

Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 13, 1976.

HOWARD B. CLARK,
Acting Federal
Insurance Administrator.

[FR Doc. 76-24524 Filed 8-19-76; 8:45 am]

[Docket No. FI-321]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for City of Hollis, Oklahoma

On August 6, 1974, in 39 FR 28266, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the City of Hollis, Oklahoma. Map No. H 40068A Panel 01 indicates that Lot 3, Block 20, College Heights Addition to the Town of Hollis, Oklahoma, and Lot 11, Block 19, Hollis Townsite Addition to Hollis, Oklahoma, as recorded in Book 1 of Plats, Page 2, and Book 1 of Plats, Page 15, respectively, in the office of the Harmon County Clerk, Oklahoma, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above mentioned property is not within the Special Flood Hazard Area. Accordingly, Map No. H 40068A Panel 01 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on June 28, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 11, 1976.

HOWARD B. CLARK,
Acting Federal
Insurance Administrator.

[FR Doc. 76-24323 Filed 8-19-76; 8:45 am]

[Docket No. FI-257]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for City of Plano, Texas

On May 8, 1974, in 39 FR 15874, the Federal Insurance Administrator published a list of communities with special hazard areas which included Plano, Texas. Map Nos. H 480140 05 & 06 indicate that Lot 25, Block B and Lot 44, Block E of Park Boulevard Estates West No. 2-B Subdivision, Plano, Texas, as recorded in Volume 8, Page 1 of the Map Plat Records of Collin County, Texas, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional,

recently acquired flood information, that the structures on the above property are not within the Special Flood Hazard Area. Accordingly, Map Nos. H 480140 05 & 06 are hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on May 10, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 12, 1976.

HOWARD B. CLARK,
Acting Federal
Insurance Administrator.

[FR Doc. 76-24525 Filed 8-19-76; 8:45 am]

[Docket No. FI-239]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for City of San Antonio, Texas

On April 11, 1974, in 39 FR 13152, the Federal Insurance Administrator published a list of communities with special hazard areas which included San Antonio, Texas. Map No. H 480045 21 indicates that Lot 35, Block 2, New City Block 208 being Vista Verde Project, Texas, R-109, Subdivision Unit 1 as recorded in Book Volume 7700, Page 224 in the office of the Clerk of Bexar County, Texas, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of the additional, recently acquired flood information, that the above property is not within the Special Flood Hazard Area. Accordingly, Map No. H 480045 21 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on April 3, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 13, 1976.

HOWARD B. CLARK,
Acting Federal
Insurance Administrator.

[FR Doc. 76-24527 Filed 8-19-76; 8:45 am]

[Docket No. FI-2134]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for City of Mequon, Wisconsin

On June 25, 1976, in 41 FR 26419, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the

City of Mequon, Wisconsin. Map No. H&I 555564B 07 indicates that Highland Colony Estates, Mequon, Wisconsin, as recorded in Certified Survey Map Volume 2, Pages 37 through 39, in the office of the Register of Deeds of Ozaukee County, Wisconsin, are within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that structures 1 through 3, and Units 12908, 12910, 12912, 12914, 12918, 12918 of structure 4 as shown on the Topographical Survey Maps of Land in the City of Mequon, Ozaukee County, Wisconsin, prepared by William H. Schmitt and Associates, June 26, 1975, are within Zone C, and are not within the Special Flood Hazard Area. The map amendment is not based on the placement of fill on the above named property after the effective date of the Flood Insurance Rate Map of the Community. Accordingly, Map No. H&I 555564B 07 is hereby corrected to reflect that the above mentioned property is not within the Special Flood Hazard Area identified on November 7, 1972.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 10, 1976.

HOWARD B. CLARK,
Acting Federal
Insurance Administrator.

[FR Doc. 76-24328 Filed 8-19-76; 8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER C—EMPLOYMENT TAXES

[T.D. 7430]

PART 31—EMPLOYMENT TAXES; APPLICABLE ON AND AFTER JANUARY 1, 1955

SUBCHAPTER F—PROCEDURE AND ADMINISTRATION

PART 301—REGULATIONS ON PROCEDURE AND ADMINISTRATION

Discharge of Liens; Employment Tax Liability of Third Parties Paying or Providing for Wages

Preamble. On May 20, 1975, a notice of proposed rulemaking to conform the Employment Tax Regulations (26 CFR Part 31) and the Regulations on Procedure and Administration (26 CFR Part 301) under sections 3505 (relating to the employment tax liability of third parties paying or providing for wages) and 7425 (relating to discharge of liens) to changes made by sections 105 (80 Stat. 1138) and 109 (80 Stat. 1141) of the Federal Tax Lien Act of 1966 was published in the FEDERAL REGISTER (40 FR 21965).

Section 3505 generally relates to the liability of third parties paying or pro-

viding for wages. Section 31.3505-1 of the proposed regulations provided rules relating to the liability for withholding taxes imposed upon third persons who finance employers' payrolls. Generally, those provisions of the proposed regulations applied to a lender, surety, or other person who directly pays wages to the employees of another person or who supplies funds to an employer for the specific purpose of paying wages of the employees of that employer with actual notice or knowledge that the employer does not intend, or will not be able, to pay the withholding taxes.

Section 31.3505-1(b)(2) of the proposed regulations has been revised by deleting example (3). In this example, a lender advanced funds to an employer for the purpose of paying net wages of that employer with actual notice of knowledge that the employer would not be able to make timely payment of the withholding taxes. The example concluded that, for purposes of imposing liability upon the lender under section 3505, it was immaterial that after the advances the lender learned that the employer had other funds with which the taxes could have been paid. Upon reconsideration, it was concluded that, because liability under section 3505 depends upon actual notice or knowledge at the time the advance is made, example (3) was unnecessary.

Section 7425 generally relates to discharge of liens and redemption of real property by the United States. Section 301.7425-4 of the proposed regulations contained provisions relating to the redemption by the United States of real property that is sold in a nonjudicial foreclosure sale to satisfy a lien prior to a Federal tax lien on such property. Section 301.7425-4(a)(3) of the proposed regulations has been revised. The proposed regulations had provided that in a case in which the United States is not entitled to a notice of sale under section 7425(b) and 301.7425-3 (e.g., where a notice of tax lien has not been filed more than 30 days before the date of sale), no right of redemption exists under section 7425(d); however, the United States would have the same right of redemption afforded any secured creditor under the applicable local law. In response to a comment, § 301.7425-4(a)(3) of the final regulations has been revised to provide that, under the circumstances stated above, the United States is afforded the same right of redemption afforded similar creditors under the applicable local law.

Section 301.7425-4(b)(1) of the proposed regulations has also been revised. Section 7425(d)(2) of the Code provides that where the United States redeems real property sold at a nonjudicial sale to satisfy a lien prior to that of the United States, the district director shall pay the amount specified in 28 United States Code section 2410. Section 7425-4(b)-1 of the proposed regulations has been revised to make clear that such section determines the amount to be paid only when the United States exercises its right of redemption under section 7425.

ADOPTION OF AMENDMENTS TO THE REGULATIONS

On May 20, 1975, a notice of proposed rulemaking was published in the FEDERAL REGISTER (40 FR 21965) in order to conform the Employment Tax Regulations (26 CFR Part 31) and the Regulations on Procedure and Administration (26 CFR Part 301) under section 3505 and 7425 of the Internal Revenue Code of 1954 to sections 105 and 109 of the Federal Tax Lien Act of 1966 (80 Stat. 1138 and 1141). Section 301.7425 and §§ 301.7425-1 through 301.7425-4 (inclusive) of the regulations hereby adopted supersede §§ 400.4, 400.4-1, 400.5 and 400.5-1 of this chapter relating to section 109 of the Federal Tax Lien Act of 1966, which were prescribed by T.D. 6944, approved January 17, 1968 (33 FR 732). After taking into consideration all such relevant matter as was presented by interested persons regarding the rules proposed, the amendment of the regulations as proposed is hereby adopted, subject to the changes set forth below:

PARAGRAPH 1. Paragraph (b)(2) of § 31.3505-1, as set forth in paragraph 1 of the appendix to the notice of proposed rulemaking, is amended by deleting example (3) therefrom.

PAR. 2. Section 301.7425-3(d)(2), as set forth in paragraph (3) of the appendix to the notice of proposed rulemaking, is amended by substituting "December 31, 1976" for "(a date to be specified in the Treasury decision adopting final regulations under this section)".

PAR. 3. Paragraph (a)(3) of § 301.7425-4, as set forth in paragraph (3) of the appendix to the notice of proposed rulemaking, is amended by revising the last sentence thereof. This revised provision reads as set forth below.

