Recommended Approval
State Animal Health Official ______
Date ______
Recommended Approval
Veterinarian in Charge ______
Date ______
Approval Granted
Administrator, Animal and Plant Health Inspection Service ______
Date ______

§ 75.42 [Amended]

6. In § 75.4, the heading of paragraph (d) is revised to read "**Denial and withdrawal of approval of laboratories, diagnostic or research facilities, and stockyards.**"

7. In § 75.4, the introductory sentence to paragraph (d) is amended to insert "or of any stockyard to handle reactors under this part," after "or of any diagnostic or reserch facility to receive reactors moved interstate," and to insert "or stockyard" after "the laboratory or diagnostic or research facility".

8. In § 75.4, the introductory sentence of paragraph (d) is further amended to change the period to a comma and to add "or, in the case of a stockyard, upon a determination that the stockyard is not maintained and operated in accordance with the standards specified in paragraph (c)(3) of this section."

9. In § 75.4, paragraph (d)(1) is amended to add "or stockyard" after "laboratory or facility".

10. In § 75.4, paragraph (d)(2) is amended to add "or stockyard" after "laboratory or facility" wherever it appears in the paragraph.

11. In § 75.4, a new paragraph (d)(5) is added to read as follows:

§ 75.4 Interstate movement of equine infectious anemia reactors and approval of laboratories, diagnostic facilities, research facilities, and stockyards.

* * * * *

(d) * * *

(5) Approval for a stockyard to handle reactors under this part will be automatically withdrawn by the Administrator when the operator of the approved stockyard notifies the Administrator, in writing, that the stockyard no longer handles reactors moved interstate under this part.

Done in Washington, DC, this 5th day of April 1990.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 90-8379 Filed 4-10-90 8:45 am]

BILLING CODE 3410-34-M

FEDERAL ELECTION COMMISSION

[Notice 1990-4]

11 CFR Part 110

Contributions and Expenditures: Prohibited Contributions

AGENCY: Federal Election Commission.

ACTION: Final rule: Announcement of effective date.

SUMMARY: On November 24, 1989 (54 FR 48580), the Commission published the text of revised regulations at 11 CFR 110.4(a) which prohibit foreign nationals from making contributions and other persons from accepting such contributions in connection with any election for local, State or Federal public office. These regulations implement section 441e of the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. 431 *et seq.* The Commission announces that these rules are effective as of April 11, 1990.

EFFECTIVE DATE: April 11, 1990.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, 999 E Street NW., Washington, DC 20463, (202) 376-5690 or toll free (800) 424-9530.

SUPPLEMENTARY INFORMATION: Section 438(d) of title 2, United States Code, requires that any rule or regulation prescribed by the Commission to implement title 2 of the United States Code be transmitted to the Speaker of the House of Representatives and the President of the Senate thirty legislative days before final promulgation. The revisions to 11 CFR 110.4 were transmitted to Congress on November 17, 1989. Thirty legislative days expired in the House of Representatives on March 23, 1990 and in the Senate on March 26, 1990.

Announcement of Effective Date: 11 CFR 110.4, as published at 54 FR 48580, is effective as of April 11, 1990.

Dated: April 5, 1990.

Lee Ann Elliott,

Chairman, Federal Election Commission.

[FR Doc. 90-8419 Filed 4-10-90; 8:45 am]

BILLING CODE 6715-01-M

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Parts 500, 543, 544, 545, 546, 550, 552, 563, 563b, 563f, 567, 574 and 584

[No. 90-546]

RIN 1550-AA13

Miscellaneous Conforming and Technical Amendments

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Final rule; miscellaneous conforming and technical amendments.

SUMMARY: The Office of Thrift Supervision ("Office") is amending its regulations in order to standardize most filing procedures for applications requiring action by the Office in Washington, the Office's Washington staff, or by a District Office. Filing procedures in 12 CFR 563d.1, and 12 CFR parts 563g and 563b, with the exception of §§ 563b.3(i) and 563b.28, remain unchanged. The centralized system of filings will better enable the Office to monitor the status of applications filed for review in Washington. This procedure will simplify and expedite application processing.

EFFECTIVE DATE: June 11, 1990.

FOR FURTHER INFORMATION CONTACT: Cindy Hausch, Financial Analyst, (202) 906-7488; Cheryl Martin, Regional Director, (202) 906-7869; Kathleen O. Willard, Deputy Director, (202) 906-6789; Patrick G. Berbakos, Director, (202) 906-6720, Corporate Activities; Robyn Dennis, Financial Analyst, (202) 331-4572, Industry Rehabilitation, Supervision Operations; Lawrence D. Kaplan, Staff Attorney, (202) 906-7508, Corporate and Securities Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: On August 10, 1987, President Reagan signed into law the Competitive Equality Banking Act of 1987 ("CEBA"), Pub. L. 100-86, 101 Stat. 552. Pursuant to section 410(a) of CEBA, the Federal Home Loan Bank Board ("Board"), predecessor to the Office, promulgated Applications processing guidelines, at 12 CFR 571.12 (1988). In order to streamline further the processing of applications submitted to the Office's Washington staff for review, the Office is amending 12 CFR 500.32 to implement a centralized system for application filings, in order to ensure that all appropriate offices, as required by Regulations, receive copies of application filings. Pursuant to § 500.32(c), most application filings required to be made with the Office's

Washington staff shall be made with the Applications Filing Room, 1700 G Street, NW., Washington, DC 20552.

Furthermore, the Office is amending most filing requirements within its regulations for applications requiring Office action. Such technical amendments provide a cross reference to the pertinent subsection of § 500.32(c), which provides for the number of copies applicants shall file with the Applications Filing Room and with the appropriate District Director, as set forth in § 500.32(b). As filings may be acted upon by one or more offices of the Office in Washington and/or at a District Office, the subsections of § 500.32(c) provide explicit filing instructions as to how many copies of a filing should be made with the Applications Filing Room (and the proper labels for copies) or with a District Office and to which location the signed or executed copies should be directed. The Applications Filing Room staff will be charged with the responsiblity to ensure that the appropriate number of copies of a filing have been received in Washington, pursuant to the appropriate subsection of § 500.32(c). Upon a determination that the requisite number of copies of a filing have been received in Washington, the Applications Filing Room will distribute copies, within one business day of receipt, to the appropriate Washington Divisions of the Office for review. Filings will be deemed to be received, for purposes of applicable applications processing periods, when the appropriate number of copies, properly labeled, are filed with the Applications Filing Room and/or with the appropriate District Office if so required by applicable regulations.

The Applications Filing Room will operate Monday through Friday from 9 a.m. until 5 p.m. local Washington DC time, and will be closed on federal holidays. Any filings received by the Applications Filing Room after 5 p.m. will be considered received the following business day.

The centralized system of filings will better enable the Office to monitor the status of applications filed for review in Washington. Filings made in Washington pursuant to this system will be received in one central location; therefore, upon receipt of a filing, only one Division of the Office will determine that all required copies have been received from an applicant. This procedure will simplify and expedite application processing.

Excluded from these technical amendments are all securities filings pursuant to part 563g, § 563d.1, and all standard and modified conversion applications, pursuant to part 563b, since such filings and applications are so closely linked to the securities offering that is part of a conversion. Due to the amount of securities filings, and the time sensitivity of such filings, the Office is of the opinion that such filings should continue to be made directly with the Corporate and Securities Division, Office of Thrift Supervision, as the Corporate and Securities Division is the primary Washington office responsible for the review of such filings. However, the filing instructions for applications involving acquisitions of stock of recently converted associations and for supervisory conversions, are amended to conform to the filing requirements set forth in § 500.32(c)(2), as several offices in Washington, in addition to the District Offices, are responsible for their review. Furthermore, generally at this time the Office is not amending the filing requirements for filings where the Office or its delegatee are not required to take action.

Administrative Procedure Act

Pursuant to 5 U.S.C. 553(a)(2), the Office has determined that this rule is not subject to the notice and comment provisions of the Administrative Procedure Act because it relates to agency management, a matter specifically exempt from the provisions of such act.

Regulatory Flexibility Analysis

Because no notice of proposed rulemaking is required for this rule, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601) do not apply.

Executive Order 12291

It is determined that this final rule does not constitute a "major rule" and, therefore, does not require the preparation of a final regulatory impact analysis.

Paperwork Reduction Act

This regulation is being issued without prior notice and public procedure pursuant to the Administrative Procedure Act (5 U.S.C. 553). The labeling requirements contained in § 500.32 constitute a collection of information which has been approved by the Office of Management and Budget under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507(h)) and has been assigned control number 1550–0056. Comments on the labeling collection of information requirement should be sent to the Office of Management and Budget, Paperwork Reduction Project (agency code 1550), Washington, DC 20503, with copies to the Director, Information Services Division, Communications Services, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552. Additionally, the Office of Thrift Supervision has submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507(h)) separate information collection packages for the following sections: Section 546.4, 563.38, 563.80, 563.233 and 584.2–2.

The collection of information in this proposed regulation is in § 500.32. This information is required by the Office of Thrift Supervision to implement a centralized system for application filings, in order to ensure that all appropriate offices, as required by Regulations, receive copies of application filings. Section 500.32 provides explicit filing instructions as to the appropriate labeling for each filing. The information is required only when a savings association files an application with the Office of Thrift Supervision.

Estimated total annual reporting burden is 433.8 hours.

Estimated average annual burden per respondent is .05 hours.

Estimated number of respondents is 2,892.

Estimated annual frequency of responses is 3 per respondent.

List of Subjects in 12 CFR Parts 500, 543, 544, 545, 546, 550, 552, 563, 563b, 563f, 567, 574, and 584

Accounting, Administrative practice and procedure, Antitrust, Consumer protection, Credit, Currency, Electronic funds transfer, Flood insurance, Holding companies, Investments, Manufactured homes, Mortgages, Reporting and recordkeeping requirements, Savings associations, Securities, Trusts and trustees.

