Done in Washington DC on March 4, 1993.

Kathleen Connelly,

Acting Deputy Manager, Federal Crop Insurance Corporation.

[FR Doc. 93–5670 Filed 3–11–93; 8:45 am]

BILLING CODE 3410–08–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

Schedules of Controlled Substances; Temporary Placement of Alpha-ethyltryptamine Into Schedule I

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Final rule.

SUMMARY: The Administrator of the Drug Enforcement Administration (DEA) is issuing this final rule to temporarily place alpha-ethyltryptamine into Schedule I of the Controlled Substances Act (CSA) pursuant to the emergency scheduling provisions of the CSA (21 U.S.C. 811(h)). This action is based on the finding by the DEA Administrator that the placement of alpha-ethyltryptamine in Schedule I of the CSA is necessary to avoid an imminent hazard to the public safety. As a result of this rule, the criminal sanctions and regulatory controls of Schedule I substances under the CSA will be applicable to the manufacture, distribution, and possession of alpha-ethyltryptamine.

EFFECTIVE DATE: March 12, 1993.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug and Chemical Evaluation Section, Drug Enforcement Administration, Washington, DC 20537, Telephone: (202) 307–7183.

SUPPLEMENTARY INFORMATION: The Comprehensive Crime Control Act of 1984 (Pub. L. 98–473), which was signed into law on October 12, 1984, amended section 201 of the Controlled Substances Act (CSA) (21 U.S.C. 811) to give the Attorney General the authority to temporarily place a substance into Schedule I of the CSA if he finds that such action is necessary to avoid an imminent hazard to the public safety. A substance may be temporarily scheduled under the emergency provision of the CSA if that substance is not listed in any other schedule under Section 202 of the CSA (21 U.S.C. 812) or if there is no approval or exemption in effect under 21 U.S.C. 355 of the Food, Drug, and Cosmetic Act for the substance. The Attorney General has delegated his authority under 21 U.S.C. 811 to the Administrator of DEA (28 CFR 0.100).

A notice of intent to temporarily place alpha-ethyltryptamine into Schedule I of the CSA was published in the **Federal Register** on January 14, 1993 (58 FR 4370). The Administrator transmitted notice of his intention to temporarily place alpha-ethyltryptamine into Schedule I of the CSA to the Assistant Secretary for Health of the Department of Health and Human Services. In response to this notification, the Food and Drug Administration has advised DEA that there are no exemptions or approvals in effect under 21 U.S.C. 355 of the Food, Drug, and Cosmetic Act for alpha-ethyltryptamine and that the Department of Health and Human Services has no objection to DEA's intention to temporarily place alpha-ethyltryptamine into Schedule I of the CSA.

In making a finding that placing a substance temporarily in Schedule I of the CSA is necessary to avoid an imminent hazard to the public safety the Administrator is required to consider three of the eight factors set forth in section 201(c) of the CSA (21 U.S.C. 811(c)). These factors are as follows: (4) History and current pattern of abuse; (5) The scope, duration and significance of abuse; and (6) What, if any, risk there is to the public health.

Alpha-ethyltryptamine has been classified as a central nervous system (CNS) stimulant as well as a tryptamine hallucinogen. Chemically it is α-ethyl-1H-indole-3-ethanamine or 3-(2-aminobutyl) indole. It is structurally similar to N,N-dimethyltryptamine (DMT) and N,N-diethyltryptamine (DET) both of which are hallucinogens controlled in Schedule I of the CSA. Available data indicate that alpha-ethyltryptamine produces some pharmacological effects qualitatively similar to those of other Schedule I hallucinogens.

DEA first encountered alpha-ethyltryptamine in 1986 at a clandestine laboratory in Nevada. Several exhibits of alpha-ethyltryptamine have been analyzed by DEA and state forensic laboratories since 1989. Individuals in Colorado and Arizona have purchased several kilograms of this substance as the acetate salt from chemical supply companies and have distributed and sold quantities to individuals for the purpose of human consumption. Touted as an MDMA (3,4-methylenedioxymethamphetamine)-like substance, it has been trafficked as "TRIP" or "ET". Distribution and use have been primarily among high school and college-age individuals. In Arizona, the death of a 19-year-old female was attributed to acute alpha-ethyltryptamine toxicity. Illicit use has been documented in both Germany and Spain where two deaths have resulted from alpha-ethyltryptamine overdose.