PAR. 4. Paragraph (b)(1) of § 301.7425-4, as set forth in paragraph 3 of the appendix to the notice of proposed rulemaking, is amended by revising so much thereof as precedes subdivision (i) to read as set forth below.

PAR. 5. Section 301.7425-4(b)(1)(iv), as set forth in paragraph 3 of the appendix to the notice of proposed rulemaking, is amended by substituting "December 31, 1976" for "(a date to be specified in the Treasury decision adopting final regulations under this section)".

PAR. 6. Section 301.7425-4(b)(4)(i), as set forth in paragraph (3) of the appendix to the notice of proposed rulemaking, is amended by substituting "December 31, 1976" for "(a date to be specified in the Treasury decision adopting final regulations under this section)".

(Sec. 7806, Internal Revenue Code of 1954 (88A Stat. 817; 26 U.S.C. 7806).)

DONALD C. ALEXANDER,

Commissioner of Internal Revenue.

Approved: August 16, 1976.

CHARLES M. WALKER,

Assistant Secretary of the Treasury.

In order to provide regulations under section 3505 of the Internal Revenue Code of 1954, as added by section 105 (a) of the Federal Tax Lien Act of 1966

(Public Law 89-719, 80 Stat. 1138) and under section 7425 of such Code, as added by section 109 of such Act (80 Stat. 1141), the Employment Tax Regulations (26 CFR Part 31) and the Regulations on Procedure and Administration (26 CFR Part 301) are amended as follows: Section 301.7425 and §§ 301.7425-1 through 301.7425-4 (inclusive) of the regulations hereby adopted supersede §§ 400.4, 400.4-1, 400.5, and 400.5-1 of this chapter (Temporary Regulations under the Federal Tax Lien Act of 1966) which were prescribed by T.D. 6944, approved January 17, 1968 (33 FR 732).

PARAGRAPH 1. There are added immediately after § 31.3504-1 the following new §§ 31.3505 and 31.3505-1.

§ 31.3505 Statutory provisions; liability of third parties paying or providing for wages.

Sec. 3505. Liability of third parties paying or providing for wages—(a) Direct payment by third parties. For purposes of sections 3102, 3202, 3402, and 3403, if a lender, surety, or other person, who is not an employer under such sections with respect to an employee or group of employees, pays wages directly to such an employee or group of employees, employed by one or more employers, or to an agent on behalf of such employee or employees, such lender, surety, or other person shall be liable in his own person and estate to the United States in a sum equal to the taxes (together with interest) required to be deducted and withheld from such wages by such employer.

(b) Personal liability where funds are supplied. If a lender, surety, or other person supplies funds to or for the account of an employer for the specific purpose of paying wages of the employees of such employer, with actual notice or knowledge (within the meaning of section 6323(d)(1)) that such employer does not intend to or will not be able to make timely payment or deposit of the amounts of tax required by this subtitle to be deducted and withheld by such employer from such wages, such lender, surety, or other person shall be liable in his own person and estate to the United States in a sum equal to the taxes (together with interest) which are not paid over to the United States by such employer with respect to such wages. However, the liability of such lender, surety, or other person shall be limited to an amount equal to 25 percent of the amount so supplied to or for the account of such employer for such purpose.

(c) Effect of payment. Any amounts paid to the United States pursuant to this section shall be credited against the liability of the employer.

(Sec. 3505 as added by sec. 105(a), Federal Tax Lien Act 1966 (80 Stat. 1138))

§ 31.3505-1 Liability of third parties paying or providing for wages.

(a) Personal liability in case of direct payment of wages—(1) In general. A lender, surety, or other person—

(i) Who is not an employer for purposes of section 3102 (relating to deduction of tax from wages under the Federal Insurance Contributions Act), section 3202 (relating to deduction of tax from compensation under the Railroad Retirement Tax Act), or section 3402 (relating to deduction of income tax from wages) with respect to an employee or group of employees, and

(1) Who pays wages on or after January 1, 1967, directly to such employee or group of employees, employed by one or more employers, or to an agent on behalf of such employee or employees,

shall be liable in his own person and estate for payment to the United States of an amount equal to the sum of the taxes required to be deducted and withheld from those wages by the employer under subtitle C of the Code and interest from the due date of the employer's return relating to such taxes for the period in which the wages are paid.

(2) *Example.* The provisions of this paragraph may be illustrated by the following example:

Example. Pursuant to a wage claim of \$200, A, a surety company, paid a net amount of \$158 to B, an employee of the X Construction Company. This was done in accordance with A's payment bond covering a private construction job on which B was an employee. If X Construction Company fails to make timely payment or deposit of \$200, the amount of tax required by subtitle C of the Code to be deducted and withheld from a \$200 wage payment to B, A becomes personally liable for \$12.90 (i.e., an amount equal to the unpaid taxes), plus interest upon this amount from the due date of X's return.

(b) *Personal liability where funds are supplied—(1) In general.* A lender, surety, or other person who—

(i) Advances funds to or for the account of an employer for the specific purpose of paying wages of the employees of that employer, and

(ii) At the time the funds are advanced, has actual notice or knowledge (within the meaning of section 6323(1)(b)) that the employer does not intend to, or will not be able to, make timely payment or deposit of the amounts of tax required by subtitle C of the Code to be deducted and withheld by the employer from those wages.

shall be liable in his own person and estate for payment to the United States of an amount equal to the sum of the taxes which are required by subtitle C of the Code to be deducted and withheld from wages paid on or after January 1, 1967, and which are not paid over to the United States by the employer, and interest from the due date of the employer's return relating to such taxes. However, the liability of the lender, surety, or other person for such taxes shall not exceed 25 percent of the amount supplied by him for the payment of wages. The preceding sentence and the second sentence of section 3505(b) limit the liability of a lender, surety, or other person arising solely by reason of section 3505, and they do not limit the liability which the lender, surety or other person may incur to the United States as a third-party beneficiary of an agreement between the lender, surety, or other person and the employer. The liability of a lender, surety, or other person does not include penalties imposed on the taxpayer.

(2) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). D, a savings and loan association, advances \$10,000 to Y for the specific purpose of paying the net wages of Y's employees. D advances those funds with knowledge that Y will not be able to make timely payment of the taxes required to be deducted and withheld from those wages by subtitle C of the Code. Y uses the \$10,000 to pay the net wages of his employees but fails to remit withholding taxes under subtitle C in the amount of \$2,600. D's liability, under this section, is limited to \$2,500, 25 percent of the amount supplied for the payment of wages to Y's employees, plus interest thereon.

Example (2). E, a loan company, advances \$15,000 to F, a contractor, for the specific purpose of paying \$20,000 of net wages due to F's employees. E advances these funds with knowledge that F will not be able to make timely payment of the taxes required to be deducted and withheld from these wages by subtitle C of the Code. F applies \$5,000 of its own funds toward payment of these wages. The amount of tax required to be deducted and withheld from the gross wages is \$4,500. The limitation applicable to E's liability for withholding taxes is \$3,750 (25 percent of \$15,000). However, because E furnished only a portion of the total net wages, E is liable for \$3,375 of the taxes required to be deducted and withheld (\$4,500 x \$15,000/\$20,000) plus interest thereon.

(3) *Ordinary working capital loan.* The provisions of section 3505(b) do not apply in the case of an ordinary working capital loan made to an employer, even though the person supplying the funds knows that part of the funds advanced may be used to make wage payments in the ordinary course of business. Generally, an ordinary working capital loan is a loan which is made to enable the borrower to meet current obligations as they arise. The person supplying the funds is not obligated to determine the specific use of an ordinary working capital loan or the ability of the employer to pay the amounts of tax required by subtitle C of the Code to be deducted and withheld. However, section 3505(b) is applicable where the person supplying the funds has actual notice or knowledge (within the meaning of section 6323(1)(1)) at the time of the advance that the funds, or a portion thereof, are to be used specifically to pay net wages, whether or not the written agreement under which the funds are advanced states a different purpose. Whether or not a lender has actual notice or knowledge that the funds are to be used to pay net wages, or merely that the funds may be so used, depends upon the facts and circumstances of each case. For example, a lender, who has actual notice or knowledge that the withheld taxes will not be paid, will be deemed to have actual notice or knowledge that the funds are to be used specifically to pay net wages where substantially all of the employer's ordinary operating expenses consist of salaries and wages even though funds for other incidental operating expenses may be supplied pursuant to an agreement described as a working capital loan agreement.

(c) *Definition of other person—(1) In general.* As used in this section, the

term "other person" means any person who directly pays the wages or supplies funds for the specific purpose of paying the wages of an employee or group of employees of another employer. It does not include a person acting only as agent of the employer or as agent of the employees.