Accordingly, the Office hereby amends part 500, subchapter A, parts 543, 544, 545, 546, 550, 552, subchapter C, parts 563, 563b, 563f, 567, 574, subchapter D, and part 584, subchapter F, chapter V, title 12, Code of Federal Regulations, as set forth below.

SUBCHAPTER A—ORGANIZATION AND PROCEDURES

PART 500—ORGANIZATION AND CHANNELLING OF FUNCTIONS

1. The authority citation for part 500 continues to read as follows:

Authority: Sec. 3, as added by sec. 301, 103 Stat. 278 (12 U.S.C. 1462a); sec. 4, as added by sec. 301, 103 Stat. 280 (12 U.S.C. 1463); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464).

2. Amend § 500.32 by adding paragraph (c) to read as follows:

§ 500.32 Offices of the Office of Thrift Supervision; information and submittals.

* * * * *

(c) *Filings.* Applications, notices or other filings, as provided for in the Office's regulations shall be submitted to the Office in accordance with the following fling requirements, as designated in the appropriate section of the Office's regulations,[1] unless the specific filing instructions in the substantive regulations [2] explicitly provides otherwise. For purposes of this paragraph, filings will be deemed to be received, for purposes of applicable applications processing periods, when the appropriate number of copies, are filed with the Applications Filing Room and/or with the appropriate District Office if so required by applicable regulations.

(1) The original shall be filed with the Applications Filing Room, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552; two conformed copies shall be filed with the District Director, or his or her designee, of the appropriate District Office, as specified in § 500.32(b). All copies should be clearly captioned as to the type of filing and should contain all exhibits and other pertinent documents. The original filed with the Applications Filing Room shall be appropriately labeled with one of the following designations, depending upon the directions set forth in the regulations or guidelines pertaining to the applications, filing, or notice:

(i) "Supervision Operations";

(ii) "Corporate and Securities Division"; or

(iii) "Information Services Division";

(2) The original and one conformed copy shall be filed with the Applications Filing Room of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552; two conformed copies shall be filed with the District Director, or his or her designee, of the appropriate District Office, as specified in § 500.32(b). All copies should be clearly captioned as to the type of filing and should contain all exhibits and other pertinent documents. The copies filed with the Applications Filing Room shall be appropriately labeled with one of the following designations, depending upon the directions set forth in the regulations or guidelines pertaining to the application, filing, or notice:

(i) Both such copies, including the original, shall be labeled "Supervision Operations";

(ii) Such copies shall be labeled as follows: the original, "Corporate and Securities Division" and one copy, "Supervision Operations" or

(iii) Such copies shall be labeled as follows: the original, "Enforcement" and one copy, "Supervision Operations";

(3) The original and two conformed copies shall be filed with the Applications Filing Room, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552; two conformed copies shall be filed with the District Director, or his or her designee, of the appropriate District Office, as specified in § 500.32(b). All copies should be clearly captioned as to the type of filing and should contain all exhibits and other pertinent documents. The copies filed with the Applications Filing Room shall be appropriately labeled as follows: the original, "Corporate and Securities Division", one copy "Supervision Operations" and one copy, "Information Services Division";

(4) The original and three conformed copies shall be filed with the Applications Filing Room, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552; two conformed copies shall be filed with the District Director, or his or her designee, of the appropriate District Office, as specified in § 500.32(b). All copies should be clearly captioned as to the type of filing and should contain all exhibits and other pertinent documents. The copies filed with the Applications Filing Room shall be appropriately labeled as follows: the original and one copy, "Corporate and Securities Division", one copy "Supervision Operations" and one copy, "Information Services Division";

(5) The original and two conformed copies shall be filed with the District Director, or his or her designee, of the appropriate District Office, as specified in § 500.32(b). All copies should be clearly captioned as to the type of filing and should contain all exhibits and other pertinent documents;

(6) The original shall be filed with the District Director, or his or her designee, of the appropriate District Office, as specified in § 500.32(b); one conformed copy shall be filed with the Information Services Division, Communications Services, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552. All copies should be clearly captioned as to the type of filing and should contain all exhibits and other pertinent documents;

(7) The original and one conformed copy shall be filed with the Applications Filing Room, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552; six conformed copies shall be filed with the District Director or his or her designee, of the appropriate District Office, as specified in § 500.32(b). All copies should be clearly captioned as to the type of filing and should contain all exhibits and other pertinent documents. The copies filed with the Applications Filing Room shall be appropriately labeled as follows: the original, "Corporate and Securities Division", and one copy "Supervision Operations". The copies filed with the District Director shall be appropriately labeled as follows: one copy "Department of Justice", one copy "Office of Comptroller of the Currency", one copy "Federal Reserve Board", one copy "Federal Deposit Insurance Corporation", and two copies "District Director"; or

(8) Four additional copies of a filing shall be filed with the District or his or her designee of the appropriate District Office, as specified in § 500.32(b). All copies of the filing should be clearly captioned as to the type of filing and should contain all other pertinent documents. The copies filed with the District Director should be appropriately labeled as follows: one copy "Office of Comptroller of the Currency", one copy "Federal Reserve Board", one copy "Federal Deposit Insurance Corporation", and one copy "State Supervisor".

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[1] Instructions for how to file applications, notices or other filings are located in the various substantive regulation(s) throughout the Office's regulations. The following is an example of how an application for permission to organize a Federal savings association should be filed:

Example: Pursuant to 12 CFR 543.2 "An application for permission to organize a Federal savings association shall be filed in accordance with § 500.32(c)(2)(i) of this chapter." Thus, an applicant located in the state of Georgia would file the original and one conformed copy of the application with the Applications Filing Room, Office of Thrift Supervision, 1700 G Street, NW, Washington, D.C. 20552, and two conformed copies with the District Director of the District Office of Atlanta, as specified in § 500.32(b). All copies would be clearly captioned as to the type of filing, and would contain all exhibits and other pertinent documents. Two copies would be filed with the Applications Filing Room of the Office in Washington, DC.

[2] For example, in general, securities filings pursuant to part 563g of this chapter, § 563d.1 of this chapter and all standard and modified conversion applications, pursuant to Part 563b of this chapter should be made directly to the Securities Filings Desk, Corporate and Securities Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552; however, filings pursuant to §§ 563b.3(i) and 563b.28 of this chapter, should be submitted to the Applications Filing Room and the District Director in accordance with the instructions provided in §§ 563b.3(i) and 563b.28 of this chapter.

SUBCHAPTER C—REGULATIONS FOR FEDERAL SAVINGS ASSOCIATIONS

PART 543—INCORPORATION, ORGANIZATION, AND CONVERSION OF FEDERAL MUTUAL ASSOCIATIONS

3. The authority citation for part 543 continues to read as follows:

Authority: Sec. 2, 48 Stat. 128, as amended (12 U.S.C. 1462); sec. 3, as added by sec. 301, 103 Stat. 278 (12 U.S.C. 1462a); sec. 4, as added by sec. 301, 103 Stat. 280 (12 U.S.C. 1463); sec. 4, 48 Stat. 132, as amended (12 U.S.C. 1464); sec. 10, as added by sec. 301, 103 Stat. 318 (12 U.S.C. 1467a); sec. 802, 91 Stat. 1147, as amended (12 U.S.C. 2901 *et seq.*).

4. Amend § 543.2 by revising paragraphs (b) and (d)(2) to read as follows:

§ 543.2 Application for permission to organize.

* * * * *

(b)(1) *Filing requirements.* Applications for permission to organize a Federal savings association shall be filed in accordance with § 500.32(c)(2)(i) of this chapter. Applications for permission to organize a Federal interim association shall be submitted in the same manner as the related filings(s).

(2) *Form; supporting information.* Persons applying for permission to organize a Federal savings association shall obtain application and notice forms and related instructions from the District Director, or his or her designee. An application and all required supporting information shall be executed by at least seven persons ("the applicants"). The applicants shall provide a copy of the proposed charter and bylaws including any preapproved charter provisions specifically requested and submission of corporate title request for approval by the Office and inclusion as Section One of the association's charter. The District Director, or his or her designee, shall notify the applicants in writing that the application is complete and direct the applicants to publish notice pursuant to paragraph (d) of this section when the District Director, or his or her designee, determines that all required information has been submitted.

* * * * *

(d) * * *

(2) Promptly after publication, the applicant(s) shall transmit copies of each notice and publisher's affidavit of publication in the same manner as the original filing.

* * * * *

5. Section 543.9(a) is revised to read as follows:

§ 543.9 Application for conversion to Federal mutual charter.

(a) *Filing.* Any state savings and loan association type or state savings bank type institution desiring to convert itself into a Federal savings association shall, after approval by its board of directors, file an application on forms obtained from the District Director. Such application shall be filed in accordance with § 500.32(c)(5) of this chapter unless such application is filed in conjunction with another filing; if such conversion application is filed in conjunction with another filing, then such application shall be filed in the same manner as the related filing. The applicant shall submit any financial statements or other information the Office may require, and pay all costs, determined by the Office, of consideration of the application.

* * * * *

PART 544—CHARTER AND BYLAWS

6. The authority citation for part 544 continues to read as follows:

Authority: Sec. 2, 48 Stat. 128, as amended (12 U.S.C. 1462); sec. 3, as added by sec. 301, 103 Stat. 278 (12 U.S.C. 1462a); sec. 4, as added by sec. 301, 103 Stat. 280 (12 U.S.C. 1463); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); sec. 10, as added by sec. 301, 103 Stat. 318 (12 U.S.C. 1467a); sec. 802, 91 Stat. 1147, as amended (12 U.S.C. 2901 *et seq.*).

7. Amend § 544.2 by revising paragraphs (a) and (c), the first two sentences of paragraph (d)(2), and paragraph (e) to read as follows:

§ 544.2 Charter amendments.