Alpha-ethyltryptamine acetate was marketed by the Upjohn Company in 1961 as an antidepressant under the trade name of Monase. After less than one year of marketing, Upjohn withdrew its New Drug Application when it became apparent that Monase administration was associated with the development of agranulocytosis. Recent scientific data also suggest that this substance may produce neurotoxicity similar to the neurotoxic effects produced by MDMA and PCA (para-chloroamphetamine).

In light of its CNS stimulatory and hallucinogenic properties similar to those of DMT, DET and MDMA, its association with agranulocytosis and its possible neurotoxicity, the continued uncontrolled availability of alpha-ethyltryptamine poses an imminent hazard to public safety.

In accordance with the provisions of section 201(h) of the CSA (21 U.S.C. 811(h)) and 28 CFR 0.100 the Administrator has considered the three factors required for a determination of whether temporarily scheduling alpha-ethyltryptamine under the CSA is necessary to avoid an imminent hazard to the public safety. Based on a consideration of these factors and other relevant information, the Administrator finds that placement of alpha-ethyltryptamine into Schedule I of the CSA on a temporary basis is necessary to avoid an imminent hazard to the public safety.

The following regulations are effective with respect to alpha-ethyltryptamine on March 12, 1993, except for those individuals registered with DEA in accordance with part 1301 or part 1311 of title 21 of the Code of Federal Regulations, who currently possess alpha-ethyltryptamine may continue to do so pending DEA's receipt of an application for amended registration no later than April 12, 1993:

1. Registration. Any person who manufactures, distributes, delivers, imports or exports alpha-ethyltryptamine or who engages in research or conducts instructional activities with respect to alph-ethyltryptamine or who proposes to engage in such activities must be registered to conduct such activities in accordance with parts 1301 and 1311 of title 21 of the Code of Federal Regulations.

2. Security. Alpha-ethyltryptamine must be manufactured, distributed and stored in accordance with §§ 1301.71–

1301.76 of title 21 of the Code of Federal Regulations.

3. Labeling and Packaging. All labels and labeling for commercial containers of alpha-ethyltryptamine must comply with requirements of §§ 1302.03–1302.05, 1302.07 and 1302.08 of title 21 of the Code of Federal Regulations.

4. Quotas. All persons required to obtain quotas for alpha-ethyltryptamine must submit application pursuant to §§ 1303.12 and 1303.22 of title 21 of the Code of Federal Regulations.

5. Inventory. Every registrant required to keep records and who possesses any quantity of alpha-ethyltryptamine is required to take an inventory of all stocks of this substance on hand pursuant to §§ 1304.11–1304.19 of title 21 of the Code of Federal Regulations.

6. Records. All registrants to keep records pursuant to §§ 1304.21–1304.27 of title 21 of the Code of Federal Regulations must do so regarding alpha-ethyltryptamine.

7. Reports. All registrants required to submit reports in accordance with §§ 1304.34–1304.37 of title 21 of the Code of Federal Regulations shall do so regarding alpha-ethyltryptamine.

8. Order Forms. All registrants involved in the distribution of alpha-ethyltryptamine must comply with the order form requirements of §§ 1305.01–1305.16 of title 21 of the Code of Federal Regulations.

9. Importation and Exportation. All importation and exportation of alpha-ethyltryptamine must be in compliance with part 1312 of title 21 of the Code of Federal Regulations.

10. Criminal Liability. Any activity with alpha-ethyltryptamine not authorized by, or in violation of, the CSA or the Controlled Substances Import and Export Act occurring on or after March 12, 1993 is unlawful.

The Administrator of the DEA hereby certifies that the temporary placement of alpha-ethyltryptamine into Schedule I of the CSA will have no significant impact upon entities whose interests must be considered under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* This action involves the temporary control of a substance with no currently approved medical use in the United States.

The temporary scheduling of alpha-ethyltryptamine is not a major rule for the purposes of Executive Order (E.O.) 12291 of February 17, 1981. It has been determined that drug scheduling matters are not subject to review by the Office of Management and Budget (OMB) pursuant to the provisions of E.O. 12291. Accordingly, this proposed emergency scheduling action is not subject to provisions of E.O. 12778 which are contingent upon review by OMB. This regulation both responds to an emergency situation posing an imminent danger to the public safety, and is essential to a criminal law enforcement function of the United States.

This action has been analyzed in accordance with the principles and criteria in E.O. 12291, and it has been determined that the temporary placement of alpha-ethyltryptamine into Schedule I of the CSA does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Narcotics, Prescription drugs, Reporting and Recordkeeping requirements.