(2) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). Pursuant to an agreement between L, a labor union, and M, an employer, M makes monthly vacation payments (of a sum equal to a certain percentage of the remuneration paid to each union member employed by M during the previous month), to a union administered pool plan under which each employee's rights are fully vested and nonforfeitable from the time the money is paid by M. Vacation allowances are accumulated by the plan and distributed to eligible employees during their vacations. L, acting merely as a conduit with respect to these payments, would incur no liability under section 3505.

Example (2). N, a construction company, maintains a payroll account with the O Bank in which N deposits its own funds. Pursuant to an automated payroll service agreement between N and O, O prepares payroll checks and earnings statements for each of N's employees reflecting the net pay due each such employee. These checks are delivered to N for signature. After the checks are signed, O distributes them directly to N's employees on the regularly scheduled pay day. O, acting only in the capacity of a disbursing agent of N's funds, would incur no liability under section 3505 with respect to these payroll distributions. However, O may incur liability under section 3505 in the capacity of a lender if it supplies the funds for the payment of wages.

(d) *Payment of taxes and interest—*

(1) *Procedure for payment.* A lender, surety, or other person may satisfy the personal liability imposed upon him by section 3505 by executing Form 4219 and filing it, accompanied by payment of the amount of tax and interest due the United States, in accordance with the instructions for the form. In the event the lender, surety, or other person does not satisfy the liability imposed by section 3505, the United States may collect the liability by appropriate civil proceeding commenced within 6 years after assessment of the tax against the employer.

(2) *Effect of payment—(1) In general.* A person paying the amounts of tax required to be deducted and withheld by subtitle C of the Code as a result of section 3505 and this section is not required to pay the employer's portion of the payroll taxes upon those wages, or file an employer's tax return with respect to those wages, or furnish annual wage and tax statements to the employees.

(ii) *Amounts paid by a lender, surety, or other person.* Any amounts paid by the lender, surety, or other person to the United States pursuant to this section shall be credited against the liability of the employer on whose behalf those payments are made and shall also reduce the total liability imposed upon the lender.

surety, or other person under section 3505 and this section.

(iii) **Amounts paid by the employer.** Any amounts paid to the United States by an employer and applied to his liability under subtitle C of the Code shall reduce the total liability imposed upon that employer by subtitle C. Such payments will also reduce the liability imposed upon a lender, surety, or other person under section 3505 except that such liability shall not be reduced by any portion of an employer's payment applied against the employer's liability under subtitle C which is in excess of the total liability imposed upon the lender, surety, or other person under section 3505. For example, if a lender supplies \$1,000 to an employer for the payment of net wages, upon which \$300 withholding tax liability is imposed, a part-payment of \$25 by the employer which is applied to this liability would reduce the employer's total liability under subtitle C of the Code by that amount, but the liability imposed upon the lender by section 3505(b) in an amount equal to the withholding tax liability of the employer, which is limited to 25 percent of the amount supplied by him, would remain \$250. However, if the employer makes another payment of \$200 which is applied to his liability for the withholding taxes, the lender's liability under section 3505 attributable to the withholding taxes is reduced by \$175 (\$225 less \$50 (the amount by which the employer's liability exceeds the lender's liability after application of the limitation)). Thus, after the second payment by the employer, the lender's liability under section 3505(b) is \$75 (\$250 less \$175) plus interest due on the underpayment for the period of underpayment.

(c) **Returns required by employers and statements for employees.** This section does not relieve the employer of the responsibilities imposed upon him to file the returns and supply the receipts and statements required under subchapter A, Chapter 61 of the Code (relating to returns and records).

(f) **Time when liability arises.** The liability under section 3505 and this section of a lender, surety, or other person paying or supplying funds for the payment of wages is incurred on the last day prescribed for the filing of the employer's Federal employment tax return (determined without regard to any extension of time) in respect of such wages.

PAR. 2. Section 301.7425 is amended by renumbering such section as § 301.7427, by renumbering section 7425 of such section as Sec. 7427, and by adding a historical note. These renumbered and added provisions read as follows:

§ 301.7427 Statutory provisions; cross references.

Sec. 7427. Cross references.

[Sec. 7427 as renumbered by sec. 109, Federal Tax Lien Act 1966 (80 Stat. 1141)]

PAR. 3. There are added immediately after § 301.7424-1 the following new §§ 301.7425 through 301.7425-4.

§ 301.7425 Statutory provisions; discharge of liens.

(a) Section 7425 of the Internal Revenue Code of 1954, as added by section 109 of the Federal Tax Lien Act of 1966:

Sec. 7425. Discharge of liens.—(a) **Judicial proceedings.** If the United States is not joined as a party, a judgment in any civil action or suit described in subsection (a) of section 2410 of title 28 of the United States Code, or a judicial sale pursuant to such a judgment, with respect to property on which the United States has or claims a lien under the provisions of this title—

(1) Shall be made subject to and without disturbing the lien of the United States, if notice of such lien has been filed in the place provided by law for such filing at the time such action or suit is commenced, or

(2) Shall have the same effect with respect to the discharge or divestment of such lien of the United States as may be provided with respect to such matters by the local law of the place where such property is situated, if no notice of such lien has been filed in the place provided by law for such filing at the time such action or suit is commenced or if the law makes no provision for such filing.

If a judicial sale of property pursuant to a judgment in any civil action or suit to which the United States is not a party discharges a lien of the United States arising under the provisions of this title, the United States may claim, with the same priority as its lien had against the property sold, the proceeds (exclusive of costs) of such sale at any time before the distribution of such proceeds is ordered.

(b) **Other sales.** Notwithstanding subsection (a) a sale of property on which the United States has or claims a lien, or a title derived from enforcement of a lien, under the provisions of this title, made pursuant to an instrument creating a lien on such property, pursuant to a confession of judgment on the obligation secured by such an instrument, or pursuant to a nonjudicial sale under a statutory lien on such property—

(1) Shall, except as otherwise provided, be made subject to and without disturbing such lien or title, if notice of such lien was filed or such title recorded in the place provided by law for such filing or recording more than 30 days before such sale and the United States is not given notice of such sale in the manner prescribed in subsection (c)(1); or

(2) Shall have the same effect with respect to the discharge or divestment of such lien or such title of the United States, as may be provided with respect to such matters by the local law of the place where such property is situated, if—

(A) Notice of such lien or such title was not filed or recorded in the place provided by law for such filing more than 30 days before such sale.

(B) The law makes no provision for such filing, or

(C) Notice of such sale is given in the manner prescribed in subsection (c)(1).

(c) **Special Rules.**—(1) **Notice of sale.** Notice of a sale to which subsection (b) applies shall be given (in accordance with regulations prescribed by the Secretary or his delegate) in writing, by registered or certified mail or by personal service, not less than 25 days prior to such sale, to the Secretary or his delegate.

(2) **Consent to sale.** Notwithstanding the notice requirement of subsection (b)(2)(C), a sale described in subsection (b) of property shall discharge or divest such property of the lien or title of the United States if

the United States consents to the sale of such property free of such lien or title.

(3) **Sale of perishable goods.** Notwithstanding the notice requirement of subsection (b)(2)(C), a sale described in subsection (b) of property liable to perish or become greatly reduced in price or value by keeping, or which cannot be kept without great expense, shall discharge or divest such property of the lien or title of the United States if notice of such sale is given (in accordance with regulations prescribed by the Secretary or his delegate) in writing, by registered or certified mail or by personal service, to the Secretary or his delegate before such sale. The proceeds (exclusive of costs) of such sale shall be held as a fund subject to the liens and claims of the United States, in the same manner and with the same priority as such liens and claims had with respect to the property sold, for not less than 30 days after the date of such sale.

(d) **Redemption by United States.**—(1) **Right to redeem.** In the case of a sale of real property to which subsection (b) applies to satisfy a lien prior to that of the United States, the Secretary or his delegate may redeem such property within the period of 120 days from the date of such sale or the period allowable for redemption under local law, whichever is longer.

(2) **Amount to be paid.** In any case in which the United States redeems real property pursuant to paragraph (1), the amount to be paid for such property shall be the amount prescribed by subsection (d) of section 2410 of title 28 of the United States Code.

(3) **Certificate of redemption.**—(A) **In general.** In any case in which real property is redeemed by the United States pursuant to this subsection, the Secretary or his delegate shall apply to the officer designated by local law, if any, for the documents necessary to evidence the fact of redemption and to record title to such property in the name of the United States. If no such officer is designated by local law or if such officer fails to issue such documents, the Secretary or his delegate shall execute a certificate of redemption therefor.

(B) **Filing.** The Secretary or his delegate shall, without delay, cause such documents or certificate to be duly recorded in the proper registry of deeds. If the State in which the real property redeemed by the United States is situated has not by law designated an office in which such certificate may be recorded, the Secretary or his delegate shall file such certificate in the office of the clerk of the United States district court for the judicial district in which such property is situated.