(a) Whenever a Federal mutual savings association, whose charter specifies that amendments shall be effective upon filing, completes the procedures necessary to amend its charter, or adds supplementary sections thereto, the association shall submit such amendment, along with a certification by the secretary of the association that the amendment is validly authorized and approved. Such amendment and certification shall be filed in accordance with the procedures set forth in paragraph (e) of this section. The District Director, or his or her designee, shall return to the association a copy of the charter amendment stamped to demonstrate its filing. Such filing shall constitute filing with the Office for purposes of determining the effectiveness of the amendment. An association whose charter requires final approval by the Office of all charter amendments shall be deemed to have obtained such final approval on the date it files a copy of the properly adopted amendment in the manner specified in the first and second sentences of this paragraph (a).

* * * * *

(c) *Reissuance of charter.* A Federal mutual savings association that has amended its charter may apply to have its charter, including the amendments, reissued by the Office. Such requests for reissuance shall be filed in accordance with § 500.32(c)(5) of this chapter and contain signatures required under § 544.1 of this part, together with such supporting documents as may be needed to demonstrate that the amendments were properly adopted. The Director delegates to the Chief Counsel authority to sign on his or her behalf charters submitted for reissuance pursuant to this paragraph (c).

(d) * * *

(2) *Appeal.* Denial of an application by a District Director pursuant to paragraph (d)(1) of this section may be appealed under the following procedures: Within 30 days after notification of the District Director's decision as provided herein, the applicant must file a request for review in accordance with § 500.32(c)(1)(ii) of this chapter. The appeal request should include the application for charter amendment as originally filed with the District Director, or his or her designee, a copy of the District Director's letter denying preliminary approval of the application, and a statement of the specific reasons why the District Director's denial is contended to be erroneous. * * *

* * * * *

(e) *Filing requirements.* Application for preliminary approval of any amendment to the charter of a Federal mutual savings association (other than amendments for which preliminary approval is granted pursuant to paragraph (b) of this section) that is eligible to be processed under delegated authority pursuant to paragraph (d) of this section, shall be made by filing the proposed amendment in accordance with § 500.32(c)(5), along with a statement regarding eligibility for processing under delegated authority. Such statement should consist of a brief description of the proposed amendment and a statement that such amendment does not:

(1) Render more difficult or discourage a merger, tender offer, or proxy contest, the assumption of control by a holder of a large block of the association's stock, or the removal of incumbent management; or

(2) Involve a significant issue of law or policy.

If a proposed amendment is not eligible to be processed under delegated authority pursuant to paragraph (d) of this section, then the proposed amendment should be filed in accordance with § 500.32(c)(1)(ii) of this chapter.

8. Amend the first two complete sentences and the introductory portion of the third sentence of § 544.3 to read as follows:

§ 544.3 Adoption of new Federal charter by a Federal savings association.

If the Board of directors of a Federal mutual savings association proposes to amend its charter to read in the form of any other Federal mutual savings association charter, the amendment may be approved by a majority vote of members present at any duly called regular or special meeting of members. In the case of a Federal stock association, the board of directors of which proposes to amend its charter to read in the form of any other Federal stock association charter, the amendment may be approved by the stockholders by a majority of the total votes eligible to be cast at a legal meeting. In either case, after such vote, the association shall submit, in accordance with § 500.32(c)(5) of this chapter, the following petition together with any requested change in the association's title or location of home office, and the Office thereafter will issue a charter in the form sought, upon approval by the District Director or the Director of a change in such name or location:

* * * * *

9. Amend § 544.5 by revising paragraph (a), the first two sentences of paragraph (c)(2) and paragraph (d) to read as follows:

§ 544.5 Federal mutual savings association bylaws.

(a) A Federal mutual savings association shall operate under bylaws that contain provisions which comply with all requirements specified by the Office in this section and which are not otherwise inconsistent with the provisions of this section, the association's charter and all other applicable laws, rules, and regulations. Bylaw provisions which adopt the language of the model bylaws set out as an appendix to this Part shall be deemed to comply with the requirements of this section. A copy of all bylaws and amendments thereto shall be filed with the District Director, or his or her designee, shall be filed in accordance with the procedures set forth in paragraph (d) of this section and the association shall include an opinion by the association's counsel that said bylaws or amendments thereto comply with all applicable laws, rules, and regulations.

* * * * *

(c) * * *

(2) *Appeal.* Denial of an application by a District Director pursuant to paragraph (c)(1) of this section may be appealed under the following procedures: Within 30 days after notification of the District Director's decisions as provided herein, the applicant must file a request for review in accordance with § 500.32(c)(1)(ii) of this chapter. The appeal request should include the application for bylaw amendment as originally filed with the District Director, a copy of the District Director's letter denying preliminary approval of the application, and a statement of the specific reasons why the District Director's denial is contended to be erroneous. * * *

* * * * *

(d) *Filing requirements.* Application for preliminary approval of any amendment to the bylaws of a federal mutual savings association that is eligible to be processed under delegated authority pursuant to paragraph (c) of this section, shall be made by filing the proposed amendment in accordance with § 500.32(c)(5) of this chapter, along with a statement regarding eligibility for processing under delegated authority. Such statement should consist of a brief description of the proposed amendment and a statement that such amendment does not:

(1) Render more difficult or discourage a merger, tender offer, or proxy contest, the assumption of control by a holder of a large block of the associaton's stock, or the removal of incumbent management, or

(2) Involve a significant issue of law or policy.

If a proposed amenement is not eligible to be processed under delegated authority pursuant to paragraph (c) of this section, then the proposed amendment should be filed in accordance with § 500.32(c)(1)(ii) of this chapter.

PART 545—OPERATIONS

10. The authority citation for part 545 continues to read as follows:

Authority: Sec. 3, as added by sec. 301, 103 Stat. 278 (12 U.S.C. 1462a); sec. 4, as added by sec. 301, 103 Stat. 280 (12 U.S.C. 1463); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464).

11. Amend § 545.74 by revising the introductory text of paragraph (c), and paragraphs (c)(3)(vi) and (g) to read as follows:

§ 545.74 Service corporations.

* * * * *

(c) *Permitted activities.* A service corporation in which a Federal savings association may invest is permitted to engage in such activities reasonably related to the activities of Federal savings associations as the Office may approve. Applications for approval to engage in such activities shall be made in accordance with § 500.32(c)(5) of this chpater. In addition, a service corporation may engage in the following activities without prior Office approval provided the notice required by paragraph (b)(7) of this section has been given:

* * * * *

(3) * * *

(vi) Acquiring real estate for prompt development or subdivision, for construction of improvements, for resale or leasing to others for such construction, or for use as manufactured home sites: *Provided,* That any development, subdivision, and construction of improvements is to be completed within eleven years after acquisition of the real estate, unless such period is extended by the District Director upon written application by the service corporation, which application shall be filed in accordance with § 500.32(c)(5) of this chapter, and which application shall be supported by information evidencing that the service corporation will proceed or has proceeded in accordance with a prudent development plan and has not caused undue delay in the completion of construction: and *Provided further,* That acquisition of an option to purchase is not an acquisition for the purpose of determining the periods provided for in this paragraph (c)(3)(vi);

* * * * *

(g) *Appeals.* Denial of an application by the Senior Deputy Director for Supervision Operations pursuant to paragraph (f) of this section may be appealed to the Director of the Office under the following procedure. Within 30 days after notification of the decision of the Senior Deputy Director for Supervision Operations as provided in this section, the applicant must file a written request for review with the Director stating the applicant's desire to appeal the decision of the Senior Deputy Director for Supervision Operations. The request should be submitted in accordance with § 500.32(c)(2)(ii). The request for review must identify the party seeking review and describe with specificity the action taken for which review is sought and the reasons why the denial of the Senior Deputy Director for Supervision Operations is contended to be erroneous. The Senior Deputy Director for Supervision Operations shall forward to the Director the record, or a copy thereof, used as a basis for the determination together with any other information believed by the Senior Deputy Director for Supervision Operations to be useful in reviewing the determination. If an applicant does not file a request for review within the time permitted under this section, any objection to the initial determination by the Senior Deputy Director for Supervision Operations is waived. A timely filing of a request for review in accordance with the provisions of this section shall be mandatory for securing judicial review of an initial determination.

12. Section § 545.77(b) is revised to read as follows:

§ 545.77 Real estate for office and related facilities.

* * * * *

(b) *Requests for Office approval of exceptions.* A Federal savings association shall file requests for Office approval of exceptions to limitations in this section, in accordance with § 500.32(c)(5) of this chapter.

13. Amend § 545.82 by revising the introductory text of paragraph (f)(1), paragraph (f)(3)(i), and paragraph (f)(3)(iii) to read as follows:

§ 545.82 Finance subsidiaries.

* * * * *

(f) *Notification to the District Director.* (1) Prior to the establishment of any finance subsidiary, the transfer of any additional assets to an existing finance subsidiary, or the issuance of any additional securities by an existing finance subsidiary, the board of directors of the parent Federal savings association, or a duty authorized executive committee thereof, shall submit, in accordance with § 500.32(c)(5) of this chapter, written notification to the association's District Director specifying:

* * * * *

(3)(i) Any Federal savings association that fails to meet its capital requirement, as provided in § 567.2 of this chapter, or that is operating under any supervisory agreement, shall not establish a finance subsidiary, transfer assets to an existing finance subsidiary, or issue additional securities through an existing finance subsidiary without the prior written approval of the Federal savings association's District Director. To obtain the written approval of the District Director, the board of directors of the Federal savings association, or an authorized executive committee thereof, shall submit a written application, in accordance with § 500.32(c)(1)(i) of this chapter, containing the information specified in paragraph (f)(1) of this section, as well as any additional information required by the District Director.

* * * * *

(iii) The District Director shall approve the application of a Federal savings association, subject to the requirements of paragraph (f)(3)(i) of this section, unless he or she finds that the establishment and operation of a finance subsidiary, the transfer of assets to an existing finance subsidiary, or the issuance of additional securities by an existing finance subsidiary is likely to affect adversely the financial condition or the safe and sound operation of the parent Federal savings association. An adverse determination made by the District Director may be challenged by filing, within 30 days of receipt of written disapproval, a petition for reconsideration with the Office. The association shall file its petition in accordance with § 500.32(c)(2)(ii) of this chapter. The Office shall grant or deny a petition for reconsideration filed pursuant to paragraph (f)(3)(iii) of this section in writing within 30 days of receipt. If the Office does not deny such petition for reconsideration within the prescribed time, the Office shall be deemed to have granted the petition for reconsideration.* * *

* * * * *

14. Section 545.92(c) is revised to read as follows:

§ 545.92 Branch offices.