Under the authority vested in the Attorney General by section 201(h) of the CSA (21 U.S.C. 811(h)), and delegated to the Administrator of the DEA by Department of Justice regulations (28 CFR 0.100), the Administrator hereby amends 21 CFR part 1308 as follows:

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

1. The authority citation for 21 CFR part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871b, unless otherwise noted.

2. Section 1308.11 is amended by adding paragraph (g)(5) to read as follows:

§ 1308.11 Schedule I.

* * * * *

(g) * * *

(5) alpha-ethyltryptamine, its optical isomers, salts and salts of isomers—7249.

Some other names: etryptamine; α-ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole.

* * * * *

Dated: March 8, 1993.

Robert C. Bonner,

Administrator of Drug Enforcement.

[FR Doc. 93–5734 Filed 3–11–93; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Parts 200, 202, 203, 213, 234, and 240

[Docket No. R–93–1506; FR–2854–C–03]

RIN 2501–AB16

Mortgagee Approval Reform and Direct Endorsement Expansion; Correction

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule; correction.

SUMMARY: On December 9, 1992 (57 FR 58326), the Department published in the Federal Register, a final rule that implemented a comprehensive revision of the Department's regulations that prescribe the standards by which mortgagees are approved to participate in the HUD mortgage insurance programs, and by which approved mortgagees maintain their approval status. The rule also reorganized and updated the Department's Direct Endorsement program requirements.

The purpose of this document is to correct technical errors, and to add an amended § 234.248 on Waivers that was inadvertently omitted from the published final rule. (Section 234.248 is a parallel section to § 203.248, amended in the December 9, 1992 final rule.)

EFFECTIVE DATE: January 8, 1993.

FOR FURTHER INFORMATION CONTACT: William M. Heyman, Director, Office of Lender Activities and Land Sales Registration, Department of Housing and Urban Development, room 9146, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–1824, or (202) 708–4594 (TDD). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: On December 9, 1992 (57 FR 58326), the Department published a final rule that implemented a comprehensive revision of the Department's regulations that prescribe the standards by which mortgagees are approved to participate in the HUD mortgage insurance programs, and by which approved mortgagees maintain their approval status. The rule also reorganized and updated the Department's Direct Endorsement program requirements.

The purpose of this document is to correct certain technical errors that appeared in the December 9, 1992 final rule. The following provides a summary of the corrections that are being made by this document.

1. The preamble discussion of the origination approval agreement under the heading "Section 202.11—Approval,

Recertification, Withdrawal of Approval and Termination of Approval Agreement" states that: "The Secretary can terminate an origination approval agreement of a mortgagee which has had a default and claim rate on insured mortgages and that exceeds both the national rate and 200 percent of the HUD Field Officer average rate." (See 57 FR 58328, first column.) The second "and" in this sentence is an error.

2. The preamble discussion of § 202.18 states that servicing of insured mortgages will be limited to mortgagees that have been "approved for servicing." (See 57 FR 58334, third column.) This language indicates that there will be a separate approval process for mortgagees who wish to service FHA-insured loans, and is inconsistent with the text of § 202.18, which only requires servicers to be approved mortgagees. This document corrects this error in the preamble to provide that servicing of insured mortgages is limited to "approved mortgagees."

3. In the preamble discussion under the heading "Mortgagee Review Board", the reference to § 25.9(d) is incorrect. (See 57 FR 58335, first column.) The correct citation is § 25.9(b).

4. The preamble discussion under the heading "Section 203.3—Approval of Mortgagees for Direct Endorsement" states that applications may be submitted directly to the "Single Family Development Division in HUD Headquarters." (See 57 FR 58335, third column). The correct Headquarters division to which applications may be submitted is the "Lender Approval and Recertification Division."

5. The preamble discussion of HUD's update of its certification requirements, under the heading "Section 203.3—Approval of Mortgagees for Direct Endorsement", states that § 203.255(c)(7)(ii) is designed to cover the situation where a Direct Endorsement (DE) processed mortgage must be rejected for insurance because of legal limitations on HUD's insurance authority that are not specifically covered by a particular certification. (See 57 FR 58337, second column.) There is no § 203.255(c)(7)(ii). The correct citation is § 203.255(c)(7).

6. The preamble discussion under the heading "Direct Endorsement Certifications" states, in the second sentence, that: "The Department expects to publish the revised certifications in the revised Direct Endorsement Handbook, 4000.4 immediately after the publication of this Single Family rule." (See 57 FR 58338, first column.) The revised certifications were published on December 11, 1992 in Change 1 to the existing handbook, not in a revised handbook.