(C) **Effect.** A certificate of redemption executed by the Secretary or his delegate shall constitute prima facie evidence of the regularity of such redemption and shall, when recorded, transfer to the United States all the rights, title, and interest in and to such property acquired by the person from whom the United States redeems such property by virtue of the sale of such property.

[Sec. 7425 as added by sec. 109, Federal Tax Lien Act of 1966 (80 Stat. 1141)]

(b) Section 2410 of title 28 of the United States Code, as amended by section 201 of the Federal Tax Lien Act of 1966:

Sec. 2410. Actions affecting property on which United States has lien.

(d) In any case in which the United States redeems real property under section 7425 of the Internal Revenue Code of 1954, the amount to be paid for such property shall be the sum of—

(1) The actual amount paid by the purchaser at such sale (which, in the case of

a purchaser who is the holder of the lien being foreclosed, shall include the amount of the obligation secured by such lien to the extent satisfied by reason of such sale.

(2) Interest on the amount paid (as determined under paragraph (1)) at 8 percent per annum from the date of such sale, and

(3) The amount (if any) equal to the excess of (A) the expenses necessarily incurred in connection with such property, over (B) the income from such property plus (to the extent such property is used by the purchaser) a reasonable rental value of such property.

(Sec. 2410 (d) as amended by sec. 201, Federal Tax Lien Act 1966 (80 Stat. 1147))

§ 301.7425-1 Discharge of liens; scope and application; judicial proceedings.

(a) *In general.* A tax lien of the United States, or a title derived from the enforcement of a tax lien of the United States, may be discharged or divested under local law only in the manner prescribed in section 7425 of Title 28 of the United States Code or in the manner prescribed in section 7425 of the Internal Revenue Code. Section 7425

(a) contains provisions relating to the discharge of a lien when the United States is not joined as a party in the judicial proceedings described in subsection (a) of section 7410 of Title 28 of the United States Code. These judicial proceedings are plenary in nature and proceed on formal pleadings. Section 7425(b) contains provisions relating to the discharge of a lien or a title derived from the enforcement of a lien in the event of a nonjudicial sale with respect to the property involved. Section 7425 (c) contains special rules relating to the notice of sale requirements contained in section 7425(b). Section 301.7425-2 contains rules with respect to the nonjudicial sales described in section 7425 (b). Paragraph (a) of § 301.7425-3 contains rules with respect to the notice of sale provisions of section 7425(c)(1). Paragraph (b) of § 301.7425-3 contains rules relating to the consent to sale provisions of section 7425(c)(2). Paragraph (c) of § 301.7425-3 contains rules relating to the sale of perishable goods provisions of section 7425(c)(3). Paragraph (d) of § 301.7425-3 contains the requirements with respect to the contents of a notice of sale. Section 301.7425-4 prescribes rules with respect to the redemption of real property by the United States.

(b) *Effective date.* The provisions of section 7425, as added by the Federal Tax Lien Act of 1966, are effective with respect to sales described in section 7425 occurring after November 2, 1966. The notice of sale provisions of section 7425 (c) (1) or (3) do not apply to sales occurring after November 2, 1966, if the seller of the property performed an act before November 3, 1966, which act at the time of performance was required and effective under local law with respect to the sale. An example of such an act is publication of a notice of the sale in a local newspaper before November 3, 1966, if local law requires such publication before a sale and the publication is

effective under local law. Accordingly, in such a case, it is not necessary to notify the Internal Revenue Service pursuant to the provisions of section 7425 (c) (1) or (3). With respect to a notice of sale required under section 7425 (c) (1) or (3)—

(1) Any notice of sale given to an office of the Internal Revenue Service or the Treasury Department during the period November 3, 1966, through December 21, 1966, shall be considered as adequate;

(2) Any notice of sale given during the period December 22, 1966, through January 31, 1968, which complies with the provisions of either—

(i) Revenue Procedure 67-25, 1967-1 C.B. 626 (based on Technical Information Release 873, dated December 22, 1966), or

(ii) Section 301.7425-3, shall be considered as adequate; and

(3) Any notice of sale given after January 31, 1968, which complies with the provisions of § 301.7425-3 shall be considered as adequate.

(c) *Judicial proceedings.*—(1) *In general.* Section 7425 (a) provides rules, where the United States is not joined as a party, to determine the effect of a judgment in any civil action or suit described in subsection (a) of section 7410 of title 28 of the United States Code (relating to joinder of the United States in certain proceedings), or a judicial sale pursuant to such a judgment, with respect to property on which the United States has or claims a lien under the provisions of this title. If the United States is improperly named as a party to a judicial proceeding, the effect is the same as if the United States were not joined.

(2) *Notice of lien filed when the proceeding is commenced.* Where the United States is not properly joined as a party in the court proceeding and a notice of lien has been filed in accordance with section 6323 (f) or (g) in the place provided by law for such filing at the time the action or suit is commenced, a judgment or judicial sale pursuant to such a judgment shall be made subject to and without disturbing the lien of the United States.

(3) *Notice of lien not filed when the proceeding is commenced.*—(i) *General rule.* Where the United States is not joined as a party in the court proceeding and either a notice of lien has not been filed in accordance with section 6323 (f) or (g) in the place provided by law for such filing at the time the action or suit is commenced, or the law makes no provision for that filing, a judgment or judicial sale pursuant to such a judgment shall have the same effect with respect to the discharge or divestment of the lien of the United States as may be provided with respect to these matters by the local law of the place where the property is situated.

(ii) *Examples.* The provisions of subparagraph (3) may be illustrated by the following examples:

Example (1). A, the first mortgagee of an apartment building located in State Y, commenced a foreclosure action on the mortgage

prior to the time that a notice of a Federal tax lien, on that building, had been filed. Under the law of Y, junior liens on real property are discharged by a judicial sale pursuant to a judgment in a foreclosure action. Therefore, the Federal tax lien on the building will be discharged by the judicial sale. This result is the same whether the tax lien arose before or after the date of commencement of the foreclosure action and whether notice of the tax lien was filed at any time after commencement of the foreclosure action.

Example (2). On January 10, 1969, B dies testate and devises Blackacre to C. At B's death, Blackacre is subject to a first mortgage held by D. Realty is subject to administration as part of a decedent's estate under the laws of State X. However, C takes possession of Blackacre with the assent of X, the executor of B's estate. On January 3, 1970, D commences a foreclosure action on the mortgage. Under the law of X, junior liens on real property are discharged by a judicial sale pursuant to a judgment in a foreclosure action. After commencement of the proceedings, an assessment for estate taxes is made and, thereafter, a notice of lien is filed in accordance with section 6323. The special lien on Blackacre, arising at the date of B's death, for estate taxes under section 6324(a) will be discharged by the judicial sale because there are no provisions for filing a notice thereof under law and junior liens are discharged by the sale under local law. The lien is discharged even though the executor failed to obtain a discharge of his personal liability under section 2204. Furthermore, the general lien on Blackacre under section 6321 will be discharged by the judicial sale because the foreclosure action was commenced prior to the time that a notice of lien was filed.

(4) *Proceeds of a judicial sale.* If a judicial sale of property pursuant to a judgment in any civil action or suit to which the United States is not a party discharges a lien of the United States arising under the provisions of the Internal Revenue Code of 1954, the United States may claim the proceeds of the sale (exclusive of costs) prior to the time that distribution of the proceeds is ordered. The claim of the United States in such a case is treated as having the same priority with respect to the proceeds as the lien had with respect to the property which was discharged from the lien by the judicial sale.

§ 301.7425-2 Discharge of liens; non-judicial sales.

(a) *In general.* Section 7425(b) contains provisions with respect to the effect on the interest of the United States in property in which the United States has or claims a lien, or a title derived from the enforcement of a lien, of a sale made pursuant to—

(1) An instrument creating a lien on the property sold.

(2) A confession of judgment on the obligation secured by an instrument creating a lien on the property sold, or

(3) A statutory lien on the property sold.

For purposes of this section, such a sale is referred to as a "nonjudicial sale." The term "nonjudicial sale" includes, but is not limited to, the divestment of the taxpayer's interest in property which occurs by operation of law, by public or private sale, by forfeiture, or by ter-

mination under provisions contained in a contract for a deed or a conditional sales contract. Under section 7425(b)(1), if a notice of lien is filed in accordance with section 6323 (f) or (g), or the title derived from the enforcement of a lien is recorded as provided by local law, more than 30 days before the date of sale, and the appropriate district director is not given notice of the sale (in the manner prescribed in § 301.7425-3), the sale shall be made subject to and without disturbing the lien or title of the United States. Under section 7425(b)(2)(C), in any case in which notice of the sale is given to the district director not less than 25 days prior to the date of sale (in the manner prescribed in section 7425(c)(1)), the sale shall have the same effect with respect to the discharge or divestment of the lien or title as may be provided by local law with respect to other junior liens or other titles derived from the enforcement of junior liens. A nonjudicial sale pursuant to a lien which is junior to a tax lien does not divest the tax lien, even though notice of the nonjudicial sale is given to the appropriate district director. However, under the provisions of section 6323(b) and § 301.6323-1, a district director may discharge the property from a tax lien, including a tax lien which is senior to another lien upon the property.

