage charged with this payment.
(Item 11 on Form RD 1944-29)
- (16) RA AMOUNT: Enter total amount of RA requested (adjusted based on Servicing Office Master List of Tenant Certification.) (Item 21 on Form RD 1944-29)
- (17) RA CHECK REQUEST: Enter total amount of RA Check to be issued prior to payment processing.
(Based on Servicing Office Servicing Plan or Annual Payment Loan payment schedule.) When an amount is included in this field, insert the same amount into Column 24 before continuing.
Subtract this amount from the amount available to pay the remaining items under APPLICATION.
- (18) PAYMENT: Enter amount of cash, check or money order submitted. (Item 17 on Form RD 1944-29)

APPLY PAYMENT APPLICATION LOGIC FOR COLUMNS ENTITLED APPLICATION: (See calculation in Column (25) for total amount of RA to be netted and cash applied.)

- (19) LATE FEES PAID: Enter amount of unpaid late fees AMAS will pay from netted RA or cash.
- (20) LATE FEES BALANCE: Enter amount of late fees remaining unpaid after application of funds available.

SINCE COST ITEMS ARE PAID BEFORE OVERAGE, continue over to Column 23 if there are cost items and enter the amount of the payment which will be applied to the cost item(s). If more than one payment is made in a month, an amortized cost item will be taken out of each payment.) If there is cash or RA remaining, return to Column 21 and continue the application.

- (21) OVERAGE PAID: Enter amount of unpaid overage (including overage charged with this payment) AMAS will pay from netted RA or cash.
- (22) OVERAGE BALANCE: Enter amount of overage remaining unpaid after application of funds available.
- (23) PRINCIPAL & INTEREST: Enter amount of funds to be applied on loan payments TO ALL LOANS.
- (24) RA CHECK: Enter amount of RA check expected to be returned to the borrower when the payment processes.

NOTE: RA check request plus any remaining RA funds after application according to payment logic equals RA CHECK.

- (25) AMOUNT MATURED: M - Enter Project Payment to be matured.
P - Enter the maximum amounts (in parens) to be netted from RA based on RA Netting Logic.

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:		RA NETTING LOGIC	:	
:	(All calculations based on Status after Maturity)	:	:	
:			:	
:	WHEN	AMAS WILL	:	
:			:	
:	Status is - 0 -	-	Net One full installment	:
:	or Ahead of Schedule		PLUS Overage	:
:				:
:	Status is Behind	-	Net enough RA to pay	:
:	Schedule		Overage and Late Fees	:
:			and bring the account	:
:			current.	:
:				:

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- (26) STATUS: Enter the ending status after maturity or payment application.

After the payment processes, verify application using Detail Effects of History. If the system application is different from what you projected and you feel the system application is incorrect, contact your AMAS Coordinator.

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