In the third sentence of this same paragraph, reference to the handbook number as "Handbook 4000.4 Rev. 4" is incorrect. The correct citation is "Handbook 4000.4 Rev. 1."

7. In § 200.926 (Minimum Property Standards for One and Two Family Dwellings), the "and" following paragraph (a)(2)(ii) should be an "or".

8. In § 202.3 (General Approval Requirements), paragraph (a)(4) states that "The Secretary must be notified immediately of any amendments to the partnership agreement which would affect the partnership's actions under any mortgage insurance programs administered by the Secretary." (See 57 FR 58340, third column.) The notification requirement imposed by § 202.3 does not apply to mortgage insurance programs administered by the Secretary because they do not involve title I lenders. The notification requirement applies only to those amendments which would affect the partnership's actions under the title I property improvement or manufactured home loan insurance programs.

9. Section 202.11 (Approval, Recertification, Withdrawal of Approval and Termination of Approval Agreement) contains four errors.

First, in paragraph (a)(5)(iii) of § 202.11, the reference to section § 202.17(d) is incorrect. (See 57 FR 58341, second column.) The correct citation should be simply § 202.17.

Second, in paragraph (b), the reference to § 202.12(h)(3) is incorrect. (See 57 FR 58341, second column.) The correct citation should be § 202.17(h)(2).

Third, in paragraph (d)(4), the term "under-served" in the last sentence is not hyphenated, and it should be. (See 57 FR 58342, first column.) (This term is hyphenated in all other places it appears in the rule.)

Fourth, in paragraph (d)(5), the reference to § 202.11(d)(3) in the last sentence is incorrect. (See 57 FR 58342, first column.) The correct citation should be § 202.11(d)(3)(iii).

10. Section 202.13 (Supervised Mortgagees) contains two errors. First, paragraph (b) of § 202.13 inadvertently includes the phrase—"originate mortgages". (See 57 FR 58343, third column.) The reference to origination of mortgages in § 202.13 (and in § 202.17, as will be discussed later in this preamble) makes this section inconsistent with §§ 202.14(a) and 202.15(b), and leads to confusion. Both § 202.14(a) and § 202.15(a) treat origination as part of the concept of applying for mortgage insurance, so that origination need not be mentioned separately. To make § 202.13 consistent with §§ 202.14 and 202.15(a), no reference to mortgage origination was intended. Accordingly, the phrase "originate mortgages" is removed from § 202.13(a).

Second, § 202.11(a)(5) of the final rule provides for the use of authorized agents by certain approved mortgagees, including supervised mortgagees in certain circumstances and governmental institutions. Section 202.17(d) pertaining to governmental institutions incorporates the provision of § 202.11(a)(5), but no cross reference was incorporated at § 202.13 pertaining to supervised mortgagees. Accordingly, this document adds a new paragraph (e) to § 202.13 to clarify that a supervised mortgagee may use an authorized agent that is an affiliate or subsidiary of the mortgagee.

11. Section 202.15 (Loan Correspondents) contains two errors.

First, in the definition of "sponsor" in § 202.15(a), the word "origination" was inadvertently omitted before the term "approval agreement." (See 57 FR 58344, first column.) As noted in the preamble, the term "approval agreement," introduced in the June 25, 1991 proposed rule, was changed in the final rule to "origination approval agreement." (See 57 FR 58328, first column.)

The second error is in paragraph (c)(5) of § 202.15 and pertains to the filing of audit reports. Second 202.15(a) provides, in the definition of "loan correspondent", for a supervised mortgagee to be approved as a loan correspondent without having to meet the principal activity test (which is required of a non-supervised mortgagee seeking approval as a loan correspondent). (See 57 FR 58344, first column.) Paragraph (c)(5) of § 202.15 requires loan correspondents to file annual reports. (See 57 FR 58344, second column.) The Department did not intend to require audits of mortgagees that are federally supervised mortgagees, simply because they receive approval as loan correspondents. However, this is exactly what the Department requires under the current wording of § 202.15(c)(5). Accordingly, this document corrects § 202.15(c)(5) to exclude, from the requirement to file audit reports, a mortgagee that meets the definition of a supervised mortgagee in § 202.13(a).

12. In § 202.17, the term "originate" is removed from paragraph (a) for the same reason discussed under paragraph (10) above, and the phrase "submit applications for mortgage insurance" is substituted for the terms "originate." (See 57 58344, third column.)