(b) *Date of sale.* In the case of a nonjudicial sale subject to the provisions of section 7425(b), in order to compute any period of time determined with reference to the date of sale, the date of sale shall be determined in accordance with the following rules:

(1) In the case of divestment of junior liens on property resulting directly from a public sale, the date of sale is deemed to be the date the public sale is held, regardless of the date under local law on which junior liens on the property are divested or the title to the property is transferred.

(2) In the case of divestment of junior liens on property resulting directly from a private sale, the date of sale is deemed to be the date title to the property is transferred, regardless of the date junior liens on the property are divested under local law, and

(3) In the case of divestment of junior liens on property not resulting directly from a public or private sale, the date of sale is deemed to be the date on which junior liens on the property are divested under local law.

For provisions relating to the right of redemption of the United States, see section 7425(d) and § 301.7425-4.

(c) *Examples.* The provisions of this section may be illustrated by the following examples:

Example (1). (1) Under the law of State M, upon entry of judgment, the judgment creditor obtains a statutory lien upon the real property of the judgment debtor, and certain procedures are provided by which the judgment creditor may execute by public sale upon such real property. These procedures provide, among other things, for notification by personal service or registered or certified mail to other lien creditors, if any, and publication of a notice of the sale in a local newspaper. After the ex-

piration of a prescribed period of time after such notification and publication, the sheriff of the county where the real property is located may sell the property at public sale. After payment of the amount bid at the public sale, the sheriff issues to the purchaser a deed to the real property, and the interests of junior lienors in the property are divested.

(2) For purposes of this section, such an execution sale is a nonjudicial sale described in section 7425(b) because the sale is made pursuant to a statutory lien on the property sold. The date of sale, for purposes of computing a period of time determined with reference to the date of sale, is the date on which the public sale is held because junior liens on the real property are divested directly as a result of the public sale. This result obtains even though the junior liens are legally divested on a later date when the sheriff issues the deed.

Example (2). (1) Under the law of State N, mortgages on real property may contain a power of sale which authorizes the mortgagee, upon breach by the mortgagor of one of the conditions of the mortgage, to have the mortgaged property sold at public sale. This public sale must be preceded by notice by advertisement in a local newspaper, and the time, place, description of the property, and other terms of the sale must be specified. The purchaser at such a public sale obtains a title to the real property which is not subject to a right of redemption by the mortgagor and which divests the interests of the junior lienors in the property.

(2) For purposes of this section, a sale pursuant to such a power of sale is a nonjudicial sale described in section 7425(b) because the sale is made pursuant to the mortgage instrument which created a lien on the property sold. The date of the sale, for purposes of computing a period of time determined with reference to the date of sale, is the date of the public sale because junior liens on the property are divested directly as a result of the public sale.

Example (3). Assume the same facts as in example (2) except that the purchaser at the public sale obtains a title which is defeasible by the exercise of a right of redemption in the mortgagor. The purchaser's title divests the interests of junior lienors in the property as of the time of public sale. The interests of junior lienors in the property revive if the mortgagor exercises his right of redemption. The date of the sale, for purposes of computing a period of time determined with reference to the date of sale, is the date of the public sale because junior liens on the property are divested directly as a result of the public sale although such junior liens may be revived by a subsequent redemption by the mortgagor.

Example (4). (1) Under the law of State O, upon breach by a mortgagor of real property of one of the conditions of the mortgage, the mortgagee may foreclose the mortgage by securing possession of the property by one of several procedures provided by statute. These procedures are generally referred to as "strict foreclosure." In order for a foreclosure to be effective under these procedures, a certificate attesting the fact of entry must be recorded with the proper registrar of deeds within 30 days after the mortgagee enters the property. During the one-year period following the date on which the certificate of entry is recorded, the mortgagor or a junior lienor may redeem the property by paying the mortgagee the amount of the mortgage obligation. If, during such one-year period the property is not redeemed and the mortgagee's possession is continued, the interests of the mortgagor and the junior lienors in the property are divested as of the date such one-year period expires.

(2) For purposes of this section, such a foreclosure procedure is a nonjudicial sale described in section 7425(b) because it results in the divestment of the mortgagor's interest in the property by operation of law pursuant to the mortgage which created a lien on the property. In addition, because there is no public or private sale which directly results in the divestment of junior liens on the property, the date of sale, for purposes of computing a period of time determined with reference to the date of sale, is the date on which the one-year period following the recording of the certificate of entry expires.

Example (5). The law of State P contains a procedure which permits a county to collect a delinquent tax assessment with respect to real property by the means of a tax sale of the property. First, a notice of a public auction with respect to the tax assessment on the real property is published in a local newspaper. At the public auction, the purchaser, upon payment of the delinquent taxes and interest, obtains from the county tax collector a tax certificate with respect to the real property. Because the obtaining of this tax certificate does not directly result in the divestment of either the owner's title or junior liens with respect to the property, the public auction is not a nonjudicial sale described in section 7425(b). At any time before a tax deed with respect to the property is issued by the clerk of the county court, the owner or any holder of a lien or other interest with respect to the property may obtain the tax certificate by paying the holder of the tax certificate the amount of the taxes, interest, and costs. After a date which is two years after the date on which the tax assessment became delinquent, the holder of the tax certificate may request the clerk of the county court to have the property advertised for sale. After advertisement of the sale, the clerk of the county court conducts a public sale of the real property and the purchaser obtains a tax deed. The interests of all junior lienors in the property are divested and the property is not subject to a right of redemption under the law of State P. For purposes of this section, this public sale is considered to be a nonjudicial sale described in section 7425(b) because the sale is made pursuant to a statutory lien on the property sold. The date of the sale, for purposes of computing a period of time determined with reference to the date of sale, is the date on which the public sale is held at which the purchaser obtains a tax deed as this sale directly results in the divestment of junior liens on the property.

Example (6). The law of State Q contains a provision which permits a county to collect a delinquent tax assessment with respect to real property by the means of a tax sale of the property. After public notice is given, a "tax sale" of the real property is conducted. Upon payment of the delinquent taxes and interest, a purchaser obtains a tax certificate with respect to the real property. If there is no purchaser at the tax sale, the property is deemed to be bid in by the State. Because the obtaining of this tax certificate by a purchaser or State Q does not directly result in the divestment of either the owner's title or junior liens with respect to the property, the tax sale is not a nonjudicial sale described in section 7425(b). Following the tax sale, there is a three year period during which any person having an interest in the property may redeem the property by paying the holder of the tax certificate the amount of taxes, interest, and costs. Unless redeemed, the holder of the tax certificate may obtain an absolute title at the expiration of the period of redemption provided he serves a notice of the expiration of the redemption period upon the owner at least 60 days prior to the date of expiration. De-

cause there is no public or private sale which directly results in the divestment of junior liens on the property, the date of sale, for purposes of computing a period of time determined with reference to the date of sale, is the date on which the holder of the tax certificate obtains absolute title.

§ 301.7425-3 Discharge of liens; special rules.

(a) *Notice of sale requirements*—(1) *In general.* Except in the case of the sale of perishable goods described in paragraph (c) of this section, a notice (as described in paragraph (d) of this section) of a nonjudicial sale shall be given, in writing by registered or certified mail or by personal service, not less than 25 days prior to the date of sale (determined under the provisions of paragraph (b) of § 301.7425-2), to the district director (marked for the attention of the chief, special procedures staff) for the internal revenue district in which the sale is to be conducted. Thus, under this section, a notice of sale is not effective if it is given to a district director other than the district director for the internal revenue district in which the sale is to be conducted. The provisions of sections 7502 (relating to timely mailing treated as timely filing) and 7503 (relating to time for performance of acts where the last day falls on Saturday, Sunday, or legal holiday) apply in the case of notices required to be made under this paragraph.

(2) *Postponement of scheduled sale*—(i) *Where notice of sale is given.* In the event that notice of a sale is given in accordance with subparagraph (1) of this paragraph with respect to a scheduled sale which is postponed to a later time or date, the seller of the property is required to give notice of the postponement to the district director in the same manner as is required under local law with respect to other secured creditors. For example, assume that in State M local law requires that in the event of a postponement of a scheduled foreclosure sale of real property, an oral announcement of the postponement at the place and time of the scheduled sale constitutes sufficient notice to secured creditors of the postponement. Accordingly, if "at the place and time of a scheduled sale in State M an oral announcement of the postponement is made, the Internal Revenue Service is considered to have notice of the postponement for the purpose of this subparagraph.

