has exposed and/or undermined pipelines as a result of forming new channels or erosion of riverbeds.

- Coordinate with other pipeline companies in the flood area and provide personnel to emergency response centers to act as a liaison for pipeline issues. Provide maps and information on pipeline location and condition to emergency responders.
- Determine if normally aboveground facilities (valves, regulator and relief sets, etc.) that have become submerged could be struck by craft operating in flooded areas and supply maps to emergency response centers and mark with buoys as appropriate.
- Perform surveys to determine the depth of cover over pipelines and notify landowners of reduced cover. Agricultural agencies may be helpful in reminding farmers of the potential hazard of reduced cover over pipelines.
- Assure that line markers are still in place and remind contractors, highway departments, and others involved in excavation and clearing activities associated with flood clean-up of the presence of pipelines and the operating hazards that could occur due to reduced pipeline cover.

Background

Damage to a pipeline may occur as a result of additional stresses imposed on piping by undermining of the support structure and by impact and/or waterborne forces. Washouts and erosion may result in loss of support for both buried and exposed pipelines. The flow of water against an exposed pipeline may also result in forces sufficient to cause a failure. These forces are increased by the accumulation of debris against the pipeline. Reduction of cover over pipelines in farmland may also result in the pipeline being struck by equipment used in farming or clean-up operations.

Additionally, the safety of valves, regulator and relief sets, and other facilities normally aboveground, or above-water, is jeopardized when covered by water. This threat is posed, not only by operational factors, but also by the possibility of damage by outside forces, floating debris, current, and craft operating on the water. Boaters involved in rescue operations, emergency support functions, sightseeing, and other activities, are generally not aware of the seriousness of an incident that could result from their craft damaging a pipeline facility that is unseen beneath the surface of the water. Depending on the size of the craft and the pipeline facility struck, significant pipeline damage may result. Pipeline failure could occur immediately or in the future.

Issued in Washington, DC, on July 29, 1993.

George W. Tenley, Jr.,

Associate Administrator for Pipeline Safety.

[FR Doc. 93-18443 Filed 8-2-93; 8:45 am]

BILLING CODE 4910-60-M

Sunshine Act Meetings

Federal Register

Vol. 58, No. 147

Tuesday, August 3, 1993

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:30 a.m., Tuesday, August 10, 1993.

PLACE: 2033 K St., NW., Washington, DC, 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 93–18539 Filed 7–30–93; 10:02 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:30 a.m., Friday, August 13, 1993.

PLACE: 2033 K St., NW., Washington, DC, 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Rule enforcement review.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 93–18540 Filed 7–30–93; 10:02 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10 a.m., Tuesday, August 10, 1993.

PLACE: 2033 K St., NW., Washington, DC, 8th Floor Hearing Room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

—Proposed rule to include an additional exemption from the prohibition contained in Rule 1.19 and an associated amendment to Rule 1.17 regarding capital requirements
—Applications for designation as a contract market in the Rolling Spot Australian Dollar futures contract and options on that futures contract/Chicago Mercantile Exchange
—Section 4(c) petitions of the Chicago Board of Trade for a "Professional Trading Market" exemption and of the Chicago Mercantile Exchange for an exemption for certain Rolling Spot futures and options contracts, and request for comment
—Consideration of upcoming Commission business

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, Secretary of the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 93–18607 Filed 7–30–93; 2:43 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:00 a.m., Tuesday, August 17, 1993.

PLACE: 2033 K St., NW., Washington, D.C., 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 93–18608 Filed 7–30–93; 2:43 pm]

BILLING CODE 6351–01–M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 58 FR 40859, July 30, 1993.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:00 a.m., Wednesday, August 4, 1993.

CHANGES IN THE MEETING: Addition of the following open item to the meeting:

Discussion Agenda

1. Proposals regarding Financial Accounting Standards Board (FASB) Statement No. 115 concerning regulatory treatment of securities portfolios.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: July 30, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93–18579 Filed 7–30–93; 2:40 pm]

BILLING CODE 6210–01–P

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 11 a.m., Monday, August 9, 1993.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: July 30, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93–18653 Filed 7–30–93; 3:58 pm]

BILLING CODE 6210-01-P

UNITED STATES INTERNATIONAL TRADE COMMISSION

[USITC SE–93–23]

TIME AND DATE: August 11, 1993 at 10 a.m.

PLACE: Room 101, 500 E Street S.W., Washington, DC 20436.

STATUS: Open to the public.

1. Agenda for future meeting
2. Minutes
3. Ratification List
4. Inv. No. 731–TA–652 (Preliminary) Aramid Fiber Formed of Poly Paraphenylene Terephthalamide (PPD–T) from the Netherlands—briefing and vote
5. Inv. No. 731–TA–621 (Final) Compact Ductile Iron Waterworks Fittings and Accessories Thereof from China—briefing and vote
6. Outstanding action jackets
   1. ID–93–11; Final Report on Inv. No. 332–332 (Global Competitiveness of U.S. Advanced Technology Manufacturing Industries: Large Civil Aircraft
7. Any items left over from previous agenda

CONTACT PERSON FOR MORE INFORMATION: Donna R. Koehnke, Secretary, (202) 205–2000.

Issued: July 29, 1993.

Donna R. Koehnke,

Secretary.

[FR Doc. 93–18580 Filed 7–30–93; 2:41 pm]

BILLING CODE 7020–02–P

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of August 2, 9, 16, and 23, 1993.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of August 2

Monday, August 2

3:00 p.m.

Briefing on Status of Part 100 Rule Change and Proposed Update on Source Term and Related Issues (Public Meeting)

(Contact: Leonard Soffer, 301–492–3916)

Tuesday, August 3

11:30 a.m.

Affirmation/Discussion and Vote (Public Meeting)

a. Amendments to 10 CFR Part 73, to Require Annual Physical Fitness Performance Testing and Updated Day Firing Qualifications for Tactical Response Team Members, Armed Response Personnel, and Guards at Fuel Cycle Facilities Possessing Formula Quantities of Special Nuclear Material (Tentative)

(Contact: Harry Tovmassian, 301–492–3634)

Week of August 9—Tentative

Wednesday, August 11

2:00 p.m.

Briefing on Strategic Information Technology Plan (Public Meeting)

(Contact: Fran Goldberg, 301–492–7216)

3:30 p.m.

Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of August 16—Tentative

Thursday, August 19

11:30 a.m.

Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of August 23—Tentative

There are no Commission meetings for the Week of August 23.