13. In § 202.18 (Approval for Servicing), the word "on" which precedes the reference to § 202.17, is removed and replaced by the word "or". (See 57 FR 58344, third column.)

14. Section 203.5 (Direct Endorsement Process) contains two errors.

First, paragraph (a) of § 203.5, as published in the December 9, 1992 final rule, provides that the Secretary does not review applications for mortgage insurance. (See 57 FR 58346, first column.) This statement is incorrect. The Secretary does review applications for mortgage insurance, but after the mortgage is executed. Accordingly, the first sentence of paragraph (a) is corrected to state that: "Under the Director Endorsement program, the Secretary does not review applications for mortgage insurance before the mortgage is executed, or issue conditional or firm commitments, except to the extent required by § 203.3(b)(4), § 203.3(d)(1), or as determined by the Secretary."

Second, in paragraph (e) of § 203.5, the first word of the first sentence, which is "This" should be "The".

15. In § 203.7 (Commitment Process), the hyphen between the words "single" and "family" in the introductory paragraph is incorrect, and is removed by his document. Additionally, in § 203.7, the word "loan" should follow the word "mortgage" at the end of the first sentence of the introductory paragraph.

16. In § 203.27 (Charges, Fees or Discounts), the word "from" the first time it appears in the first sentence of paragraph (d), should be "form".

17. Paragraph (c) of § 203.255 (Insurance of Mortgage) contains several errors.

First, paragraph (c)(3), as published in the December 9, 1992 final rule, states that: "The stated mortgage amount exceeds the maximum mortgage amounts as most recently published in the **Federal Register.**" (See 57 FR 58348, first column.) Paragraph (c)(3) should state just the opposite—that "The stated mortgage amount does not exceed the maximum mortgage amounts as most recently published in the **Federal Register.**

Second, paragraph (c)(4) should be followed by a semicolon, instead of a colon.

Third, in paragraph (c)(6), the word "any" is incorrect. (See 57 FR 58348, third column.) Paragraph (c)(6) should read: "There is no mortgage insurance premium, * * *"

Fourth, the first sentence of paragraph (c)(7) should include the word "not" so that this sentence reads: "The mortgage was not in default * * *"

18. In § 203.441 (Insurance of Loan), the word "respects" is corrected to read "respect".

19. In § 203.258 (Substitute Mortgagors), the date "December 15, 1989" inadvertently appears twice. (See 57 FR 58349, first column.) The second phrase in which this date appears—"but before December 15, 1989"—is removed by this document.

20. In § 204.1 (Cross Reference), the cross reference to § 203.43j incorrectly spells the name of this reservation of the Seneca Nation of Indians. The correct spelling is "Allegany", not "Allegheny" as set forth in the December 9, 1992 final rule. (See 57 FR 58349, third column.)

21. In § 213.503 (Processing for Insurance), the reference to "part 213" is incorrect. The correct term is "subpart".

22. In § 221.70 (Applicability), the term "appraisal report" should be capitalized.

23. In § 234.48 (Charges, Fees or Discounts), paragraph (b) should have been amended to be identical to the amendment made to paragraph (d) of § 203.27 (Charges, Fees or Discounts). The amendment to § 234.48(b) was inadvertently omitted.

24. Section 234.248 (Waivers) should have been amended to be identical to the amendment made to § 203.248 (Waivers) by the final rule. The amendment to § 234.248 was inadvertently omitted.

25. In § 234.249 (Effect of Amendments), the phrase "shall not adversely affect the interest of a mortgagee on any mortgage or loan to be insured" should read "shall not adversely affect the interest of a mortgagee for any mortgage or loan to be insured." Additionally, in the second sentence of § 234.249, the word "is" should be "if".

26. In § 240.16 (Mortgage Provisions), the language in parentheses, added by the final rule, is inappropriate for section 240 programs that involve purchase of fee title to a leased home site, and should not have been included in the final rule.

The foregoing describes the technical corrections that are being made by this document.

Accordingly, FR Doc. 92–29524, a final rule published in the **Federal Register** on December 9, 1992 (57 FR 58326), is corrected to read as follows:

1. In the preamble, on page 58328, under the heading, *"Section 202.11 Approval, Recertification, Withdrawal of Approval and Termination of Approval Agreement"*, in the first column, in the second full paragraph, in line 17, correct by removing the word "and".