(ii) *Where notice of sale is not given.* In the event that—

(A) Notice of a nonjudicial sale would not be required under subparagraph (1) of this paragraph if the sale were held on the originally scheduled date,

(B) Because of a postponement of the scheduled sale, more than 30 days elapse between the originally scheduled date of the sale and the date of the sale, and

(C) A notice of lien with respect to the property to be sold is filed more than 30 days before the date of the sale, notice of the sale is required to be given to the district director in accordance with the provisions of paragraph (a) (1) of this section. In any case in which notice of sale is required to be given with respect

to a scheduled sale, and notice of the sale is not given, any postponement of the scheduled sale does not affect the rights of the United States under section 7425 (b).

(iii) *Examples.* The provisions of subdivision (ii) of this subparagraph may be illustrated by the following examples:

Example (1). A nonjudicial sale of Blackacre, belonging to A, a delinquent taxpayer, is scheduled for December 2, 1968. As no notice of lien is filed applicable to Blackacre more than 30 days before December 2, 1968, no notice of sale is given to the district director. On December 2, 1968, the sale of Blackacre is postponed until January 15, 1969. A notice of lien with respect to Blackacre is properly filed on January 2, 1969. The sale of Blackacre is held on January 13, 1969. Even though more than 30 days elapsed between the originally scheduled date of the sale (December 2, 1968) and the date of the sale (January 13, 1969), no notice of sale is required to be given to the district director because the notice of lien was not filed more than 30 days before the date of the sale.

Example (2). Assume the same facts as in example (1) except that a notice of lien is filed on November 29, 1968 in accordance with section 6323. Because more than 30 days elapsed between the originally scheduled date of the sale and the date of the sale, and the notice of lien is filed (on November 29, 1968) more than 30 days before the date of the sale (January 13, 1969), notice of the sale, in accordance with the provisions of subparagraph (1) of this paragraph, is required to be given to the district director.

Example (3). A nonjudicial sale of Whiteacre, belonging to B, a delinquent taxpayer, is scheduled for December 2, 1968. A notice of lien applicable to Whiteacre is filed on November 12, 1968 in accordance with section 6323. As the notice of lien was not filed more than 30 days before December 2, 1968, no notice of sale is given to the district director. On December 2, 1968, the sale of Whiteacre is postponed until December 20, 1968. The sale of Whiteacre is held on December 20, 1968. Even though more than 30 days elapsed between the date notice of lien was filed (November 12, 1968) and the date of the sale (December 20, 1968), no notice of sale is required to be given to the district director because not more than 30 days elapsed between the date of the originally scheduled sale (December 2, 1968) and the date the sale was actually held (December 20, 1968).

(b) *Consent to sale*—(1) *In general.* Notwithstanding the notice of sale provisions of paragraph (a) of this section, a nonjudicial sale of property shall discharge or divest the property of the lien or title of the United States if the district director for the internal revenue district in which the sale occurs consents to the sale of the property free of the lien or title. Pursuant to section 7425 (c) (2), where adequate protection is afforded the lien or title of the United States, a district director may, in his discretion, consent with respect to the sale of property in appropriate cases. Such consent shall be effective only if given in writing and shall be subject to such limitations and conditions as the district director may require. However, a district director may not consent to a sale of property under this section after the date of sale, as determined under paragraph (b) of § 301.7425-2. For provisions relating to the authority of the

district director to release a lien or discharge property subject to a tax lien, see section 6323 and the regulations thereunder.

(2) *Application for consent.* Any person desiring a district director's consent to sell property free of a tax lien or a title derived from the enforcement of a tax lien of the United States in the property shall submit to the district director for the internal revenue district in which the sale is to occur a written application, in triplicate, declaring that it is made under penalties of perjury, and requesting that such consent be given. The application shall contain the information required in the case of a notice of sale, as set forth in paragraph (d) (1) of this section, and, in addition, shall contain a statement of the reasons why the consent is desired.

(c) *Sale of perishable goods*—(1) *In general.* A notice (as described in paragraph (d) of this section) of a nonjudicial sale of perishable goods (as defined in subparagraph (2) of this paragraph) shall be given in writing, by registered or certified mail or delivered by personal service, at any time before the sale, to the district director (marked for the attention of the chief, special procedures staff) for the internal revenue district in which the sale is to be conducted. Thus, under this section, a notice of sale is not effective if it is given to a district director other than the district director for the internal revenue district in which the sale is to be conducted. If a notice of a nonjudicial sale is timely given in the manner described in this paragraph, the nonjudicial sale shall discharge or divest the tax lien, or a title derived from the enforcement of a tax lien, of the United States in the property. The provisions of sections 7502 (relating to timely mailing treated as timely filing) and 7503 (relating to time for performance of acts where the last day falls on Saturday, Sunday, or a legal holiday) apply in the case of notices required to be made under this paragraph. The seller of the perishable goods shall hold the proceeds (exclusive of costs) of the sale as a fund, for not less than 30 days after the date of the sale, subject to the liens and claims of the United States, in the same manner and with the same priority as the liens and claims of the United States had with respect to the property sold. If the seller fails to hold the proceeds of the sale in accordance with the provisions of this paragraph and if the district director asserts a claim to the proceeds within 30 days after the date of sale, the seller shall be personally liable to the United States for an amount equal to the value of the interest of the United States in the fund. However, even if the proceeds of the sale are not so held by the seller, but all the other provisions of this paragraph are satisfied, the buyer of the property at the sale takes the property free of the liens and claims of the United States. In the event of a postponement of the scheduled sale of perishable goods, the seller is not required to notify the district director of the postponement. For provisions relating to the authority of the district director to

release a lien or discharge property subject to a tax lien, see section 6325 and the regulations thereunder.

(2) *Destruction of perishable goods.* For the purpose of this paragraph, the term "perishable goods" means any tangible personal property which, in the reasonable view of the person selling the property, is liable to perish or become greatly reduced in price or value by keeping, or cannot be kept without great expense.

(d) *Content of notice of sale.*—(1) *In general.* With respect to a notice of sale described in paragraph (a) or (c) of this section, the notice will be considered adequate if it contains the information described in paragraph (d)(1)(i), (ii), (iii), and (iv) of this section.

(i) The name and address of the person submitting the notice of sale;

(ii) A copy of each Notice of Federal Tax Lien (Form 688) affecting the property to be sold, or the following information as shown on each such Notice of Federal Tax Lien—

(A) The internal revenue district named thereon.

(B) The name and address of the taxpayer, and

(C) The date and place of filing of the notice;

(iii) With respect to the property to be sold, the following information—

(A) A detailed description, including location, of the property affected by the notice (in the case of real property, the street address, city, and State and the legal description contained in the title or deed to the property and, if available, a copy of the abstract of title);

(B) The date, time, place, and terms of the proposed sale of the property, and

(C) In the case of a sale of perishable property described in paragraph (c) of this section, a statement of the reasons why the property is believed to be perishable; and

(iv) The approximate amount of the principal obligation, including interest, secured by the lien sought to be enforced and a description of the other expenses (such as legal expenses, selling costs, etc.) which may be charged against the sale proceeds.

(2) *Inadequate notice.* Except as otherwise provided in this subparagraph, a notice of sale described in paragraph (a) of this section which does not contain the information described in paragraph (d)(1) of this paragraph shall be considered inadequate by a district director. If a district director determines that the notice is inadequate, he will give written notification of the items of information which are inadequate to the person who submitted the notice. A notice of sale which does not contain the name and address of the person submitting such notice shall be considered to be inadequate for all purposes without notification of any specific inadequacy. In any case where a notice of sale, given after December 31, 1978 does not contain the information required under paragraph (d)(1)(ii) of this section with

respect to a Notice of Federal Tax Lien, the district director may give written notification of such omission without specification of any other inadequacy and such notice of sale shall be considered inadequate for all purposes. In the event the district director gives notification that the notice of sale is inadequate, a notice complying with the provisions of this section (including the requirement that the notice be given not less than 25 days prior to the sale in the case of a notice described in paragraph (a) of this section) must be given. However, in accordance with the provisions of paragraph (b)(1) of this section, in such a case the district director may, in his discretion, consent to the sale of the property free of the lien or title of the United States even though notice of the sale is given less than 25 days prior to the sale. In any case where the person who submitted a timely notice which indicates his name and address does not receive, more than 5 days prior to the date of the sale, written notification from the district director that the notice is inadequate, the notice shall be considered adequate for purposes of this section.

(3) *Acknowledgment of notice.* If a notice of sale described in paragraph (a) or (c) of this section is submitted in duplicate to the district director with a written request that receipts of the notice be acknowledged and returned to the person giving the notice, this request will be honored by the district director. The acknowledgement by the district director will indicate the date and time of the receipt of the notice.