* * * * *

(c) *Application form; filing; completion; supervisory objection.* Applicants shall obtain Office-approved application and notice forms and related instructions from the District Director, or his or her designee. The application shall be filed in accordance with § 500.32(c)(5) of this chapter. The Office shall not accept an application if in its opinion the association is not eligible or its policies, condition, or operations afford a basis for supervisory objection. The District Director shall determine that the application is complete, the applicant is eligible, and that as a preliminary matter there is no basis for supervisory objection to the application, before giving direction for publication of notice.

* * * * *

15. Section 545.96(b) is revised to read as follows:

§ 545.96 Agency.

* * * * *

(b) *Additional services.* Except for payment on savings accounts, offering of any services not listed in paragraph (a) of this section may be approved by the District Director. Requests for permission to offer additional services shall be filed in accordance with § 500.32(c)(5) of this chapter.

* * * * *

PART 546—MERGER, DISSOLUTION, REORGANIZATION, AND CONVERSION

16. The authority citation for part 546 continues as follows:

Authority: Sec. 2, 48 Stat. 128, 132, as amended (12 U.S.C. 1462); sec. 3, as added by sec. 301, 103 Stat. 278 (12 U.S.C. 1462a); sec. 4, as added by sec. 301, 103 Stat. 280 (12 U.S.C. 1463); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); sec. 10, as added by sec. 301, 103 Stat. 318 (12 U.S.C. 1467a); sec. 802, 91 Stat. 1147, as amended (12 U.S.C. 2901 *et seq.*).

17. Amend § 546.2 by revising paragraph (d)(1) to read as follows:

§ 546.2 Procedure; effective date.

* * * * *

(d)(1) Processing of an application under this section shall follow the procedures set forth in § 563.22 of this chapter except that applicants may also mail such notice to the voting members of each savings association within the time specified in § 543.2(d) of this chapter.

* * * * *

18. Amend § 546.4 by revising the first sentence of the concluding text to read as follows:

§ 546.4 Voluntary dissolution.

* * * * *

The plan, and a statement of reasons for proposing dissolution and for proposing the plan, shall be submitted to the Director, in accordance with § 500.32(c)(2)(ii) of this chapter, for approval. * * *

PART 550—TRUST POWERS OF FEDERAL SAVINGS ASSOCIATIONS

19. The authority citation for part 550 continues to read as follows:

Authority: Sec. 3, as added by sec. 301, 103 Stat. 278 (12 U.S.C. 1462a); sec. 4, as added by sec. 301, 103 Stat. 280 (12 U.S.C. 1463); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464), sec. 501, 94 Stat. 161, as amended (12 U.S.C. 1735f–7).

20. Section 550.2(a) is revised to read as follows:

§ 550.2 Applications

(a) A Federal savings association desiring to exercise fiduciary powers, either through a trust department or through an affiliate, shall file, in accordance with § 500.32(c)(5) of this chapter, an application indicating which trust services it wishes to offer and providing the information necessary to make the determinations under paragraph (b) of this section.

* * * * *

21. Section 550.14(a) is revised to read as follows:

§ 550.14 Surrender of trust powers.

(a) Any Federal savings association which has been granted the right to exercise trust powers and which desires to surrender such rights shall file a certified copy of the resolution of its board of directors signifying such desire. Such resolution shall be filed in accordance with § 500.32(c)(5) of this chapter.

* * * * *

PART 552—INCORPORATION, ORGANIZATION, AND CONVERSION OF FEDERAL STOCK ASSOCIATIONS

22. The authority citation for part 552 continues to read as follows:

Authority: Sec. 2, 48 Stat. 128, as amended (12 U.S.C. 1462); sec. 3, as added by sec. 301, 103 Stat. 278 (12 U.S.C. 1462a); sec. 4, as added by sec. 301, 103 Stat. 280 (12 U.S.C. 1463); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); sec. 10, as added by sec. 301, 103 Stat. 318 (12 U.S.C. 1467a).

23. Amend § 552.2-2 by revising paragraph (b) to read as follows:

§ 552.2-2 Procedures for organization of interim Federal stock association.

* * * * *

(b) Approval of an application for permission to organize an interim Federal stock association shall be conditioned upon approval by the Office or its delegate of an application to merge the interim Federal stock association, or upon approval by the Office or its delegate of other transaction which the interim was chartered to facilitate. Applications for permission to organize an interim Federal stock association shall be submitted in the same manner as the related filing(s). In evaluating the application, the Office will consider the purpose for which the association will be organized, the form of any proposed transactions involving the association, the effect of the transactions on existing associations involved in the transactions, and the factors specified in § 552.1(b)(1) to the extent relevant.

* * * * *

24. Amend § 552.4 by revising paragraphs (a) and (d), the first two sentences of paragraph (e)(2) and paragraph (f) to read as follows:

§ 552.4 Charter amendments.

(a) Whenever a Federal stock association whose charter specifies that amendments shall be effective upon filing completes the procedures necessary to amend its charter, or adds supplementary sections thereto, the association shall submit such amendment, along with a certification by the secretary of the association that the amendment is validly authorized and approved. Such amendment and certification shall be filed in accordance with the procedures set forth in paragraph (f) of this section. The District Director, or his or her designee, shall return to the association a copy of the charter amendment stamped to demonstrate its filing. Such filing shall constitute filing with the Office for purposes of determining the effectiveness of the amendment. A Federal stock association whose charter provides that any amendment shall be effective on the date it receives final approval of the Office shall be deemed to have obtained such final approval on the date it files a copy of the properly adopted amendment with the District Director, or his or her designee, in the manner specified in the second sentence of this paragraph (a).

* * * * *

(d) Reissuance of charter. A Federal stock association that has amended its charter may apply to have its charter, including the amendments, reissued by the Office. Such requests for reissuance should be filed in accordance with § 500.32(c)(5) of this chapter and contain signatures required under § 552.3 of this part, together with such supporting documents as needed to demonstrate that the amendments were properly adopted. The Director delegates to the Chief Counsel or his or her designee authority to execute on his behalf charters submitted for reissuance pursuant to this paragraph (d).

(e) * * *

(2) *Appeal.* Denial of an application by a District Director pursuant to paragraph (e)(1) of this section may be appealed to the Office under the following procedures: Within 30 days after notification of the District Director's decision as provided herein, the applicant must file a request for review in accordance with § 500.32(c)(1)(ii) of this chapter. The appeal request should include the application for charter amendment as originally filed with the District Director, a copy of the District Director's letter denying preliminary approval of the application, and a statement of the specific reasons why the District Director's denial is contended to be erroneous.* * *

* * * * *

(f) *Filing requirements.* Application for preliminary approval of any amendment to the charter of a federal stock association (other than amendments for which preliminary approval is granted pursuant to paragraph (b) of this section) that is eligible to be processed under delegated authority pursuant to paragraph (e) of this section, shall be made by filing the amendment in accordance with § 500.32(c)(5) of this chapter, along with a statement regarding eligibility for processing under delegated authority. Such statement should consist of a brief description of the proposed amendment and a statement that such amendment does not:

(1) Render more difficult or discourage a merger, tender offer, or proxy contest, the assumption of control by a holder of a large block of the association's stock, or the removal of incumbent management; or

(2) Involve a significant issue of law or policy.

If a proposed amendment is not eligible to be processed under delegated authority pursuant to paragraph (e) of this section, the proposed amendment should be filed in accordance with § 500.32(c)(1)(ii) of this chapter.

25. Amend § 552.5 by revising paragrpah (c), the first two sentences of paragraph (d)(2) and paragrah (e) to read as follows:

§ 552.5 Bylaws.

* * * * *

(c) A copy of all bylaws shall be filed with the Distrct Director.

(d) * * *

(2) *Appeal.* Denial of an application by a District Director pursuant to paragraph (d)(1) of this section may be appealed to the Office under the following procedures: Within 30 days after notification of the District Director's decision as provided herein, the applicant must file a request for review in accordance with § 500.32(c)(1)(ii) of this chapter. The appeal request should include the application for bylaw amendment as originally filed with the District Director, a copy of the District Director's letter denying approval of the application, and a statement of the specific reasons why the District Director's denial is contended to be erroneous. * * *

* * * * *

(e) *Filing requirements.* Application for preliminary approval of any amendment to the bylaws of a federal stock association that is eligible to be processed under delegated authority pursuant to paragraph (d) of this section, shall be made by filing the proposed amendment in accordance with § 500.32(c)(5) of this chapter, along with a statement regarding eligibility for processing under delegated authority. Such statement should consist of a brief description of the proposed amendment and a statement that such amendment does not:

(1) Render more difficult or discourage a merger, tender offer, or proxy contest, the assumption of control by a holder of a large block of the association's stock, or the removal of incumbent management; or

(2) Involve a significant issue of law or policy.

If a proposed amendment is not eligible to be processed under delegated authority pursuant to paragraph (d) of this section, then the proposed amendment should be filed in accordance with § 500.32(c)(1)(ii) of this chapter.

26. Amend § 552.6-3 by revising the first two sentences of paragraph (a) to read as follows:

§ 552.6-3 Certificates for shares and their transfer.

(a) *Certificates for shares.* Certificates representing shares of capital stock of the association shall be in such form as shall be determined by the board of directors and approved by the Office. Requests for Office approval shall be filed in accordance with § 500.32(c)(5) of this chapter. The certificates shall be signed by the chief executive officer or by any other officer of the association authorized by the board of directors, attested by the secretary or an assistant secretary, and sealed with the corporate seal or a facsimile thereof. * * *

* * * * *

27. Section 552.10 is revised to read as follows:

§ 552.10 Annual reports to stockholders.