2. In the preamble, on page 58334, under the heading, *"Section 202.18 Approval for Servicing"*, in the third column, the first sentence in the first paragraph immediately following the heading, is corrected to read, "Under the proposed rule, this § 202.18, together with a related new § 207.263 and an amendment to § 203.502, would establish a requirement limiting servicing of insured mortgages to approved mortgagees."

3. In the preamble, on page 58335, under the heading, *"Mortgagee Review Board"*, in the first column, correct the beginning of the second sentence to read, "* * * Section 25.9(b) is also reworded * * *".

4. In the preamble, on page 58335, under the heading, *"Section 203.3 Approval of Mortgagees for Direct Endorsement"*, in the third column, at the top of the page, correct the last sentence in the paragraph, to read, "* * * Applications may be submitted directly to the Lender Approval and Recertification Division in HUD Headquarters."

5. In the preamble, on page 58337, under the heading, *"Section 203.255 Insurance of Mortgage"*, in the middle column, in line 25 from the top of the page, correct the last sentence in the paragraph, to read, "* * * Section 203.255(c)(7) of the final rule is designed to cover those situations."

6. In the preamble, on page 58338, under the heading, *"Direct Endorsement Certifications"*, in the first column, correct the second sentence in its entirety and the beginning of the third sentence in the paragraph, to read, "* * * The Department published the revised certifications in Change 1 to the Direct Endorsement Program Handbook 4000.4 on December 11, 1992. Mortgagees may continue to use the Direct Endorsement certifications currently in Handbook 4000.4 Rev. 1 until * * *"

7. On page 58340, in § 200.926(a)(2)(ii), correct the word "and" to read "or".

8. On page 58340, in § 202.3, correct paragraph (a)(4) to read as follows:

§ 202.3 General approval requirements.

* * * * *

(a) * * *

(4) The Secretary must be notified immediately of any amendments to the partnership agreement which would affect the partnership's actions under the title I property improvement or manufactured home loan insurance programs.

* * * * *

9. On pages 58341–58342, in § 202.11, correct paragraph (a)(5)(iii), the beginning of the second sentence in paragraph (b) through the first comma, the last sentence in paragraph (d)(4), and the last sentence in paragraph (d)(5), to read as follows:

§ 202.11 Approval, recertification, withdrawal of approval and termination of approval agreement.

(a) * * *

(5) * * *

(iii) The mortgagee is approved under § 202.17.

(b) *Recertification of approval.* * * * The Secretary shall review the yearly verification report required by § 202.12(h)(2) and other pertinent documents, * * *.

* * * * *

(d) * * *

(4) * * * If the Secretary determines that the excessive rate is the result of mortgage lending in under-served areas the Secretary may determine not to place the mortgagee on credit watch status.

(5) * * * The Secretary shall provide 60 days notice and an opportunity for an informal conference as required by § 202.11(d)(3)(iii) to a mortgagee which will have its origination approval agreement terminated subsequent to a credit watch.

* * * * *

10. On page 58343, in § 202.13, paragraph (b) is corrected by removing the words and first comma, "originate mortgages," and by adding a new paragraph (e), to read as follows:

§ 202.13 Supervised mortgagees.

* * * * *

(b) *General functions.* A supervised mortgagee may submit applications for mortgage insurance, and may purchase, hold, service or sell insured mortgages.

* * * * *

(e) *Authorized agents.* A mortgagee approved under this section may, with the approval of the Secretary, designate an affiliate or subsidiary of the mortgagee as authorized agent for the purpose of submitting applications for mortgage insurance in its name and on its behalf.

11. On page 58344, in § 202.15, the definition for *"sponsor"* in paragraph (a) is corrected by inserting the word "origination" between the words "valid" and "approval," and paragraph (c)(5) is corrected to read as follows:

§ 202.15 Loan correspondents.

* * * * *

(c) * * *

(5) It shall file audit reports in accordance with § 202.14(c)(2), unless it meets the definition of a supervised mortgagee in § 202.13(a).

* * * * *

§ 202.17 [Amended].

12. On page 58344, in § 202.17, paragraph (a) is corrected by removing the word "originate" and inserting in its place, "submit applications for mortgage insurance,".

§ 202.18 [Amended].

13. On page 58344, in § 202.18, correct by removing "on § 202.17" and insert in its place "or § 202.17".

14. On page 58346, in § 203.5, the first sentence in paragraph (a) through the first comma, and the first three words in paragraph (e) are corrected to read as follows:

§ 203.5 Direct Endorsement process.