(4) *Disclosure of adequacy of notice.* The district director for the internal revenue district in which the sale was held or is to be held is authorized to disclose, to any person who has a proper interest, whether an adequate notice of sale was given under paragraph (d)(1) of this section. Any person desiring this information should submit to the district director a written request which clearly describes the property sold or to be sold, identifies the applicable notice of lien, gives the reasons for requesting the information, and states the name and address of the person making the request.

§ 301.7425-4 Discharge of liens; redemption by United States.

(a) *Right to redeem.*—(1) *In general.* In the case of a nonjudicial sale of real property to satisfy a lien prior to the tax lien or a title derived from the enforcement of a tax lien, the district director may redeem the property within the redemption period (as described in paragraph (a)(2) of this section). The right of redemption of the United States exists under section 7425(d) even though the district director has consented to the sale under section 7425(c)(2) and § 301.7425-3(b). For purposes of this section, the term "nonjudicial sale" shall have the same meaning as used in paragraph (a) of § 301.7425-2.

(2) *Redemption period.* For purposes of this section, the redemption period shall be—

(i) The period beginning with the date of the sale (as determined under paragraph (b) of § 301.7425-2) and ending with the 120th day after such date, or

(ii) The period for redemption of real property allowable, with respect to other secured creditors, under the local law of the place where the real property is located, whichever expires later. Whichever period is applicable, section 7425 and this section shall govern the amount to be paid and the procedure to be followed.

(3) *Limitations.* In the event a sale does not ultimately discharge the property from the tax lien (whether by reason of local law or the provisions of section 7425(b)), the provisions of this section do not apply because the tax lien will continue to attach to the property after the sale. In a case in which the Internal Revenue Service is not entitled to a notice of sale under section 7425(b) and § 301.7425-3, the United States does not have a right of redemption under section 7425(d). However, in such a case, if a tax lien has attached to the property at the time of sale, the United States has the same right of redemption, if any, which is afforded similar creditors under the local law of the place in which the property is situated.

(b) *Amount to be paid.*—(1) *In general.* In any case in which a district director exercises the right to redeem real property under section 7425(d), the amount to be paid is the sum of the following amounts—

(i) The actual amount paid for the property (as determined under paragraph (b)(2) of this section) being redeemed (which, in the case of a purchaser who is the holder of the lien being foreclosed, shall include the amount of the obligation secured by such lien to the extent legally satisfied by reason of the sale);

(ii) Interest on the amount paid (described in paragraph (b)(1)(i) of this section) at the sale by the purchaser of the real property computed at the rate of 6 percent per annum for the period from the date of the sale (as determined under paragraph (b) of § 301.7425-2) to the date of redemption;

(iii) The amount, if any, equal to the excess of (A) the expenses necessarily incurred to maintain such property (as determined under paragraph (b)(3) of this section) by the purchaser (and his successor in interest, if any) over (B) the income from such property realized by the purchaser (and his successor in interest, if any) plus a reasonable rental value of such property (to the extent the property is used by or with the consent of the purchaser or his successor in interest or is rented at less than its reasonable rental value); and

(iv) With respect to a redemption made after December 31, 1978, the amount, if any, of a payment made by the purchaser or his successor in interest after the foreclosure sale to a holder of a senior lien (to the extent provided under paragraph (b)(4) of this section).

(2) *Actual amount paid.* (i) The actual amount paid for property by a purchaser, other than the holder of the lien

being foreclosed, is the amount paid by him at the sale. For purposes of this subdivision, the amount paid by the purchaser at the sale includes deferred payments upon the bid price. The actual amount paid does not include costs and expenses incurred prior to the foreclosure sale by the purchaser except to the extent such expenses are included in the amount bid and paid for the property. For example, the actual amount paid does not normally include the expenses of the purchaser such as title searches, professional fees, or interest on debt incurred to obtain funds to purchase the property.

(ii) In the case of a purchaser who is the holder of the lien being foreclosed, the actual amount paid is the sum of (A) the amount of the obligation secured by such lien to the extent legally satisfied by reason of the sale and (B) any additional amount bid and paid at the sale. For purposes of this section, a purchaser who acquires title as a result of a nonjudicial foreclosure sale is treated as the holder of the lien being foreclosed if a lien (or any interest reserved, created, or conveyed as security for the payment of a debt or fulfillment of other obligation) held by him is partially or fully satisfied by reason of the foreclosure sale. For example, a person whose title is derived from a tax deed issued under local law shall be treated as a purchaser who is the holder of the lien foreclosed in a case where a tax certificate, evidencing a lien on the property arising from the payment of property taxes, ripens into title. The amount paid by a purchaser at the sale includes deferred payments upon any portion of the bid price which is in excess of the amount of the lien being foreclosed. The actual amount paid does not include costs and expenses incurred prior to the foreclosure sale by the purchaser except to the extent such expenses are included in the amount of the lien being foreclosed which is legally satisfied by reason of the sale or in the amount bid and paid at the sale. Where the lien being foreclosed attaches to other property not subject to the foreclosure sale, the amount legally satisfied by reason of the sale does not include the amount of such lien that attaches to the other property. However, for purposes of the preceding sentence, the amount of the lien that attaches to the other property shall be considered to be equal to the amount by which the value of the other property exceeds the amount of any other senior lien on that property. Where, after the sale, the holder of the lien being foreclosed has the right to the unpaid balance of the amount due him, the amount legally satisfied by reason of the sale does not include the amount of such lien to the extent a deficiency judgment may be obtained therefor. However, for purposes of the preceding sentence, an amount, with respect to which the holder of the lien being foreclosed would otherwise have a right to a deficiency judgment, shall be considered to be legally satisfied by reason of the foreclosure sale to the extent that the holder has waived his

right to a deficiency judgment prior to the foreclosure sale. For this purpose, the waiver must be in writing and legally binding upon the foreclosing lienholder as of the time the sale is concluded. If, prior to the foreclosure, payments have been made by the foreclosing lienholder to a holder of a superior lien, the payments are included in the actual amount paid to the extent they give rise to an interest which is legally satisfied by reason of the foreclosure sale.

(3) *Excess expenses incurred by purchaser.* (i) Expenses necessarily incurred in connection with the property after the foreclosure sale and before redemption by the United States are taken into account in determining if there are excess expenses payable under paragraph (b) (1) (iii) of this section. Expenses incurred by the purchaser prior to the foreclosure sale are not considered under this subparagraph. (See paragraph (b) (2) (ii) of this section for circumstances under which such expenses may be included in the amount to be paid.) Expenses necessarily incurred in connection with the property include, for example, rental agent commissions, repair and maintenance expenses, utilities expenses, legal fees incurred after the foreclosure sale and prior to redemption in defending the title acquired through the foreclosure sale, and a proportionate amount of casualty insurance premiums and ad valorem taxes. Improvements made to the property are not considered as an expense unless the amounts incurred for such improvements are necessarily incurred to maintain the property.

(ii) At any time prior to the expiration of the redemption period applicable under paragraph (a) (2) of this section, the district director may, by certified or registered mail or hand delivery, request a written itemized statement of the amount claimed by the purchaser or his successor in interest to be payable under paragraph (b) (1) (iii) of this section. Unless the purchaser or his successor in interest furnishes the written itemized statement within 15 days after the request is made by the district director, it shall be presumed that no amount is payable for expenses in excess of income and the Internal Revenue Service shall tender only the amount otherwise payable under paragraph (b) (1) of this section. If a purchaser or his successor in interest has failed to furnish the written itemized statement within 15 days after the request therefor is made by the district director, or there is a disagreement as to the amount properly payable under paragraph (b) (1) (iii) of this section, a payment for excess expenses shall be made after the redemption, within a reasonable time following the verification by the district director of a written itemized statement submitted by the purchaser or his successor in interest or the resolution of the disagreement as to the amount properly payable for excess expenses.

(4) *Payments made by purchaser or his successor in interest to a senior lienor.* (i) The amount to be paid upon a re-

demption by the United States made after December 31, 1976, shall include the amount of a payment made by the purchaser or his successor in interest to a holder of a senior lien to the extent a request for the reimbursement thereof (made in accordance with paragraph (b) (4) (ii) of this section) is approved as provided under paragraph (b) (4) (iii) of this section. This paragraph applies only to a payment made after the foreclosure sale and before the redemption to a holder of a lien that was, immediately prior to the foreclosure sale, superior to the lien foreclosed. A payment of principal or interest to a senior lienor shall be taken into account. Generally, the portion, if any, of a payment which is to be held in escrow for the payment of an expense, such as hazard insurance or real property taxes, is not considered under this paragraph. However, a payment by the escrow agent of a real property tax or special assessment lien, which was senior to the lien foreclosed, shall be considered to be a payment made by the purchaser or his successor in interest for purposes of this paragraph. With respect to real property taxes assessed after the foreclosure sale, see paragraph (b) (3) (i) of this section, relating to excess expenses incurred by the purchaser.