Note: Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

To verify the status of meeting call (recording)—(301) 504–1292.

CONTACT PERSON FOR MORE INFORMATION: William Hill, (301) 504–1661.

Dated: July 29, 1993.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 93–18593 Filed 7–30–93; 2:42 pm]

BILLING CODE 7590–01–M

Corrections

Federal Register
Vol. 58, No. 147
Tuesday, August 3, 1993

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 675

[Docket No. 930487-3161; I.D. 040593A]

Groundfish of the Bering Sea and Aleutian Islands Area

Correction

In rule document 93-16523 beginning on page 37660 in the issue of Tuesday, July 13, 1993, make the following corrections:

1. On page 37662, in the second column "PART 657" should read "PART 675".

2. On the same page, in the same column, in amendatory instruction 2, in the fifth line, "Figure 5" should read "Figure 2", in the sixth and seventh lines "Figure 2" should read "Figure 1", and after "Figure 1" remove "and adding in their place the words "Figure 1".

§ 675.2 [Corrected]

3. On the same page, in the third column, in § 675.2 (12), in the first line after "541" add double dashes.

§§ 675.2, 675.20, and 675.27 [Corrected]

4. On page 37663, in the third column, in amendatory instruction 5, in the third line, "work" should read "word".

§ 675.22 [Corrected]

5. On the same page, in the same column, in amendatory instruction 6, in the second and third lines, "figure 1" should read "figure 2".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3833

[WO-660-4191-02-24 1A; Circular No. 2648]
RIN 1004-AC07

Rental Fees, Mining Claim Recordation, and Assessment Work

Correction

In rule document 93-16689 beginning on page 38186 in the issue of Thursday, July 15, 1993, make the following correction:

§ 3833.1-7 [Corrected]

On page 38200, in § 3833.1-7(c), in the second line, "before October 6, 1992," should read "after October 6, 1992,".

BILLING CODE 1505-01-D

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

[RIN 2900-AF30]

Veterans Benefits; Eligibility or the Montgomery GI Bill—Active Duty

Correction

In proposed rule document 93-17455 beginning on page 39488 in the issue of Friday, July 23, 1993, make the following corrections:

§ 21.7972 [Corrected]

1. On page 39492, in the second column, in amendatory instruction 7, the first two lines should read "Sections 21.7073 and 21.7074 are redesignated as §§ 21.7074 and 21.7075 and".

BILLING CODE 1505-01-D

federal register

Tuesday
August 3, 1993

Part II

Department of Housing and Urban Development

Office of the Secretary

24 CFR Part 50 et al.

HUD Systems for Approval of Single Family Housing in Subdivisions; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Parts 50, 200, 203, 204

[Docket No. R-93-1584; FR-3095-F-02]

RIN 2501-AB25

HUD Systems for Approval of Single Family Housing in Subdivisions

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

SUMMARY: This final rule amends parts 200 and 203 (and makes conforming amendments elsewhere in HUD's environmental and single-family coinsurance regulations) to eliminate the process of prior HUD review of new residential subdivision developments when HUD is providing mortgage insurance on home loans on newly constructed individual dwellings in a subdivision, and the loans are being processed under the Direct Endorsement program. Because almost all applications for mortgage insurance are now processed by Direct Endorsement lenders, and because most local governments have adequate subdivision development regulations and land use controls, HUD believes that it is no longer necessary to perform subdivision reviews.

EFFECTIVE DATE: September 2, 1993.

FOR FURTHER INFORMATION CONTACT: Concerning 24 CFR parts 200, 203, and 204, Morris Carter, Director, Single Family Development Division, Room 9272, Telephone (202) 708-2700, TDD: (202) 708-4594. Concerning 24 CFR part 50, Richard H. Broun, Director, Office of Environment and Energy, Room 7240, Telephone (202) 708-2894, TDD: (202) 708-2565, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

I. Paperwork Reduction Act

The information collection requirements contained in this rule, including the revisions to information collection requirements contained in the final rule, have been submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501-3520). No person may be subjected to a penalty for failure to comply with these information collection requirements until they have been approved and assigned an OMB control number. The OMB control number, when assigned, will be announced by separate notice in the **Federal Register**.

Public reporting burden for the collection of information requirements contained in this rule are estimated to include the time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Information on the estimated public reporting burden is provided under the Preamble heading, *Other Matters*. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Department of Housing and Urban Development, Rules Docket Clerk, 451 Seventh Street SW., room 10276, Washington, DC 20410-0500; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attention: Desk Officer for HUD.

II. The Proposed Rule

On April 16, 1992, the Department published the proposed rule in this proceeding (57 FR 13592). The rule proposed to amend the Department's regulations to eliminate prior HUD review of new residential subdivision developments when HUD is providing FHA mortgage insurance on home loans on newly constructed dwellings in the subdivision, and the loans are being processed under the Direct Endorsement program.

Because HUD, under the proposed rule, would perform no prior review of subdivisions, HUD proposed to require that the Direct Endorsement mortgagee and the appraiser sign and submit, for each mortgage, at the time HUD's endorsement is requested, an Appraiser/Underwriter Checksheet addressing flood hazards, noise levels, explosion and flammable materials storage hazards, airport runway clear zones and toxic waste hazards.

To assure continuing appropriate attention to federal fair housing requirements associated with affirmative marketing of multiple-unit housing by individual builders and developers, the proposed rule also required that any initial submission by a lender of an application for mortgage insurance on a property located in a new subdivision, where the builder or developer intends to sell five or more properties, must include an Affirmative Fair Housing Marketing Plan (AFHMP) meeting the requirements of 24 CFR part 200, subpart M.

III. The Public Comments

Twenty timely public comments were received on the proposed rule, and these and several additional late comments were considered by the Department. Commenters included a state and a national homebuilders association, four mortgage lenders, a state and a national mortgage bankers association, an organization representing manufactured housing producers, a state environmental council, two organizations representing appraisers, three builders, a consultant, an appraiser, and an individual commenter who did not identify his professional interest. Comments also were received from the U.S. Environmental Protection Agency and from the Council on Environment Quality, and the U.S. Army Corps of Engineers.