A Federal stock association not wholly-owned by a holding company shall, within ninety days after the end of its fiscal year, mail to each of its stockholders entitled to vote at its annual meeting an annual report containing financial statements which satisfy the requirements of rule 14a-3 under the Securities Exchange Act of 1934. (17 CFR 204.14a-3) Concurrently with such mailing a certification of such mailing signed by the chairman of the board, the president or a vice president of the association, together with copies of the report, shall be transmitted by the association in accordance with § 500.32(c(5) of this chapter.

SUBCHAPTER D—REGULATIONS APPLICABLE TO ALL SAVINGS ASSOCIATIONS

PART 563—OPERATIONS

28. The authority citation for part 563 continues to read as follows:

Authority: Sec. 2, 48 Stat. 128, as amended (12 U.S.C. 1462); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); sec. 10, as added by sec. 301, 103 Stat. 318 (12 U.S.C. 1467a); sec. 11, as added by sec. 301, 103 Stat. 342 (12 U.S.C. 1468); sec. 1204, 101 Stat. 662 (12 U.S.C. 3806); sec. 202, 87 Stat. 982, as amended (42 U.S.C. 4106).

29. Section 563.1(b) is revised to read as follows:

§ 563.1 Form of account.

* * * * *

(b) *Filing.* Prior to issuing any form of account, a savings association shall file with the Office:

(1) The form of account; and

(2) An opinion of its legal counsel that the form complies with the requirements of applicable law and regulations and the association's charter and bylaws.

If the account is issued in negotiable instrument form, the opinion must state expressly that the form so qualifies under applicable law. Such filings shall be made in accordance with § 500.32(c)(5) of this chapter. The savings association shall retain a copy of the opinion for as long as accounts in that form are outstanding. The requirements of this paragraph (b) shall not apply if a savings association issues a form of insured account that has been approved by the Office for use by savings associations.

30. Amend § 560.10 by revising the introductory text of paragraph (c)(1) to read as follows:

§ 563.10 Earnings-based accounts.

* * * * *

(c) * * *

(1) An application submitted pursuant to this section shall be submitted in accordance with § 500.32(c)(5) of this chapter. The District Director may grant permission to a savings association to issue earnings-based accounts in an amount of up to 20 percent of the savings association's assets, upon consideration by the District Director of the following factors:

* * * * *

31. Amend § 563.22 by revising paragraphs (c)(2), (d)(1), and (f)(1) to read as follows:

§ 563.22 Merger, consolidation, purchase or sale of assets, or assumption of liabilities.

* * * * *

(c) * * *

(2) Application for approval under this section shall be submitted in accordance with § 500.32(c)(3) of this chapter, shall be upon forms prescribed by the Office and shall contain such information as the Office may require, including appropriate information regarding the fairness and legal, economic, managerial, financial, disclosure, accounting and tax aspects of the transaction; provided that, where the filing party believes its application is eligible to be processed under paragraphs (e)(1) or (e)(2) of this section, the filing party shall submit its application in accordance with § 500.32(c)(5) of this chapter, and it shall also submit a brief summary of the proposed transaction and an affirmative statement that none of the factors specified in paragraph (e) of this section which would preclude automatic approval or action under delegated authority are present.

(d) * * *

(1) Constituent associations in a transaction subject to paragraph (a) of this section shall file in accordance with § 500.32(c)(7) of this chapter.

* * * * *

(f) * * *

(1) Within 20 days after notification of the decision by the District Director or Senior Deputy Director for Supervision Operations, as the case may be, the applicant may appeal the decision. Such appeals should be filed in accordance with § 500.32(c)(2)(ii) of this chapter. The request for review must identify the party seeking review and describe with specificity the action taken for which review is sought and the reasons why the denial is contended to be erroneous.

* * * * *

32. Amend § 563.38 by revising the first two sentences of paragraph (b) to read as follows:

§ 563.38 Salvage power of savings association to assist service corporation.

* * * * *

(b) *Applications for approval.* Each application by a savings association to the Office for its approval to make any such contribution, loan, investment, guarantee, or assumption of liability shall establish, to the satisfaction of the Office, in a written statement, that action it proposes is for the protection of the savings association's investment and is consistent with safe, sound, and economical home financing. Such applications shall be filed in accordance with § 500.32(c)(2)(ii) of this chapter. The application shall describe and discuss alternative solutions to the service corporation's financial problem including solutions which do not involve increased investment by the savings association, and contain such other information as the Office may require.

* * *

33. Section 563.41(b) is revised to read as follows:

§ 563.41 Restrictions on real property transactions with affiliates and affiliated persons.

* * * * *

(b) *Restrictions.* No savings association or subsidiary thereof may, directly or indirectly, purchase or lease from, jointly own with, or sell or lease to, an affiliated person of the association any interest in real or personal property unless the transaction determined by the District Director to be fair to, and in the best interest of, the savings association or subsidiary. Such applications shall be filed in accordance with § 500.32(c)(5) of this chapter.

* * * * *

34. Section 563.74(e) is revised to read as follows:

§ 563.74 Mutual capital certificates.

* * * * *

(e) *Filing requirements.* The application for issuance of mutual capital certificates shall be publicly filed with the Office in accordance with § 500.32(c)(2)(i) of this chapter.

* * * * *

35. Section 563.75(e) is revised to read as follows:

§ 563.75 Mandatorily redeemable preferred stock.

* * * * *

(e) *Filing of application.* The application for approval of the issuance of mandatorily redeemable preferred stock under this section shall be filed with the Office in accordance with § 500.32(c)(2)(ii) of this chapter.

* * * * *

36. Amend § 563.80 by amending paragraph (e)(2) to insert the following as the second sentence:

§ 563.80 Borrowing limitations.

* * * * *

(e) * * *

(2) * * * Such filings shall be filed in accordance with § 500.32(c)(5) of this chapter. * * *

* * * * *

37. Amend § 563.81 by revising paragraph (e), and the first four sentences of paragraph (j) to read as follows:

§ 563.81 Issuance of subordinated debt securities.

* * * * *

(e) *Filing of application.* the application for approval of issuance of subordinated debt securities under this section shall be filed in accordance with § 500.32(c)(5) of this chapter *provided* the application is eligible for approval by the District Director under § 563.81(i); otherwise the application shall be filed in accordance with § 500.32(c)(3) of this chapter.

* * * * *

(j) *Appeals.* Denial of an application by a District Director pursuant to paragraph (i) of this section or the inclusion of any non-standard condition(s) not set forth in paragraph (k) of this section in the approval of an application may be appealed under the following procedures: Within 30 days after notification of the District Director's decision as provided for in this section, the applicant must file a written request for review stating the applicant's desire to appeal the District Director's decision. The request for review must identify the party seeking review and describe with specificity the action taken for which review is sought and the reasons why the District Director's denial is contended to be erroneous. The application shall be filed with the Office in accordance with § 500.32(c)(2)(ii) of this chapter.* * *

38. Section 563.98(g)(1) is revised to read as follows:

§ 563.98 Regulation of equity risk investment in equity securities, real estate, service corporations, operating subsidiaries, certain land loans, and nonresidential construction loans.

* * * * *

(g) *Exceptions.* (1) Except as provided in paragraph (g)(6) of this section, a savings association seeking to make equity risk investments in an amount, at a threshold level, or of a type other than as generally permitted by this section shall file an application in accordance with § 500.32(c)(1)(i) of this chapter and, if it is state-chartered, shall send a copy of the application to its state supervisor. Within 10 days of the filing of such an application or any additional information, the District Director shall notify the applicant in writing either that all information required under paragraph (g)(2) of this section has been filed or that additional specified information must be filed. If the District Director does not act on an application within 30 days of the date of written notice that all required information has been filed, such application shall be deemed to be approved.

* * * * *

39. Amend § 563.131 by revising the introductory text of paragraph (c) to read as follows:

§ 563.131 Liability growth.

* * * * *

(c) To obtain the prior written approval from its District Director a savings association shall submit a written growth plan in accordance with § 500.32(c)(5) of this chapter. A growth plan shall cover a period of time not to exceed 1 year and shall include the following information:

* * * * *

40. Amend § 563.132 by revising the introductory text of paragraph (c)(1), and paragraphs (c)(3) and (c)(5) to read as follows:

§ 563.132 Securities issued through subsidiaries.

* * * * *

(c) * * *

(1) Prior to the establishment of any finance subsidiary, the transfer of any additional assets to an existing finance subsidiary, or the issuance of securities through a subsidiary as described in paragraph (a)(1)(ii) of this section, the board of directors of the parent savings associations, or a duly authorized executive committee thereof, shall submit written notification in accordance with § 500.32(c)(5) of this chapter, specifying:

* * * * *

(3) Any savings association that fails to meet its capital requirement as provided in § 567.2 of this subchapter, or that is operating under any supervisory agreement, shall not establish a finance subsidiary, transfer assets to an existing finance subsidiary, or issue additional securities through a subsidiary described in paragraph (a)(1)(ii) of this section without the prior written approval of the savings association's District Director. The board of directors of the association, or an authorized executive committee thereof, shall submit a written application containing the information specified in paragraph (c)(1) of this section in accordance with § 500.32 (c)(1)(i) of this chapter, as well as any additional information required by the District Director.

* * * * *

(5) The District Director shall approve the application of a savings association subject to the requirement of paragraph (c)(3) of this section, unless he or she finds that the establishment and operation of a finance subsidiary, the transfer of assets to an existing finance subsidiary, or the issuance of an additional amount of securities issued through a subsidiary described in paragraph (a)(1)(ii) of this section is likely to affect adversely the financial condition or the safe and sound

operation of the parent institution. An adverse determination made by the District Director may be challenged by filing, within 30 days of receipt of written disapproval, a petition for reconsideration with the Office. The association shall file its petition in accordance with § 500.32(c)(2)(ii) of this chapter. The Office shall grant or deny a petition for reconsideration filed pursuant to paragraph (c)(3) of this section in writing within thirty days of receipt. If the Office does not deny such a petition within the prescribed time, the Office shall be deemed to have granted the petition for reconsideration.