(a) *General.* Under the Direct Endorsement program, the Secretary does not review applications for mortgage insurance before the mortgage is executed or issue conditional or firm commitments, * * *".

* * * * *

(e) *Appraisal.* The mortgagee shall * * *.

* * * * *

§ 203.7 [Amended].

15. On page 58346, in § 203.7, the introductory text is corrected by removing the hyphen between "single-family" to read "single family", and by adding the word "loan" at the end of the sentence to read "* * *, prior to making the mortgage loan. If:".

§ 203.27 [Amended].

16. On page 58347, in § 203.27(d), in the first sentence, correct "from" to read "form".

17. On page 58348, in § 203.255, paragraphs (c)(3), (4), (5), (6), and the first sentence of paragraph (7), are corrected to read as follows:

§ 203.255 Insurance of mortgage.

* * * * *

(c) * * *

(3) The stated mortgage amount does not exceed the maximum mortgage amounts as most recently published in the **Federal Register**;

(4) All documents required by paragraph (b) of this section are submitted;

(5) All necessary certifications are made in accordance with paragraph (b) of this section;

(6) There is no mortgage insurance premium, late charge or interest due to the Secretary; and

(7) The mortgage was not in default when submitted for insurance or, if submitted for insurance more than 60 days after closing whether the mortgage shows an acceptable payment history.

* * *

* * * * *

§ 203.258 [Amended].

18. On page 58349, in § 203.258, paragraph (c)(2) is corrected by adding a semicolon after the first reference to "December 15, 1989" to read, "on or after December 15, 1989;" and by removing the comma and phrase ", but before December 15, 1989, or"

§ 203.441 [Amended].

19. On page 58349, in § 203.441, correct "respects" to read "respect".

§ 204.1 [Amended].

20. On page 58349, in § 204.1, in the list of cross-references, in the listing for § 203.43j, correct the spelling for the word "Allegheny" to read "Allegany".

§ 213.503 [Amended].

21. On page 58350, in § 213.503, correct "part 213" to read "subpart".

§ 221.70 [Amended].

22. On page 58351, in § 221.70, correct paragraph (a)(2) by capitalizing the words "Appraisal Report".

23. On page 58352 in the third column, following the revision of § 234.85(a)(2), insert amendments 83a and 83b reading as follows:

83a. In § 234.48, paragraph (b) is revised to read as follows:

§ 234.48 Charges, fees or discounts.

* * * * *

(b) Before the insurance of any mortgage, the mortgagee shall furnish to the Secretary a signed statement in a form satisfactory to the Secretary listing any charge, fee or discount collected by the mortgagee from the mortgagor. All charges, fees or discounts are subject to review by the Secretary both before and after endorsement under 203.255.

* * * * *

83b. Section 234.248 is revised to read as follows:

§ 234.248 Waivers.

On a case-by-case basis, the Secretary may waive any requirement of this subpart not required by statute, if the Secretary finds that application of such requirement would adversely affect achievement of the purposes of the Act. Each such waiver shall be in writing and supported by a statement of the facts and grounds of forming the basis for the waiver. The authority under this section may be delegated to the Assistant Secretary for Housing—Federal Housing Commissioner, but shall not be redelegated.

§ 234.249 [Amended].

24 and 25. On page 58352, in § 234.249, in line 9 of the section, correct "on" to read "for" and in line 18 correct "is such property" to read "if such property".

§ 240.16 [Amended].

26. On page 58353, in § 240.16(b)(4), correct by adding a period after the word "executed", and by removing the parenthetical phrase "(or the date a construction mortgage is converted to a permanent mortgage, if applicable)."

Dated: March 5, 1993.

Grady J. Norris,

Assistant General Counsel for Regulations.

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DEPARTMENT OF THE TREASURY

31 CFR Part 103

Amendments to the Bank Secrecy Act; Regulations Regarding Reporting and Recordkeeping Requirements by Casinos

AGENCY: Departmental Offices, Treasury.

ACTION: Final rule.

SUMMARY: The Bank Secrecy Act, authorizes the Secretary of the Treasury to require financial institutions to file reports and keep records that the Secretary determines have a high degree of usefulness in criminal, tax, and regulatory matters. The Secretary has designated certain casinos as "financial institutions" for purposes of the Bank Secrecy Act. The Secretary has imposed particular reporting and recordkeeping requirements on these casinos.

EFFECTIVE DATE: This final rule is effective September 8, 1993.