In general, the builders and builders' organizations were supportive of the rule as proposed, agreeing that there was considerable duplication of effort involved in FHA and local government subdivision approval processes. There were, however, a number of strong criticisms voiced in the public comments, including those from the organizations expressing support for the rule:

A. Criticisms of the Rule's Reliance on Appraisers and Underwriters

The Mortgage Bankers Association of America (MBA) commented that it was "encouraged" at the Department's willingness to streamline its subdivision approval process, but asserted that the proposed rule did not eliminate HUD's prior review requirements or its duplicative standards—it merely shifted the burden for compliance with existing standards from HUD field personnel to lenders and appraisers. MBA said that most lenders and appraisers would not have the necessary expert knowledge correctly to evaluate subdivisions and complete the required checksheet. Because of these concerns, MBA said it "cannot support the proposal as written."

If HUD truly intends to relinquish responsibility to state and local governments, MBA said, it should do so, as the Department of Veterans has done, instead of continuing to claim that HUD must impose "minimum requirements" of its own. By continuing to maintain specific minimum environmental requirements, the Department continues to duplicate the efforts of states and localities to the detriment of builders and developers, lenders and homebuyers. To the extent HUD retains its environmental requirements in the rule, MBA expressed concern that the

Department is making lenders—rather than itself—liable for the health and safety conditions of subdivisions. MBA found this "simply unacceptable." Lenders, in addition to being possibly subject to Mortgagee Review Board sanctions or uninsurable loans, might also be subject to civil suits brought by property owners. Singled out for objection was the Appraiser/ Underwriter Checksheet described in the rule. While appraisers and underwriters may be equipped to offer an opinion concerning these conditions, MBA said, the specific questions they must answer (and certify to) are "impossible to adequately address without a high degree of technical skill." The underwriter or appraiser, by virtue of the certifications, could be held liable for faulty certifications based on inadequate or inaccurate data.

MBA suggested that if HUD must retain the "checksheet" requirement, HUD should consider modifying the language used, better to reflect the abilities of appraisers and underwriters. One such modification would be (on checksheet questions three and five) to ask whether the appraiser "observed adverse conditions, as opposed to asking whether adverse conditions exist." MBA also suggested that the required certification be modified, so that it became a certification "to the best of my knowledge and belief".

MBA stated that it would "very much like to support the proposed rule," but that there were too many liability concerns. While the Association expressed sympathy with HUD's desire to see that its environmental concerns are met, MBA said that it believes, "as HUD says it does," that the subdivision approval process is largely duplicative and should be eliminated. Finally, MBA stated that if HUD does go forward with the proposal, it would consider a limited implementation, involving HUD's retention of its local subdivision approval staff. "This way, lenders who are willing to undertake the additional responsibility will be free to do so without jeopardizing the ability of other lenders to do HUD new construction business."

The National Association of Homebuilders (NAHB) joined the MBA and several other commenters in arguing that the rule attributed expert knowledge to appraisers that they do not have, claiming that appraisers are not qualified to make highly technical and expert judgments on health and safety matters. The same argument, the commenter asserted, applies to direct endorsement underwriters.

A mortgage company echoed the observations of MBA and NAHB, stating that the rule places "entirely too much responsibility and potential liability for subdivision approval on the lender, and will have a substantial negative impact on new construction business being directed to FHA." Lenders are not experts in making environmental and architectural judgments, the commenter said. Many lenders will be reluctant to undertake new FHA construction business because of potential liability. Additionally, because each lender in a new subdivision will probably want "to perform its own due diligence," builders will ultimately pass on multiple costs to borrowers, the commenter said. Summarizing, the commenter claimed that the proposed rule "has no positive impact and ultimately is a disservice to the lending and homebuying community." It was urged that HUD not go forward with the rule.

The U.S. Army Corps of Engineers agreed, in its comments, that the rule placed an "extraordinary burden" on appraisers. The Corps of Engineers said that the rule appears to require an additional level of investigation in areas well outside an appraiser's expert knowledge. Who assures the measurements included in the proposed Checksheet? Should the measurements be taken from the physical road, railroad, or airfield—or from the right-of-way limits? What is the extent of the appraiser's responsibility? How is he/she, for example, to recognize a container storing explosive or fireprone materials? How much investigation is expected? The Corps of Engineers suggested that it might be prudent to have the developer submit a signed and certified engineering report, identifying these conditions or concerns on the checklist—rather than relying on an appraiser.

The National Association of Realtors (NAR) believed that the Checksheet would "imply an expertise in other professions beyond that of the typical appraiser" and could mislead users of the appraisal report, unless some form of disclaimer notice were included in the document. NAR also expressed concern about the "vagueness" of several checksheet questions, notably "noise" and "major road". Where easement maps are unavailable, "runway clear zones" and "toxic wastes" sites may not be evident, NAR claimed. It was suggested that the checksheet leave room for more than "yes" or "no" responses.

HUD Response

The Department understands the concerns that the commenters have expressed concerning the liability that an appraiser and underwriter might be assuming by completing the Appraiser/ Underwriter Checksheet. While these concerns might have been addressed by setting out clarifications and limitations in the final rule aimed at the liability issue, the Department has instead decided to deal with the question in a more fundamental manner. The final rule has been revised substantially with reference to the site analysis requirements set out in the checksheet. In lieu of seeking completion of the checksheet by the appraiser and underwriter, the final rule adapts and expands an existing form—the HUD 92541 Builder's Certification—so that the form solicits site analysis information of the kind originally proposed for completion by an appraiser.[1]

The form would be prepared by the builder of a subdivision. As explained in the preamble to the proposed rule, a central reason for the changes that the Department proposed was "that local [subdivision] processing meets the Department's significant concerns, and that much of FHA's [subdivision] processing was redundant." The preamble noted that "[l]and development * * * is controlled primarily by city, county, township, and parish level governments." The subdivision builder is the party that must deal with these local governmental bodies to obtain needed approvals. In order to do so, and as part of the development process even in the absence of local requirements, it is the party that is most familiar with the features of the subdivision site and thus best equipped to provide site information for consideration by the appraisers and mortgages concerned with individual lots within the subdivision.

In circumstances that call for specialized professional studies of site features, builders are likely to have obtained such studies as part of seeking required local approvals and there would be little gain in requiring a different party such as the appraiser to also obtain such studies. In further response to commenters' expressed concerns, the adjustment of the final rule to provide for certification by the builder makes implicit that the site analysis information, or portions of it, may be delegated to a licensed professional—for example, an engineer—if necessary to assure accurate reportage.

[1] (The revised form HUD–92541 is to be known as the "Builder's Certification of Plans, Specifications and Site," but will be referred to in this preamble as the "Builder's Certification".)