41. Amend § 563.233 by revising paragraphs (e)(1) and (e)(3)(i), and the first two sentences of paragraph (e)(4) to read as follows:

§ 563.233 Accounting principles and procedures.

* * * * *

(e)(1) A savings association seeking to delay its compliance with the uniform accounting standards set forth in this § 563.233 or § 567.1 of this subchapter shall file a plan in accordance with § 500.32(c)(1)(i) of this chapter.

* * * * *

(3)(i) The District Director shall act on such plans in accordance with the guidelines set forth at § 571.12 of this subchapter.

* * * * *

(4) In the event that the District Director disapproves a plan for delayed compliance in whole or in part, the savings association may appeal the disapproval to the Office within thirty days of the disapproval. Such appeal shall be filed in accordance with § 500.32(c)(2)(ii) of this chapter. The Office shall act on such appeal in accordance with the guidelines set forth at § 572.12 of this subchapter. * * *

PART 563b—CONVERSIONS FROM MUTUAL TO STOCK FORM

42. The authority citation for part 563b continues to read as follows:

Authority: Secs. 2, 5, 48 Stat. 128, 132, as amended (12 U.S.C. 1462, 1464); sec. 3, as added by sec. 301, 103 Stat. 278 (12 U.S.C. 1462a); sec. 4, as added by sec. 301, 103 Stat. 280 (12 U.S.C. 1463); sec. 10, as added by sec. 301, 103 Stat. 318 (12 U.S.C. 1467a); secs. 3, 12–14, 23, 48 Stat. 882, 892, 894–895, 901, as amended (15 U.S.C. 78c, 1–n, w).

43. Section 563b.3(i)(3)(i) is revised to read as follows:

§ 563b.3 General principles for conversions.

* * * * *

(i) *Acquisition of the securities of converting and converted savings associations*—* * *

* * * * *

(3) *Prohibition on offers to acquire and acquisitions of stock for three years following conversion.* (i) For a period of three years following the date of the completion of the conversion, no person shall, directly or indirectly, offer to acquire or acquire the beneficial ownership of more than ten percent of any class of an equity security of a savings association converted in accordance with the provisions of this part 563b, without the prior written approval of the Office. Where any person, directly or indirectly, acquires beneficial ownership of more than ten percent of any class of any equity security of a savings association converted in accordance with part 563b, without the prior wirtten approval of the Office as required by this section, the securities beneficially owned by such person in excess of ten percent shall not be counted as shares entitled to vote and shall not be voted by any person or counted as voting shares in connection with any matter submitted to the stockholders for a vote. For the purposes of this section, a person shall be deemed to have acquired beneficial ownership of more than ten percent (10%) of a class of equity security of a savings association where the person holds any combination of stock or revocable or irrevocable proxies of the association under circumstances that give rise to a conclusive control determination or rebuttable control determination under §§ 574.4(a) and 574.4(b) of this chapter. All applications for approval of the Office under this paragraph shall be filed in accordance with § 500.32(c)(2)(ii) of this chapter.

* * * * *

44. Section 563b.28(a) is revised to read as follows:

§ 563b.28 Procedural requirements.

(a) *Filing of voluntary supervisory conversion application.* A savings association seeking to convert pursuant to this subpart shall file, in accordance with § 500.32(c)(2)(ii) of this chapter, the information and documents specified in § 563b.27 of this subpart.

* * * * *

PART 563f—MANAGEMENT OFFICIAL INTERLOCKS

45. The authority citation for part 563f continues to read as follows:

Authority: Sec. 3, as added by sec. 301, 103 Stat. 278 (12 U.S.C. 1462a); sec. 4, as added by sec. 301, 103 Stat. 280 (12 U.S.C. 1463); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); sec. 201, 92 Stat. 3672, as amended (12 U.S.C. 3201 *et seq.*).

46. Amend § 563f.7 by revising the last two sentences to read as follows:

§ 563f.7 Delegation of authority to grant exemptions and extensions of time.

* * * Except as noted below, applications made pursuant to this section should be submitted in accordance with § 500.32(c)(5) of this chapter to the District Director for the District that has supervisory responsibility over the depository institution or depository holding company wherein the management official is, or would be in a prohibited management interlock position. Applications made pursuant to §§ 563f.4(a)(7), 563f.4(a)(8), and 563f.4(a)(9) of this part shall be filed in accordance with § 500.32(c)(3) of this chapter.

PART 567—CAPITAL

47. The authority citation for part 567 continues to read as follows:

Authority: Sec. 2, 48 Stat. 128, as amended (12 U.S.C. 1462); sec. 3, as added by sec. 301, 103 Stat. 278 (12 U.S.C. 1462a); sec. 4, as added by sec. 301, 103 Stat. 280 (12 U.S.C. 1463); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); sec. 10, as added by sec. 301, 103 Stat. 318 (12 U.S.C. 1467a).

48. Amend § 567.3 by revising the introductory text of paragraph (d)(2)(i) to read as follows:

§ 567.3 Individual minimum capital requirements.

* * * * *

(d) * * *

(2) * * *

(i) The response shall include any information that the savings association wants the District Director to consider in deciding whether to establish or to amend an individual minimum capital requirement for the savings association, what the individual capital requirement should be, and, if applicable, what compliance schedule is appropriate for achieving the required capital level. The responses of the savings association and appropriate state supervisor must be in writing and must be delivered to the District Director within 30 days after the date on which the notification was received. Such response should be filed in accordance with § 500.32(c)(1)(i) of this chapter. The District Director may extend the time period for good cause. The time period for response by the insured savings association may be shortened for good cause:

* * * * *

49. Amend § 567.4 by revising the introductory text of paragraph (a)(3)(i) to read as follows:

§ 567.4 Capital directives.

(a) * * *

(3) *Response to notice of intent.* (i) A savings association may respond to the notice of intent by submitting its own compliance plan, or may propose an alternative plan. The response should also include any information that the savings association wishes Enforcement to consider and the Senior Deputy Director for Supervision Operations to review in deciding whether to recommend that the Office issue a capital directive. The appropriate state supervisor may also submit a response. These responses must be in writing and be delivered within 30 days after the receipt of the notices. Such responses shall be submitted in accordance with § 500.32(c)(2)(iii) of this chapter. In its discretion, Enforcement may extend the time period for the response for good cause. Enforcement may, for good cause, shorten the 30-day time period for response by the insured savings assocation:

* * * * *

PART 574—ACQUISITION OF CONTROL OF SAVINGS ASSOCIATIONS

50. The authority citation for part 574 continues to read as follows:

Authority: Sec. 10, as added by sec. 301, 103 Stat. 318 (12 U.S.C. 1467a); sec. 2(7), 64 Stat. 876, as amended (12 U.S.C. 1817).

51. Amend § 574.6 by revising paragraph (b)(1)(i), the first three sentences of (b)(1)(ii), paragraph (b)(1)(iv), paragraphs (b)(2) through (b)(6), the introductory text of paragraph (d)(2) and first two paragraphs of the notice of filing in paragraph (d)(2), and paragraph (d)(3) to read as follows:

§ 574.6 Procedural requirements.

* * * * *

(b) * * *

(1) * * *

(i) Complete copies including exhibits and all other pertinent documents of applications, notices, and rebuttal submissions that are not eligible to be processed under delegated authority pursuant to § 574.9(a) of this part shall be filed in accordance with § 500.32(c)(4) of this chapter.

(ii) Complete copies including exhibits and all other pertinent documents of applications, notices, and rebuttal submissions eligible to be processed under delegated authority pursuant to § 574.9(a) of this part shall be filed in accordance with § 500.32(c)(1)(iii) of this chapter. Each copy shall include a summary of the proposed transaction including an explanation of why the application, notice, or rebuttal submission may be processed under delegated authority, and an affirmative representation that none of the conditions specified in § 574.9(a) of this part that would preclude action under delegated authority are present. * * *

* * * * *

(iv) Any acquiror filing a notice pursuant to § 574.3(b) of this part shall file additional copies of the notice with the District Director in accordance with § 500.32(c)(8) of this chapter. Any acquiror filing a notice pursuant to § 574.3(b) of this part with respect to acquisition of a state-chartered association shall file a copy of the notice for the State Supervisor, pursuant to § 500.32(c)(8) of this chapter.

* * * * *

(2) *H-(e)4. Information filing.* Any information filing required to be made to claim that a reorganization is exempt from prior written approval of the Office under § 574.3(c)(1)(ii) shall be filed in accordance with § 500.32(c)(3) of this chapter. Such filing shall be clearly labeled "H-(e)4 Information Filing".

(3) *Safe-harbor filing.* In order to qualify for the safe harbor under § 574.4(f), a certification must be filed setting forth the information required by § 574.4(f). The certification shall be filed in accordance with § 500.32(c)(3) of this chapter.

(4) *Certification.* Certifications required by § 574.5(a) shall be filed in the accordance with § 500.32(c)(2)(ii) of this chapter.

(5) *Reports of loans.* Reports of loans required by § 574.5(b) shall be filed in the same manner as a certification filing under paragraph (b)(3) of this section.

(6) *Reports of pledges, hypothecations and liquidations.* Reports of pledges, hypothecations and liquidations required by § 574.3(c)(1)(iii) shall be filed in the same manner as a certification filing under paragraph (b)(3) of this section.

* * * * *

(d) * * *

(2) Notice published pursuant to paragraph (d) of this section shall be published in a manner that is conspicuous to the average reader and shall be made in substantially the following form:

NOTICE OF FILING OF APPLICATION OR NOTICE FOR ACQUISITION OF A SAVINGS ASSOCIATION

This is to inform the public that under § 574.3 of the Regulations of the Office of Thrift Supervision ("Office") for Acquisitions of Savings Associations [Acquiror] [has filed/intends to file] and [application/notice] with the Office, for permission to [acquire control of/purchase a qualified stock issuance of] savings association, located in [location], on [date, or intended date of filing].