(ii) Before the expiration of the redemption period applicable under paragraph (a) (2) of this section, the district director shall, in any case where a redemption is contemplated, send notice to the purchaser (or his successor in interest of record) by certified or registered mail or hand delivery of his right under this subparagraph to request reimbursement (payable in the event the right to redeem under section 7425(d) is exercised) for a payment made to a senior lienor. No later than 15 days after the notice from the district director is sent, the request for reimbursement shall be mailed or delivered to the office specified in such notice and shall consist of—

(A) A written itemized statement, signed by the claimant, of the amount claimed with respect to a payment made to a senior lienor, together with the supporting evidence requested in the notice from the district director, and

(B) A waiver or other document that will be effective upon redemption by the United States to discharge the property from, or transfer to the United States, any interest in or lien on the property that may arise under local law with respect to the payment made to a senior lienor.

Upon a showing of reasonable cause, a district director may, in his discretion and at any time before the expiration of the applicable period for redemption, grant an extension for a reasonable period of time to submit, amend, or supplement a request for reimbursement. Unless a request for reimbursement is timely submitted (determined with regard to any extension of time granted), no amount shall be payable to the purchaser or his successor in interest on account of a payment made to a senior lienor if the right to redeem under sec-

pendent agency in the Department of Justice, replacing the United States Board of Parole. The Commission is authorized to grant and revoke paroles of Federal prisoners, and its functions are set forth in the Act. This order replaces the regulations relating to the U.S. Board of Parole with regulations concerning the new Commission.

The Commission is comprised of nine members, one of whom is designated as Chairman. The Chairman of the Commission is authorized to designate three Commissioners to serve on the National Appeals Board and to designate one region, subject to the concurrence of the President or his designee. (18 U.S.C. 4204 (a)(5)). By Executive Order No. 11919 of June 9, 1976, the President directed that the Attorney General serve as his designee. This order would authorize the Chairman to make a temporary assignment to any of those positions, in case of absence or vacancy in the position, without the Attorney General's concurrence.

By virtue of the authority vested in me by 28 U.S.C. 509 and 510 and 5 U.S.C. 301, and Executive Order No. 11919 of June 9, 1976, and consistent with the provisions of the Parole Commission and Reorganization Act (18 U.S.C. 4201 et seq.), Subpart V of Part 0 of Chapter I of Title 28, Code of Federal Regulations, is revised to read as follows:

Subpart V—United States Parole Commission

- 0.123 Chairman of U.S. Parole Commission.
- 0.126 Administrative support.
- 0.127 Indigent prisoners.

AUTHORITY: 28 USC 509 and 510; 5 USC 301; E.O. 11919, June 9, 1976; 18 USC 4201 et seq.

Subpart V—United States Parole Commission

CROSS REFERENCE: For regulations pertaining to the United States Parole Commission, see Parts 2 and 4 of this chapter.

§ 0.125 Chairman of U.S. Parole Commission.

The Chairman of the United States Parole Commission shall make any temporary assignment of a Commissioner to act as Vice Chairman, National Appeals Board member, or Regional Commissioner, in the case of an absence or vacancy in the position, without the concurrence of the Attorney General.

§ 0.126 Administrative support.

The Department of Justice shall furnish administrative support to the Commission.

§ 0.127 Indigent prisoners.

The United States Parole Commission is authorized to exercise the authority vested in the Attorney General by section 3569 of Title 18, United States Code, to make a finding that a parolee is unable to pay a fine in whole or in part and to direct release of such parolee based on such finding.

Dated: August 12, 1976.

EDWARD H. LEVI,
Attorney General.

[FR Doc. 76-24380 Filed 8-19-76; 8:45 am]

Title 29—Labor

CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Carcinogens: Deletion of Vacated Laboratory Provisions; Deletion of Vacated Standard for Occupational Exposure to 4,4' Methylene bis (2-Chloroaniline)

On January 29, 1974, OSHA promulgated standards for occupational exposure to fourteen carcinogens, as 29 CFR 1910.93c through 1910.93p, pursuant to section 6 (b) and (c) of the Occupational Safety and Health Act of 1970 (84 Stat. 1593, 29 U.S.C. 655). These standards were originally published at 39 FR 3756. Within the 60-day period provided by section 6(f) of the Act, petitions for judicial review were filed in the United States Court of Appeals for the Third Circuit by the Synthetic Organic Chemical Manufacturers Association, et al., challenging the validity of these standards. On December 17, 1974, that Court, in the case of "Synthetic Organic Chemical Manufacturers Association v. Brennan," 506 F. 2d 383, cert. denied, 423 U.S. 830, vacated the entire standard for 4,4' Methylene bis (2-chloroaniline), promulgated as § 1910.93e, and vacated the laboratory provisions of all the carcinogen standards (paragraph (c)(6) of §§ 1910.93c through 1910.93p). On January 7, 1975, OSHA Field Information Memorandum No. 75-2, containing this information, was distributed.

In the subsequent recodification of Title 29 of the Code of Federal Regulations, §§ 1910.93c through 1910.93p were recodified as §§ 1910.1003 through 1910.1016, respectively. Inadvertently, the vacated laboratory provisions were carried forward as paragraph (c)(6) of §§ 1910.1003 through 1910.1016, respectively, and the vacated standard for 4,4' Methylene bis (2-chloroaniline) was carried forward as § 1910.1005. To correct that error, and in accordance with the decision of the Court, § 1910.1005, in its entirety, and paragraph (c)(6) of §§ 1910.1003 through 1910.1016, respectively, are hereby deleted.

I find that the reasons stated above constitute good cause for making this change effective immediately. This amendment, therefore, is effective August 20, 1976.

§ 1910.1005 [Deleted]

§§ 1910.1003—1910.1004 and 1910.1006—1910.1016 [Amended]

Accordingly, pursuant to sections 6 and 8(g) of the Occupational Safety and Health Act of 1970 (84 Stat. 1593, 1800, 29 U.S.C. 655, 657), Secretary of Labor's Order No. 8-76 (41 FR 25059), and 29 CFR Part 1911, Part 1910 of Title 29 of the Code of Federal Regulations is hereby amended by deleting § 1910.1005 in its entirety and by deleting paragraph (c)(6) from §§ 1910.1003 through 1910.1016.

(Sec. 6, 8(g), Pub. L. 91-504, 84 Stat. 1593, 1800 (29 U.S.C. 655, 657), Secretary of Labor's

Order No. 8-76 (41 FR 25059), and 29 CFR Part 1911)

Signed at Washington, D.C. this 13th day of August, 1976.

B. M. CONKLEIN,
Deputy Assistant Secretary of Labor.
[FR Doc. 76-24542 Filed 8-19-76; 8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

(FRL 598-3)

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Georgia: Approval of Plan Revisions

On June 21, 1976 (41 FR 24913), the Agency announced as proposed rulemaking a number of implementation plan changes which the State of Georgia had adopted and submitted for EPA's approval after notice and public hearing. Copies of the materials submitted by Georgia were made available for public inspection, and written comments on the proposed plan revisions were solicited. No comments were received, however. The purpose of the present notice is to announce the Administrator's approval of these revisions. An evaluation of them may be obtained by consulting personnel of the Agency's Region IV Air Programs Branch, 1421 Peachtree Street, N.E., Atlanta, Georgia 30309, telephone 404/526-3043. The revisions are now described.

New definitions are added and some existing definitions are revised. The definition of "modification" is amended by specifying that the term will have the sense given to it by sections 111 and 112 of the Clean Air Act when meeting requirements established by EPA under those sections of that Act.

Section 391-3-1.02(1), Registration, is replaced by a section titled "General Requirement", which forbids sources to operate in violation of requirements established by EPA pursuant to sections 111 and 112 of the Clean Air Act.

In subsection 391-3-1.02(2), General Provision, a third paragraph is added; this provides that requirements more stringent than those set forth elsewhere may be imposed on a facility in order to meet any Federal law or regulation or to safeguard the public health and welfare.

The language of subsection 391-3-1.02(2)(e), Particulate Emissions from Manufacturing Processes, is amended to allow the Director of the Environmental Protection Division to set, as a permit condition, emission limits which differ from those required by the application of the process weight rate tables, or by other sections of the regulations. The Administrator approves this change only for cases where it provides for the establishment as permit conditions of emission limits more stringent than those contained in the currently approved Georgia control strategy. Any application of this regulation which would result in permit provisions less stringent than those otherwise required by the State's regulations must be formally submitted to