The described changes should lessen lenders' (or appraisers') concerns about potential liability. Additionally, HUD intends to permit Direct Endorsement lenders to use either the Improved Area Process (IAP) or the new process set out in this rule. DE lenders who remain uncomfortable with the new process may use the IAP, which has been in place since 1985, and which many lenders have used without difficulty.

The Department doesn't believe that the new Builder's Certification process will result in additional costs to homebuyers. On the contrary, the new process should speed loan approvals, reduce costs to homebuyers, and reduce the cost of compliance with the requirement being imposed for site analysis information, since builders have this information more readily available to them than would appraisers.

In essence, the Department has accepted the commenters' principal concerns and has acted upon them. HUD expects builders to report, in the Builder's Certification, only those conditions that directly affect the property and that are observable on (or from) the property, and those that, while not observable, are known to the builder or should be known, based upon the builder's (or an appropriate agent of the builder's) superior knowledge of the building site. Builders should have little difficulty in completing the site analysis questions. The Builder's Certification will afford opportunity for more than a "yes or no" response to the several questions. If the builder (or other professional) completing the certification needs more room to explain the conditions or to elaborate on his or her observations, HUD will not object to the use of an addendum to the certification. It should be noted, nonetheless, that the rule does require, in addition to any volunteered elaborations of the responses contained in comments, a direct answer to the "yes" or "no" questions.

Responding generally to the numerous concerns commenters expressed about the Checksheet, the Department notes that the Builder's Certification, successor to the proposed rule's Checksheet, is being required for the limited purpose of alerting the lender and the Department to the possible existence of environmental and other problems that might warrant further exploration as part of the underwriting process. Unlike the statement of appraised value that is prepared on the basis of the appraiser's work, the Builder's Certification will not routinely be provided to the homebuyer as part of the mortgage processing, and is not prepared for the purpose of guiding the homebuyer. In any event, the change in procedure made in this final rule relative to the preparation of site analysis information by the builder should lessen the concerns expressed by many that the liability of appraisers might be increased because of the information requested in the checksheet.

Note, however, that the rule, as revised, provides explicitly that the Builder's Certification is to be furnished to the appraiser for reference in performing the property appraisal. At that point, the appraiser's only added responsibility is to conduct the appraisal and to provide comment on any apparent discrepancy between the site conditions observed and the statements included in the Builder's Certification.

In its comments, NAHB agreed that most local governments have adequate subdivision development regulations and that HUD's review duplicates that performed by local governments. However, NAHB complained that HUD has substituted an entirely new, "lot-by-lot environmental review process for the current project-wide subdivision review." NAHB objected, first, to the creation of a "new review process imbedded in a new form," because, NAHB believed, the process would eliminate reciprocity between VA and FHA. (Because the appraiser is called upon to provide a CHUMS identification number, the NAHB assumed that VA appraisers would be precluded from doing an appraisal unless they were also FHA-approved.)

HUD Response: The Department has resolved the appraiser-related concern by the earlier-discussed change in the rule to provide instead for a Builder's Certification, to include site-analysis information. These procedures will not eliminate reciprocity with the Veterans Administration. However, the Department will require that the Builder's Certification accompany the VA Certificate of Reasonable Value when VA case is submitted for HUD endorsement.

NAHB also argued that the process set out in the proposed rule would discriminate against new construction. Only two of the five concerns on the checksheet (flood hazards and runway clear zones/clear zones), NAHB said, pertain to both existing and new construction. The other three (noise, storage hazards, toxic waste hazards) apply only to new construction. "If health, safety and future marketability are the driving force behind this proposed rule, it would seem appropriate to have the checksheet apply to existing housing as well."

HUD Response: HUD's current subdivision analysis procedures are applied only to new construction in new subdivisions, so the Checksheet featured in the proposed rule was prepared for that purpose. It was not the Department's intention to implement the Checksheet for existing construction, and the Builder's Certification substituted for the Checksheet in this final rule also is inapplicable to existing construction. The commenter is incorrect, however, in its assertion that toxic waste hazards are examined only in connection with new construction. Paragraph 4–20 of HUD Handbook 4150.1, REV–1 instructs appraisers to reject a property if a toxic waste hazard endangers or seriously affects the livability of the property, its marketability, or the health and safety of occupants. Paragraph 4–20 applies to any property—proposed or existing.

NAHB also asserted that the proposed checksheet is significantly flawed in design. Question 3 asked an appraiser to determine whether a property was located "within view of any container storing explosive or fire-prone materials?" There could be instances where trees completely shield the presence of a dangerously close storage container, or, conversely, instances where a storage container is "within view" but far enough away to represent no danger.

A similar comment from the Appraisal Standards Board of the Appraisal Foundation (ASB) opposed the inclusion in the proposal of the Appraiser/Review Appraiser Checksheet, on grounds that use of this checksheet "will mislead the reader to believe that the typical appraiser has the expertise and training to identify toxic or hazardous substances." ASB also asserted that the checksheet contains redundant information and is too vague to be an effective tool. Vague items were said to include the lack of definition of terms like "major road, highway, or freeway", "within view of" and "fireprone materials". Obtaining the information included on the checksheet from qualified professionals or existing public sources is preferable to asking an appraiser to observe these items in the field, ASB concluded.

HUD Response: The Department believes that both the change from appraiser-prepared to builder-prepared site analysis and several clarifications of language employed in the site-related questions on the Builder's Certification form are responsive to the commenters' concerns. This change is expected greatly to improve the reliability of the information provided, and should eliminate questions of "qualifications" to perform the analysis. Some adjustments have been made in the language of the site analysis questions in response to commenter criticisms. The question on "noise" has been revised, to become an inquiry whether the property is located within 1000 feet of a "highway, freeway, or heavily traveled road". Language relying on sightlines has been eliminated in favor of objective measures of distance.

NAHB argued, generally, that HUD's proposed process "second-guesses" local controls. While the preamble claims that HUD has concluded that local government subdivision processing "meets the Department's significant concerns * * *" the rule features continued examination of a series of health and safety issues, contradicting the preamble's conclusion that localities are adequately discharging their responsibility to protect citizens.

Concluding, the NAHB urged that the proposed checksheet system be abandoned in favor of reliance on local zoning and subdivision controls as well as on state and local environmental reviews to ensure safe and healthy land development. A simple certification by the developer that a lot complies with all departmental requirements should be adequate to satisfy HUD's concerns, the commenter asserted.