Anyone may write in favor of or protest against the [application/notice] and in so doing may submit such information as he or she deems relevant. One copy of all submissions must be sent to the District Director, [give name and address] and in the case of applications or notices not delegated to the District Director under § 574.9(a), three copies must be sent to the Applications Filing Room, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552 within 20 calendar days of the filing of the [application/notice]. Up to an additional 20 calendar days to submit comments may be obtained upon a showing of good cause, if a written request is received by the District Director within the initial 20-day period.

* * * * *

(3) Promptly after publication, the acquiror shall transmit copies of each notice, and a publisher's affidavit of publication in the same manner as the original filing in accordance with § 574.6(b)(1).

* * * * *

SUBCHAPTER F—REGULATIONS FOR SAVINGS AND LOAN HOLDING COMPANIES

PART 584—REGULATED ACTIVITIES

52. The authority citation for part 584 continues to read as follows:

Authority: Sec. 2, 48 Stat. 128, as amended (12 U.S.C. 1462); sec. 3 as added by sec. 301, 103 Stat. 278 (12 U.S.C. 1462a); sec. 4, as added by sec. 301, 103 Stat. 280 (12 U.S.C. 1463); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); sec. 10, as added by sec. 301, 103 Stat. 318 (12 U.S.C. 1467a); sec. 11, as added by sec. 301, 103 Stat. 342 (12 U.S.C. 1468).

53. Amend § 584.1 by revising paragraphs (a)(4), (b) and (e) to read as follows:

§ 584.1 Registration, examination and reports.

(a) * * *

(4) *General.* Registration statements, annual reports, and the H-(b)12 are to be filed with the Office in accordance with § 500.32(c)(2)(i) of this chapter. Copies of forms to be used in submitting registration statements, annual reports, and the H-(b)12 may be obtained from any District Director, or his or her designee.

(b) *Date of registration.* The date of registration of a savings and loan holding company shall be the date on which its registration statement is received by the District Director.

* * * * *

(e) *Reports.* Each savings and loan holding company and each subsidiary thereof, other than a savings association, shall file in accordance with § 500.32(c)(6) of this chapter, such reports as may be required by the Office. Such reports shall be made under oath or otherwise, and shall be in such form and for such periods, as the Office may prescribe. Each report shall contain information concerning the operations of such savings and loan holding company and its subsidiaries as the Office may require.

* * * * *

54. Amend § 584.2-1 by revising the first three sentences of paragraph (c)(1) to read as follows:

§ 584.2-1 Prescribed services and activities of savings and loan holding companies.

* * * * *

(c) *Procedures for commencing services or activities.* (1) Before a savings and loan holding company subject to restrictions on its activities pursuant to § 584.2(b) of this part or a subsidiary thereof may commence performing or engaging in a service or activity prescribed by paragraph (b) of this section, either *de novo* or by an acquisition of a going concern, it shall file a notice of intent to do so in a form prescribed by the Office. The notice should be filed in accordance with § 500.32(e)(5) of this chapter. The activity or service may be commenced unless, before the close of the period specified immediately below, the District Director finds that the activity or service proposed would not be, under the circumstances, a proper incident to the operations of savings associations or would be detrimental to the interests of savings account holders therein, or unless the District Director, upon notice to the applicant, refers the application to the Director of the Office because the proposed activity presents a significant issue of law or policy. * * *

* * * * *

55. Amend § 584.2-2 by revising the first two sentences of paragraph (b) to read as follows:

§ 584.2-2 Permissible bank holding company activities of savings and loan holding companies.

* * * * *

(b) *Procedures for applications.* Applications to commence any activity prescribed under paragraph (a) of this section shall be filed in accordance with § 500.32(c)(1)(i) of this chapter. The District Director, or his or her designee, shall act upon such application pursuant to the guidelines set forth in § 571.12 of this chapter unless, the District Director, upon notice to the applicant, refers the application to the Director of the Office because it raises issues of law or policy inappropriate for resolution by the District Director. * * *

* * * * *

56. Amend § 584.5 by revising the first three sentences to read as follows:

§ 584.5 Advance notice of proposed dividend declarations.

No subsidiary savings association of a savings and loan holding company may declare any dividend on its guaranty, permanent, or other nonwithdrawal stock without first giving to the Office not less than 30 days' advance notice of the proposed declaration by its directors of any such dividend. Such notice shall be in the form prescribed by the Office in § 584.10(b), and shall be filed in accordance with § 500.32(c)(6) of this chapter. The 30-day notice period begins to run from the date of receipt of such notice by the District Director, who will promptly acknowledge such receipt in writing. * * *

Dated: January 31, 1990.

By the Office of Thrift Supervision.

M. Danny Wall,

Director.

[FR Doc. 90-7135 Filed 4-10-90; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 176

[Docket No. 86F-0339]

Indirect Food Additives; Paper and Paperboard Components

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of 5-chloro-2-methyl-4-isothiazolin-3-one and 2-methyl-4-isothiazolin-3-one mixture with the optional use of magnesium nitrate as an antimicrobial agent for fillers, binders, pigment slurries, sizing solutions, and coating formulations employed in the manufacture of paper and paperboard for use in contact with food. This action is in response to a petition filed by Rohm & Haas Co.

DATES: Effective April 11, 1990; written objections and requests for a hearing by May 11, 1990.

ADDRESSES: Written objections may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Julius Smith, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of September 2, 1986 (51 FR 31176), FDA announced that a food additive petition (FAP 6B3947) had been filed by Rohm & Haas Co., Independence Mall West, Philadelphia, PA 19105, proposing that § 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods* (21 CFR 176.170) be amended to provide for the safe use of 5-chloro-2-methyl-4-isothiazolin-3-one and 2-methyl-4-isothiazolin-3-one mixture with magnesium nitrate as an antimicrobial agent for fillers, binders, pigment slurries, sizing solutions, and coating formulations employed in the manufacture of paper and paperboard for use in contact with food.

FDA, in its evaluation of the safety of this additive, reviewed the safety of both the additive and the starting materials used to manufacture the additive. The agency is not aware of any data that show 5-chloro-2-methyl-4-isothiazolin-3-one, 2-methyl-4-isothiazolin-3-one, or magnesium nitrate to be cancer causing chemicals. However, dimethylnitrosamine, which could be present as an impurity in the additive, has been shown to cause cancer in test animals. Residual amounts of reactants and byproducts, such as dimethylnitrosamine are commonly found as contaminants in chemical products, including food additives.

I. Determination of Safety

Under section 409(c)(3)(A) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 348(c)(3)(A)), the so-called "general safety clause" of the statute, a food additive cannot be approved for a particular use unless a fair evaluation of the data available to FDA establishes that the additive is safe for that use. The concept of safety embodied in the Food Additives Amendment of 1958 is explained in the legislative history of the provision: "Safety requires proof of a reasonable certainty that no harm will result from the proposed use of an additive. It does not—and cannot—require proof beyond any possible doubt that no harm will result under any conceivable circumstance." H. Rept. 2284, 85th Cong., 2d Sess. 4 (1958). This definition of safety has been incorporated into FDA's food additive regulations (21 CFR 170.3(i)). The anticancer or Delanny clause of the Food Additives Amendment (section 409(c)(3)(A) of the act (21 U.S.C. 348(c)(3)(A))) provides further that no food additive shall be deemed to be safe if it is found to induce cancer when ingested by man or animal.

In the past, FDA has often refused to approve the use of an additive that contained or was suspected of containing even minor amounts of a carcinogenic chemical. The agency now believes, however, that developments in scientific technology and experience with risk assessment procedures make it possible for FDA to establish the safety of additives that contain carcinogenic impurities but that have not themselves been shown to cause cancer.

In the preamble to the final rule permanently listing D&C Green No. 6, published in the **Federal Register** of April 2, 1982 (47 FR 14138), FDA explained the basis for approving the use of a color additive that had not been shown to cause cancer, even though it contains a carcinogenic impurity. Since that decision, FDA has approved the use of other color additives and food additives on the same basis.

An additive that has not been shown to cause cancer, but that contains a carcinogenic impurity, may properly be evaluated under the general safety clause of the statute using risk assessment procedures to determine whether there is a reasonable certainty that no harm will result from the proposed use of the additive.

The agency's position is supported by *Scott* v. *FDA*, 728 F.2d 322 (6th Cir. 1984). That case involved a challenge to FDA's decision to approve the use of D&C Green No. 5, which contains a carcinogenic chemical but has itself not been shown to cause cancer. Relying heavily on the reasoning in the agency's decision to list this color additive, the U.S. Court of Appeals for the Sixth Circuit rejected the challenge to FDA's action and affirmed the listing regulation.

II. Safety of Petitioned Use

FDA estimates that the petitioned use of 5-chloro-2-methyl-4-isothiazolin-3-one and 2-methyl-4-isothiazolin-3-one mixture with magnesium nitrate will result in extremely low levels of exposure to this additive. The agency calculated the estimated daily intake of 5-chloro-2-methyl-4-isothiazolin-3-one and 2-methyl-4-isothiazolin-3-one mixture (hereafter referred to as isothiazolones), with the optional use of magnesium nitrate, based on considerations such as the migration of the mixture under the most severe intended use conditions and the probable concentration of the mixture in the daily diet from food-contact articles that contain this substance. The agency estimated the daily intakes for the isothiazolones and the maximum requested level of the optional component magnesium nitrate to be 99 micrograms per person per day (32.9 parts per billion in the diet) each.

FDA does not ordinarily consider chronic testing to be necessary to determine the safety of an additive whose use will result in such low exposure levels (Refs. 1 and 2) and has not required such testing here. However, the agency has reviewed available data from subchronic rat and dog feeding studies and teratology studies with the isothiazolones. No adverse effects were observed in these studies. The agency also finds that the small increase in exposure from the optional use of magnesium nitrate in the additive will not significantly increase exposure to magnesium and nitrate ions in the diet. On the basis of this information and of the low level of exposure to the additive, the agency concludes that there is an adequate margin of safety for the proposed use of the additive.