ADDRESSES: Peter Djinis, Director, Office of Financial Enforcement, Department of the Treasury, room 5000 Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

FOR FURTHER INFORMATION CONTACT: A. Carlos Correa, Assistant Director, Rules and Regulations Section, Office of Financial Enforcement, Department of the Treasury, (202) 622–0400.

SUPPLEMENTARY INFORMATION: On August 18, 1988, Treasury published in the **Federal Register**, 53 FR 31370, a Notice of Proposed Rulemaking ("the Notice") dealing with sixteen proposed amendments to the Bank Secrecy Act regulations affecting casinos. The purpose of the proposed amendments was to enhance compliance with Bank Secrecy Act requirements, Public Law No. 91–508 (codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, and 31 U.S.C. 5311–5326), and to provide Bank Secrecy Act examiners with "audit trails" to determine the adequacy of compliance. One commenter to the proposals, a state gaming regulatory enforcement agency, stated that it "has observed inadequate and incomplete filings of CTR's by the casinos which illustrates the need for more comprehensive regulations on both the Federal and State levels. * * * In summary, [the agency] is supportive of the Department of the Treasury's efforts to improve the accountability . . . of casinos in capturing and preparing complete CTR's."

The need for revised regulations for casinos was suggested by the Internal Revenue Service (IRS), which has been delegated Bank Secrecy Act enforcement authority with respect to casinos by the Assistant Secretary (Enforcement). In the past, IRS casino compliance examinations involved hundreds of hours. The IRS concluded that, with the creation of adequate audit trails, examination time would be greatly reduced, and the quality and completeness, and consequently, the utility, of the information would be enhanced.

There were five commenters in addition to the one referred to above. They consisted of another state gaming regulatory enforcement agency, a state gaming commission, and associations representing the gaming industries of New Jersey, Puerto Rico, and Nevada. After reviewing these comments, Treasury is issuing a final rule adopting the proposals, with several modifications designed to ease the burdens imposed, to offer guidance on how to implement the rules, and to address other concerns raised in the comments.

Since the proposed regulations were published in August 1988, licensed casino type gaming operations have expanded from three to eight jurisdictions. In addition, to Puerto Rico, Nevada and New Jersey, land based casinos are operating in Colorado and South Dakota and river boat gaming is operating in Illinois, Iowa and Mississippi. The final rule applies to all casinos meeting the definition in 31 CFR 103.11(i)(7)(i), including those casinos that have opened since the proposed regulations were published and any that will open in the future.

Discussion of Amendments

A summary of the proposed amendments, comments received thereon, and Treasury's decisions with respect thereto, follow.

(1) *Clarify definition of casinos subject to the Bank Secrecy Act:* The current definition of "casino" is based on the concept of "gross annual gaming revenue," a term which is not defined in the regulations. The proposed definition explained this concept basically in terms of gross receipts and clarified when a casino would become subject to the reporting and recordkeeping requirements of the Bank Secrecy Act and the regulations promulgated thereunder (hereinafter collectively referred to as "the Act"). (Amendment #2).

Although the Nevada casinos are subject to state regulations (*see* 31 CFR § 103.45(c)), the Nevada casino industry and state regulators submitted comments on the proposed definition. Specifically, they advised that if it were applied to Nevada casinos, this definition would encompass significantly more enterprises than are currently covered by Nevada regulations. They expressed concern that the reporting and recordkeeping requirements of the Act would both overly burden a large number of relatively minor operations, such as retail stores with slot machine games, and strain the resources of regulators.

Treasury agrees that the proposed definition could have encompassed many additional Nevada casinos. While Treasury could, in response, have limited the definition to exclude truly "minor" Nevada operations, Treasury has instead withdrawn the proposed definition of gross annual gaming revenue from the final rule. If necessary, the application of the term to Nevada casinos will be taken up at a subsequent time.

(2) *Link "gross annual gaming revenue" to "business year":* In the comments, casinos expressed concern that Treasury was attempting to specify the exact period of time that would constitute every casino's business year. However, the proposed definition of "business year," as explained in (19) below, allows each casino to adopt a calendar year or a fiscal year so long as it is consistent with the casino's accounting year for federal income tax purposes. Therefore, Treasury has decided to adopt the rule as proposed. A casino's gross annual gaming revenue must be linked to its income tax accounting year. (Amendments #2 and #19).

(3) *Provide examples of "cash in" and "cash out" transactions:* This revision is intended to be as expansive as possible in clarifying what constitutes cash in and cash out transactions. The examples listed are illustrative only; they do not represent an exhaustive list of all types