HUD Response: HUD's site analysis questions are focused on a limited array of health, safety and marketability concerns that the Department believes it must continue to address, either because statutes so require, or because the Department's underwriting experience has shown that particular conditions present a high insurance risk if they are not given adequate consideration in the underwriting of the mortgage. The Department has a responsibility to the insurance fund to continue to examine those factors that will affect insurance risk and the future marketability of a property. The revised final rule, relying as it does on an improved site analysis data-gathering system and calling upon the builder (instead of the appraiser) to furnish the needed data, is appropriately responsive to NAHB's suggestion and those of other commenters.

Another commenter, a major bank, supported the intent of the proposal to reduce redundant efforts by HUD and individual cities, and to reduce paperwork. However, the commenter expressed its concern that, by removing the requirement that HUD approve certain new subdivisions, the responsibility is being shifted to parties "not truly qualified to assess all of the potential hazards addressed by the required checklist." The commenter suggested that other experts might have to be consulted, requiring time and money, and (possibly) "leading back to the redundancies encountered in the current system." The commenter recommended, as an alternative, reliance on the local municipality's record. The municipality's issuance of a building permit and certificate of occupancy should be accepted as evidence that the property is habitable.

HUD Response: The revised rule's Builder's Certification process provides a greater degree of assurance to a lender, concerning underwriting considerations, than did the appraiser-dependent proposed rule, by shifting the responsibility for site analysis to the party best-qualified to provide the needed information—the builder. Based on the site analysis information included in the Builder's Certification, an experienced mortgage underwriter can make proper judgments about marketability and health and safety of the property. HUD believes that DE underwriters, after becoming familiar with this new process (especially as it has been modified in this final rule) will be able to underwrite cases without difficulty. Moreover, it is HUD's belief that in the overwhelming majority of cases, the property will not be affected by any of the conditions listed on the Builder's Certification because of adequate subdivision controls at the local or state level, and that the builder will be able to render a judgment without difficulty. By not encountering the delays often associated with HUD subdivision processing, the lender will be able to speed case processing and provide better service both to the homebuilder and the homebuyer under this new process.

The builder will be able to call upon a licensed professional (e.g., an engineer) if necessary for completion of the site analysis information included in the certification, and costs can be minimized by having the engineer inspect all of the lots in the subdivision during one site visit, since the certification process can be completed for multiple lots.

All HUD Field Offices routinely provide training for Direct Endorsement (DE) mortgagees, appraisers and builders on new program requirements and procedures. Accordingly, HUD Field Offices will provide training to DE mortgagees, appraisers and builders on the new procedures applicable to new subdivisions and the use of the revised Builder Certification form (HUD 92451).

HUD has adequate quality control procedures to assure mortgagee compliance with the new program requirements. Currently, approximately 15% of all DE cases are reviewed by HUD after the mortgage has been endorsed for insurance to assure compliance with HUD requirements. This post-endorsement review will include a desk review of the appraisal and the revised Builder Certification form 92541. In addition to these desk reviews, HUD will field review approximately 10% of all appraisals. This involves a visit to the site. These desk and field reviews will assure compliance with program requirements by the mortagee, appraiser and builder.

The Department, for the reasons stated earlier in this preamble, chooses not to rely solely on the local municipality's issuance of building and occupancy permits to assure that the property meets HUD's underwriting requirements.

B. Criticism of Environmental Features

The Council on Environmental Quality (CEQ) stated that the proposed rule would authorize HUD to eliminate from NEPA and other environmental statutes HUD approval of federal mortgage insurance for new single family subdivision processing. The rule also would permit HUD to forego consideration of practicable alternatives to construction of new developments in floodplains and wetlands.

HUD bases the exemptions, CEQ stated, on its claims that these actions have no potential for effects on the human environment, and that most local governments have adequate subdivision development and land use controls. CEQ said it strongly opposed the proposed exemptions. NEPA does not exempt any federal agency from its requirements, CEQ said. NEPA requires compliance unless there is a clear conflict of statutory authority. CEQ observed that HUD had cited several reasons for exempting these actions from NEPA, including the determination that the actions "have no potential effects on the human environment." If HUD, implementing its NEPA regulations, has found that the actions "do not individually or cumulatively have a significant effect on the human environment, then HUD should categorically exclude these actions, CEQ advised. A NEPA exemption is not the proper outlet for the actions delineated in the proposed rule.

HUD Response: HUD believes that CEQ has misconstrued the nature of the action that the rule proposed to indicate was exempt from NEPA and related environmental laws. While the comment suggests that the proposed rule would authorize HUD to eliminate "HUD approval of federal mortgage insurance for new single family subdivision processing" from NEPA and other environmental statutes, the rule in fact proposed to eliminate HUD subdivision processing itself. Under the rule, there will *be* no Federal action involving subdivision approval. Accordingly, the only Federal action to which NEPA and related laws could apply will be HUD's endorsement of FHA insurance on an individual one- to four-family mortgage loan submitted by a DE mortgagee. The DE mortgagee would submit a request for HUD endorsement after a dwelling already has been built, and, indeed, after the dwelling has been sold to a homebuyer. HUD does believe that the proposed elimination of HUD subdivision review will not have a significant effect on the environment. However, the regulatory exemption from NEPA and related laws was proposed with respect to the remaining HUD action, *i.e.*, HUD's endorsement of mortgage insurance on an individual dwelling. Since these endorsements would be requested and processed after completion of construction, HUD believes, as stated in the proposed rule's preamble, that these actions would have no potential effects on the human environment.

In response to CEQ's comment that a categorical exclusion (rather than an exemption from NEPA) is the proper outlet for actions with no significant environmental effects, HUD has revised the final rule to remove the proposed language referencing an "exemption" from NEPA for HUD insurance endorsement of mortgage loans submitted by a DE mortgagee under this rule. HUD endorsement of insurance on these DE-processed loans will be categorically excluded from NEPA review. This categorical exclusion requires no further regulatory action, since these endorsement actions fall within the categorical exclusion that is currently provided for "[a]n individual action on a one- to four-family dwelling" (see 24 CFR 50.20(a)). In this final rule, however, HUD has included additional language in § 50.20(a) to specifically identify HUD endorsement of insurance, including endorsement under the DE program, as an example of an individual action on a one- to four-family dwelling. As discussed below in response to the comment from the Environmental Protection Agency, the final rule does retain, in modified form, a provision regarding the inapplicability of environmental laws other than NEPA.