FDA has evaluated the safety of this additive under the general safety clause, considering all available data and using risk assessment procedures to estimate the upper-bound limit of risk presented by the carcinogenic chemical dimethylnitrosamine, which may be present as an impurity in the additive. Based on this evaluation, the agency has concluded that the additive is safe under the proposed conditions of use.

The risk assessment procedures that FDA used in this evaluation are similar to the methods that the agency has used to examine the risk associated with the presence of minor carcinogenic impurities in various other food and color additives that contain carcinogenic impurities (see, e.g., 49 FR 13018 and 13019; April 2, 1984). The risk evaluation of the carcinogenic impurity dimethylnitrosamine has two aspects:

(1) Assessment of the worst-case exposure to the impurity from the proposed use of the additive, and

(2) Extrapolation of the risk observed in the animal bioassays to the conditions of probable exposure to humans.

A. Dimethylnitrosamine

Based on the fraction of the daily diet that may be in contact with articles containing 5-chloro-2-methyl-4-isothiazolin-3-one and 2-methyl-4-isothiazolin-3-one mixture with magnesium nitrate and on the level of dimethylnitrosamine that may be present in the additive, FDA estimated the hypothetical worst-case exposure to dimethylnitrosamine from the petitioned use of this additive to be 0.99 nanograms per person per day (Ref. 3). The agency used data from a carcinogenesis bioassay on dimethylnitrosamine (Ref. 4) to estimate the upper-bound level of lifetime human risk from the exposure to this chemical resulting from the proposed use of 5-chloro-2-methyl-4-isothiazolin-3-one and 2-methyl-4-isothiazolin-3-one mixture with magnesium nitrate. The results of the bioassay on dimethylnitrosamine demonstrated that the material was carcinogenic for male and female rats under the conditions of the study, causing liver tumors in the rats.

The Center for Food Safety and Applied Nutrition's Quantitative Risk Assessment Committee (the committee) reviewed this bioassay and other relevant data available in the literature and concluded that the findings of carcinogenicity were supported by this information on dimethylnitrosamine.

The committee further concluded that the dimethylnitrosamine bioassay provided the appropriate basis on which to calculate an estimate of the upper-bound level of lifetime human cancer risk from potential exposure to dimethylnitrosamine stemming from the proposed use of 5-chloro-2-methyl-5-isothiazolin-3-one and 2-methyl-4-isothiazolin-3-one mixture with the optional use of magnesium nitrate.

The agency used a quantitative risk assessment procedure (linear proportional model) to extrapolate from the dose used in the animal experiment to the very low doses encountered under the proposed conditions of use. This procedure is not likely to underestimate the actual risk from very low doses and may, in fact, exaggerate it because the extrapolation models used are designed to estimate the maximum risk consistent with the data. For this reason, the estimate can be used with confidence to determine to a reasonable certainty whether any harm will result from the proposed conditions and levels of use of the additive.

Based on a worst-case exposure of 0.99 nanogram per person per day, FDA estimates that the upper-bound limit of individual lifetime risk from potential exposure to dimethylnitrosamine from the proposed use of 5-chloro-2-methyl-4-isothiazolin-3-one and 2-methyl-4-isothiazolin-3-one mixture with the optional use of magnesium nitrate is 3.5×10^{-8} or less than 1 in 28 million (Ref. 5). Because of numerous conservatisms in the exposure estimate, lifetime averaged individual exposure to dimethylnitrosamine is expected to be substantially less than the estimated daily intake, and, therefore, the calculated upper-bound risk would be less. Thus, the agency concludes that there is a reasonable certainty of no harm from exposure to dimethylnitrosamine that might result from the proposed use of 5-chloro-2-methyl-4-isothiazolin-3-one and 2-methyl-4-isothiazolin-3-one with the optional use of magnesium nitrate.

B. Need for Specifications

The agency has carefully considered whether a specification is necessary to control the amount of dimethylnitrosamine in the food additive. The agency finds that a specification is not necessary for the following reasons:

(1) Because of the low levels at which dimethylnitrosamine may be expected to remain as an impurity following production of the additive, the agency would not expect this impurity to become a component of food at other than extremely small levels.

(2) The upper-bound limit of lifetime risk from exposure to this impurity, even under worst-case assumptions, is very low, less than 1 in 28 million.

C. Conclusion on Safety

FDA has evaluated the available and other relevant material and concludes that the proposed use for the additive is safe, and that 21 CFR 176.170 should be amended by revising the table in paragraph (b)(2) as set forth below. Additionally, in revising the table in § 176.170(b)(2), FDA is editorially correcting the CAS Registry number for magnesium nitrate to read "CAS Reg. No. 10377–60–3" in place of "CAS Reg. No. 10377–6–3" under the heading "List of substances".

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

III. Objections

Any person who will be adversely affected by this regulation may at any time on or before May 11, 1990, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

IV. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m and 4 p.m., Monday through Friday.

1. Carr, G. M., "Carcinogenicity Testing Programs" in "Food Safety: Where Are We?," Committee on Agriculture, Nutrition, and Forestry, U.S. Senate, p. 59, July 1979.

2. Kokoski, C. J., "Regulatory Food Additive Toxicology" in "Chemical Safety Regulations and Compliance," edited by F. Homburger and J. K. Marquis, S. Karger, New York, pp. 24–33, 1985.

3. Memorandum dated September 4, 1986, from Regulatory Food Chemistry Branch to Indirect Additive Branch, "FAP 6B3947—Rohm & Haas CO., 5-chloro-2-methyl-4-isothiazolin-3-one and 2-methyl-4-isothiazolin-3-one mixture with magnesium nitrate as an antimicrobial agent used in the manufacture of paper and paperboard."

4. Peto, R., et al., IARC Science Publications, 57:627–665, 1984.

5. Memorandum dated November 15, 1989, Report of Quantitative Risk Assessment Committee, "Upperbound Risks from Dimethylnitrosamine (DMN) in FAP's 5B3835 and 6B3947."

List of Subjects in 21 CFR Part 176

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 176 is amended as follows:

PART 176—INDIRECT FOOD ADDITIVES: PAPER AND PAPERBOARD COMPONENTS

1. The authority citation for 21 CFR part 176 continues to read as follows:

Authority: Secs. 201, 402, 406, 409, 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 346, 348, 376).

2. Section 176.170 is amended in the table in paragraph (b)(2) by revising the entry for "5-Chloro-2-methyl-4-isothiazolin-3-one * * * under the headings "List of substances" and "Limitations" to read as follows:

§ 176.170 Components of paper and paperboard in contact with aqueous and fatty foods.

* * * * *

(b) * * *

(2) * * *

List of substances	Limitations
* * *	* *
5-Chloro-2-methyl-4-isothiazolin-3-one (CAS Reg. No. 26172–55–4) and 2-methyl-4-isothiazolin-3-one (CAS Reg. No. 2682–20–4) mixture at a ratio of 3 parts to 1 part, manufactured from methyl-3-mercaptopropionate (CAS Reg. No. 2935–90–2). The mixture may contain magnesium nitrate (CAS Reg. No. 10377–60–3) at a concentration equivalent to the isothiazolone active ingredients (weight/weight).	For use only: 1. As an antimicrobial agent for polymer latex emulsions in paper coatings at a level not to exceed 50 parts per million (based on isothiazolone active ingredients) in the coating formulation. 2. As an antimicrobial agent for finished coating formulations and for additives used in the manufacture of paper and paperboard including fillers, binders, pigment slurries, and sizing solutions at a level not to exceed 25 parts per million (based on isothiazolone active ingredients) in the coating formulations and additives.
* * *	* *

* * * * *

Dated: April 4, 1990.

Alan L. Hoeting,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 90-8360 Filed 4-10-90; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 178

[Docket No. 88F-0139]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of tris(2, 4-di-*tert*-butylphenyl)phosphite as an antioxidant and thermal stabilizer for poly-l-butene resins and butene/ethylene copolymers intended for use in contact with food. This action is in response to a petition filed by Ciba-Geigy Corp.

DATES: Effective April 11, 1990; written objections and requests for a hearing by May 11, 1990.

ADDRESSES: Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Richard H. White, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of June 9, 1988 (53 FR 21728), FDA announced that a food additive petition (FAP 8B4077) had been filed by Ciba-Geigy Corp., Three Skyline Dr., Hawthorne, NY 10532, proposing that § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) be amended to provide for the safe use of tris(2,4-di-*tert*-butylphenyl)phosphite as an antioxidant and thermal stabilizer for poly-l-butene resins and butene/ethylene copolymers intended for use in contact with food.

FDA has evaluated data in the petition and other relevant material. The agency concludes that the proposed food additive use is safe, and that the regulations should be amended in 21 CFR 178.2010(b) as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may at any time on or before May 11, 1990, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director of the Center for Food Safety and Applied Nutrition, 21 CFR part 178 is amended as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

1. The authority citation for 21 CFR part 178 continues to read as follows:

Authority: Secs. 201, 402, 409, 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 376).

2. Section 178.2010 is amended in the table in paragraph (b), for the entry "Tris(2,4-di-*tert*-butylphenyl)phosphite * * *", numerically adding new item "23," under the heading "Limitations" to read as follows:

§ 178.2010 Antioxidants and/or stabilizers for polymers.

* * * * *

(b) * * *

Substances	Limitations
* * *	* *
	For use only:
	* * *
Tris(2,4-di-*tert*-butylphenyl)phosphite (CAS Reg. No. 31570-04-4).	23. At levels not to exceed 0.15 percent by weight of poly-1-butene resins and butene/ethylene copolymers complying with § 177.1570 of this chapter: *Provided*, that the finished polymer contacts food only under conditions of use B through H described in Table 2 of § 176.170(c) of this chapter.
* * *	* *

Dated: March 30, 1990.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 90-8359 Filed 4-10-90; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 301

[T.D. 8275]

RIN 1545-AJ05

Returns Relating to Persons Receiving Contracts From Federal Executive Agencies

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document contains corrections to final regulations that were