With regard to the consideration of practical alternatives to construction of new developments in floodplains and wetlands, HUD again believes there is an apparent misunderstanding of what the rule proposed. As the preamble to the proposed rule noted, the action proposed to be exempted, through an amendment to HUD's previously proposed 24 CFR part 55, was HUD's endorsement of mortgage insurance on one- to four-family properties that are located in a wetland and have already been processed through construction and loan closing by a DE lender without HUD review. (With regard to floodplain sites, an exemption from part 55 for HUD approval of financial assistance for actions in non-wetland floodplain sites that have received a Federal Emergency Management Agency Letter of Map Approval (LOMA) or Letter of Map Revision (LOMR) had already been proposed in the original proposed rulemaking for part 55; when that rule is published for effect, it will require, consonant with the amendment in today's rule, that a LOMA or LOMR be obtained for DE-processed sites in a floodplain.) HUD continues to believe that since a dwelling would already have been built and sold to a mortgagor at the time the Department receives a request for endorsement, it is clear that there would be no practicable alternative to the action outside the Wetland and no practicable means further to minimize the impact of the action. Accordingly, it would be academic and unnecessary to subject these endorsement actions to the eight-step decisionmaking process embodied in HUD's proposed part 55, implementing the requirements of Executive Order 11990 (Protection of Wetlands). For that reason, HUD is not withdrawing the amendment to the proposed part 55, which remains pending, and which will be published as a part of the pending rulemaking entitled "HUD Procedures for Protection of Floodplains and Wetlands" (FR–865, proposed rule published at 55 FR 396, January 4, 1990).

The Environmental Protection Agency's (EPA) comment stated that EPA did not believe that HUD's "federal action" of endorsing a mortgage insurance transaction could be exempted from compliance with the federal environmental statutes, including NEPA, without specific statutory language authorizing that exemption. HUD cannot, by regulation, exempt these proposed actions based solely on the Department's determination that these actions have no potential for effects on the environment, or the fact that most local governments have adequate subdivision and land use controls. In the absence of a statutory authority, EPA objected to HUD's proceeding with this rule as proposed. If the purpose of the proposed rule is to determine that the approval actions are of the type that experience had shown do not otherwise have significant environmental impacts, EPA recommended that the rule be revised to include approval actions under 24 CFR 50.20 (NEPA categorical exclusions). Placing of these actions in 24 CFR 50.20 would satisfy NEPA requirements, but would not relieve HUD of the requirements of other appropriate environmental control statutes and regulations.

EPA also stated that the rule should contain additional information on HUD's plans for program oversight procedures to be used for direct endorsement lenders and appraisers who would be performing the environmental analyses, because final responsibility for compliance with a number of laws, regulations and executive orders will continue to rest with HUD.

HUD Response: HUD has in place control procedures for the monitoring and oversight of DE-approved lenders and appraisers. These procedures include the technical review, on a post-insurance-endorsement basis, of approximately 20 percent of all cases insured. This technical review includes a desk review of the appraisal and all documents related to the valuation of the property, along with a review of the mortgage credit of the borrower. In addition, at least 10 percent of all appraisals are field-reviewed to assess the quality of the appraisal and compliance with HUD appraisal policies. The cases that are insured under the procedures set forth in this final rule will be subject to these same technical reviews and field reviews. When post-endorsement technical reviews or field reviews reveal noncompliance with HUD requirements, appropriate sanctions are imposed upon builders, lenders or appraisers.

EPA's concerns with regard to the proposed exemption from NEPA parallel those of CEQ, and are addressed in the preceding response to the CEQ comments. EPA's comments, however, also more directly address the issue of the applicability of environmental laws and authorities other than NEPA that are listed in HUD's environmental regulations at 24 CFR 50.4. With respect to these laws and authorities, HUD published, on July 20, 1992, an interim rule that implements the Housing Opportunities for Persons with AIDS program (57 FR 32106). That rule contains an amendment to § 50.19 that clarifies HUD's intent by revising the title of that section to read "Activities not subject to § 50.4". As the section title indicates, HUD's intention was not to attempt to create exemptions from the related laws in § 50.19, but merely to publish its finding that the actions listed in that section would not constitute the type of federal action that would trigger compliance with the requirements of any of the related laws and authorities listed in § 50.4. In the Department's view, HUD endorsement of insurance on a previously built and sold one- to four-family dwelling similarly would not trigger compliance, except that the Flood Disaster Protection Act of 1973 (FDPA) and § 51.303(a)(3) of HUD's airport siting regulation (24 CFR 51.303(a)(3)) do apply to such endorsements. EPA did not cite any specific environmental law (other than NEPA) that it believed might be triggered by HUD insurance endorsements on individual one- to four-family properties. Accordingly, in the final rule, HUD has modified § 50.19 to adopt the title contained in the current interim § 50.19. Like the proposed rule, this final rule indicates that HUD insurance endorsements are subject to the FDPA and to 24 CFR 51.303(a)(3).

An individual commenter who did not disclose his interest made three assertions:

1. The proposed rule doesn't meet NEPA requirements.

2. The rule would have negative adverse environmental impacts.

3. The rule would be detrimental to the homebuilding industry.

Enlarging on his first point, the commenter asserted that NEPA imposes an environmental review component on all federal agency decision making. NEPA, he said, has been interpreted to require environmental review not only for actions easily recognized as exceeding the threshold for an environmental impact statement, but for almost all agency actions, in order to ensure that none of them exceeds the threshold for an environmental impact statement.

HUD's proposed regulation contends that "NEPA does not mandate subdivision review where the construction has been completed before submission of the application of insurance." HUD argues that the lender is not applying for mortgage insurance until after the loan has been closed. In this case (the argument goes) the transaction would have proceeded independently of HUD, and how can a mortgage endorsement have an environmental impact?

The commenter asserted, however, that FHA mortgage insurance for new construction does not lose its federal identity, even when most of the processing has been farmed out to the private sector. "If it were this easy to avoid NEPA, then whenever an agency wished it could merely have a private party process the action and have the federal agency endorse it." The commenter stated that HUD's argument is misleading, in that the FHA mortgage insurance program "is not one where federal involvement is tacked onto a real estate transaction as an afterthought, as the proposed rule [implies]." The commenter also suggests that the Direct Endorsement program has "always been run as a federal program," with lenders specially trained, certified and monitored by HUD to insure that specific program requirements are met. The availability of federal mortgage insurance in association with the Direct Endorsement program, the commenter stated, makes clear that this is not a private mortgage insurance program.

HUD Response: HUD does not disagree with the commenter's contention that almost all agency actions require review under NEPA; however, under implementing regulations of the Council on Environmental Quality, it is clear that an environmental assessment need not be performed on classes of actions that would not have a significant effect on the environment, i.e., on "categorical exclusions" from NEPA requirements (see 40 CFR 1508.4). As discussed earlier in this preamble, HUD believes that its endorsement of mortgage insurance on one- to four-family dwellings processed by DE lenders under the proposed rule will not have such a significant effect. Accordingly, these mortgage insurance endorsements will be categorically excluded from NEPA review under HUD's environmental regulations.

However, the principal issue raised by the commenter here relates to the timing of NEPA applicability. HUD continues to believe that where the Department, *i.e.*, a federal agency, does not participate in the processing of specific properties on which mortgage insurance may later be requested until an insurance application actually is made, there is no federal action to which NEPA applies until that request has been made. While the property must meet certain HUD standards if a property is to be approved for insurance once submitted to HUD, and while lenders are trained, approved and monitored by HUD, DE lenders are not agents of HUD. In this situation, HUD does not believe that the possibility of a later submission to a federal agency converts privately contracted construction on a specific piece of private land into a "federal" action subject to pre-construction NEPA review. HUD believes that, under the Supreme Court's decision in *Kleppe* v. *Sierra Club*, 427 U.S. 390 (1976), mere contemplation of a federal action does not trigger the applicability of the environmental review requirements under NEPA.

Arguing his second point, that the proposed rule would have negative environmental impacts, the commenter asserted that many view FHA mortgage insurance, along with the Federal highway program, as one of the key sources of "Post World War II urban sprawl." The environmental impact of this sprawl, the commenter said, cannot be minimized. The proposed rule, by eliminating an environmental review that could be used to disapprove subdivisions proposed for areas not ripe for development, but which have been approved by small local governments, will promote "sprawful development" and will thus result in significant adverse impacts on the environment. The commenter then stated what he characterized as a "micro" argument that the rule itself has negative adverse impacts: He argued that the proliferation of local governments makes it possible for developers to "play one local government against the other, offering the commercial/industrial boost (tax base) in return for favorable concessions."

More specifically, the commenter listed the following requirements as examples where local requirements typically do not meet federal requirements in the subject area:

1. Floodplains and wetlands;
2. Water/sewers;
3. Landfills
4. Noise
5. Historic preservation.

HUD Response: The Department notes that whatever may have been the FHA's relative contribution to post-World War II "sprawl," the issue of environmental impact raised by the commenter is relevant only to prospective HUD activity under the rule published today. The Department estimates that, in fiscal year 1991, HUD-processed one- to four-family residential new construction cases represented less than five percent of the construction starts in the nation. Moreover, it is likely that this five percent of new construction—or much of it—would still have been built, absent FHA mortgage insurance. Thus, there is no indication that the elimination of HUD environmental review of subdivisions will contribute significantly to preventable "sprawl" development.

The "micro" argument has not been applicable to HUD since 1974, when the CDBG program replaced several categorical grant programs which had featured areawide planning requirements. The FHA mortgage insurance program never included planning requirements. Of the five specific issues raised by the commenter, landfills and noise were addressed on the proposed rule's Checksheet, and continue to be addressed in the Builder's Certification. Regarding historic preservation, HUD's experience under the Improved Area Procedure, which employs a checksheet that covers historic and archaeological resources, has been that IAP-processed areas have not involved significant effects on those resources. Water and sewer requirements are covered by the Minimum Property Standards, as well as by local codes. Floodplains are covered by local controls required of all jurisdictions participating in the federal flood insurance program, and development in wetlands in subject to Corps of Engineers 404 permits.

The commenter argued that the rule would have a negative impact on the homebuilding industry. The primary motivation of the homebuilding industry is profit, the commenter stated. Environmental requirements will not interfere with this motivation, as long as there is a "level playing field" and all developers must deal with roughly equivalent requirements. Leaving the subdivision approval field to local government will lead to short-cutting by builders and, ultimately, to defective construction associated with poor soils that are often associated with wetlands and landfill areas. It was suggested that local approval will not always protect the builder from legal liability, and that the builder is better off financially if he or she is compelled, by federal regulation, to adhere to environmental standards.

Concluding, the commenter called the proposed rule "the last straw in a long progression of NEPA avoidance." HUD should finally recognize, he said, that compliance with NEPA is in the best interests of the Department, the public, homebuyers and the industry.

HUD Response

HUD's view is that the goals of NEPA and the related environmental laws must be balanced against the various program mandates imposed by the Congress. For the single family mortgage insurance program, this regulation presents an appropriate balance of these competing needs in light of the current practices associated with local planning, building, and financing in the United States.

HUD agrees with the commenter's observation concern about poor soils, and the Builder's Certification site analysis data has been modified to include that topic. Other potential concerns of the homebuilding industry have been raised by their major national organization and are addressed elsewhere in this preamble.

C. Miscellaneous Comments

A commenter stated that the proposed rule contained an unduly cumbersome requirement: It would require full building plans and specifications and lot grading plans relating to the building plans to be submitted at the time of endorsement. The commenter, a mortgage company, asserted that these documents are submitted at the time of the appraisal request, and that submitting them at endorsement would be redundant.

HUD Response: The Department will require only one submission of building plans and specifications and lot grading plans—at the time of the appraisal request.

A consultant commented that the proposed checklist appeared not to address the number one cause of property damage—expansive soil. The commenter strongly suggested that this issue be addressed.

HUD Response: HUD agrees with the commenters who raised this point. A question concerning expansive soil has been added to the Builder's Certification.

A state home builder's association stated its support for the rule, declaring that sufficient regulatory mechanisms are available at the local government level to preclude the need for HUD to perform what are generally duplicative and non-cost-effective subdivision reviews. However, the commenter cautioned that HUD should make clear to direct endorsement lenders that the rule is not intended to be a source of new fee-generating requirements on developers.

HUD Response: The purpose of this rule is to reduce costs to builders, developers, lenders and homebuyers, not to increase them. Accordingly, HUD will continue to control the allowable fees in these transactions.

Another commenter, a developer, stated that banks have requested FHA subdivision approval before closing on development loans. With the proposed rule, this would no longer be possible.

In the past, the commenter observed, FHA or direct endorsement approval of the subdivision made it easy to utilize many mortgage companies in a given subdivision. This created competition and helped builders to control costs. The proposed change will tend to limit a project to one lender who has taken the time fully to educate itself to the situation. While the subdivision approval process has been time-consuming and detailed, the commenter said, the changes proposed create problems of their own. The commenter advocated a more limited "desk review" subdivision approval process by HUD, based on a joint effort between the developer and the direct endorsement lender to provide HUD an information "package".

HUD Response: The Department believes that well-planned, marketable projects will be able to find development financing even though the FHA subdivision approval process has been terminated.

Another builder commented that, because of the high percentage of presale activity, it is critical that a system for fast-track approval based on development plans and specifications be identified and utilized. To avoid problems with rule interpretation, it should be spelled out that projects located closer than the specified distance to railroads and freeways are acceptable, provided that the 65db limit is met, as described in the HUD Noise Guidelines Handbook.

The commenter suggested that a change in the five-lot maximum for FHA approval for existing subdivisions, to a "75% built" standard would be more realistic, and would not create any adverse effect on existing market values.

HUD Response

The Department did not intend that the HUD Noise Guidelines handbook be employed in the circumstances set out in the Checklist. The noise standard, for purposes of the Builder's Certification, is expressed in terms of distance from the source of the noise. (Distance to noise-producing facilities is not a rejection factor, but is merely to be considered by the appraiser in assigning value.) While it would be acceptable for the builder to note mitigating circumstances with reference to the source of the noise, presence of noise barriers, and the like (including, where applicable, the fact that the Noise Guidelines decibel limit has not been surpassed), the principal inquiry in the site analysis information is directed to the specific site-related questions asked: "Are the improvements in a flood hazard area?" "Is the property within 1000 feet of a freeway * * *."

With reference to the commenter's remarks concerning the five-lot maximum, the Department believes, (if HUD is correctly understanding the comment) that the observation reflects a misreading of § 203.12(b)(1). That provision applies the subdivision rule's requirements to new subdivisions containing five or more lots. Existing homes (homes at least one year old) are excluded from the reach of the rule, regardless of subdivision size.

The Manufactured Housing Institute (MHI) supported the rule and said that "HUD's commitment to the elimination of barriers to affordable housing is evident in this proposal."

MHI then stated that exclusionary zoning practices were widely used to prevent compatible HUD code homes from being permanently sited anywhere other than in specifically designated manufactured home parks or subdivisions. MHI suggested that HUD include questions concerning whether the subdivision in which a particular property was located allowed manufactured homes. While the response would not have an affect on the application itself, MHI believed that it would, over time, provide HUD with information that would help to determine the extent to which local jurisdictions and developers are eliminating barriers to affordable housing.

HUD Response: Zoning regulations are administered by local governments and HUD does not intend to amend the Builder's Certification form to address local zoning.

A commenter who identified himself as an FHA fee appraiser in Houston, Texas provided several examples of inappropriate construction practices, and stated that the proposed rule would aggravate an already-inadequate regulatory environment. In his area, the commenter, said, there were no zoning regulations, and environmental problems were already "out of control." It would be unwise to do away with government management in the housing industry, the commenter said.

HUD response: The final rule has been revised to provide that in areas where the local HUD field office determines that local subdivision standards do not exist, or are inadequate to protect HUD's underwriting risk, HUD may require lenders to use the Improved Area Process (IAP) and may require HUD appraisal review of the Appraiser/Review Appraiser Checksheet (Form HUD 54891) associated with the IAP before the endorsement of any cases involving properties in new subdivisions in the identified area. This procedure will provide HUD with a level of prior review that will serve as a safety valve to protect the insurance fund when a new subdivision is proposed in a jurisdiction that lacks effective local standards.

D. Expressions of Support, Suggested Expansion of Rule

A mortgage corporation expressed support for the rule, calling the current subdivision approval process a "tremendous hurdle" to providing affordable housing. The commenter suggested that the rule be expanded to allow qualified, approved HUD mortgagees to approve Planned Unit Developments under HUD guidelines. The direct endorsement underwriter, the commenter said, should be allowed to approve a subdivision with private streets, provided it meets certain HUD-required conditions. Under current procedure, the commenter said, PUD projects are submitted to the field office and, in many cases, to HUD's legal office. They also are approved by city, county and state governments. HUD should streamline its procedures for PUDs and for the approval of condominiums. A state bankers association provided comments identical to those of the mortgage corporation.

HUD Response: This rule does not address PUDs directly, because PUD requirements are distinct from the Department's subdivision requirements—although the same development may be subject to both. Subdivision approval by HUD focuses on the physical features of a new subdivision. PUD approval focuses on the financial and organizational aspects of a mandatory homeowners' association with power to enforce its assessments through liens. PUD approval procedures apply to existing as well as to new PUDs.

HUD's condominium processing procedures are unrelated to subdivision approval concerns and are not addressed in this rule.

The Florida Environmental Property Assessment Council supported the rule, but expressed its concern that the proposed underwriter checksheet was limited to only newly-constructed homes submitted under Direct Endorsement. The commenter stated its support for the use of an expanded checksheet to include all new and existing construction.

HUD Response: The Department does not plan to use the Builder's Certification process in connection with the insurance of existing properties, since subdivision processing is only applicable to new subdivision developments.

A builder provided comments "wholeheartedly endorsing" the proposed rule. The commenter agreed that local codes and requirements associated with development are generally more restrictive than those FHA requires for subdivision approval, and applauded HUD's decision to eliminate the duplication of effort.

IV. Amendments to Part 200

In addition to the several revisions contained in the final rule in response to public comments, the Department has also added additional changes to 24 CFR part 200, subpart M, the Affirmative Fair Housing Marketing regulations, designed to bring these provisions into conformity with the Fair Housing Act as it was amended by the Fair Housing Amendments Act of 1989. These amendments add references to "handicap and familial status" as newly added protected classes under the Fair Housing Act, as amended, thus adding them to the Department's affirmative marketing regulations in part 200, subpart M. The amendments in the proposed rule involving part 200 were intended to conform the affirmative marketing requirements relating to subdivision approval to the new procedures included in this rulemaking proceeding. These amendments are included in today's final rule without change. The additional amendments to subpart M are housekeeping changes involving statutory implementation only.

V. Other Matters

A Public Reporting Burden

The information collection requirements contained in this rule have been submitted to the Office of Management and Budget under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520). The Department has determined that the following provisions contain information collection requirements.

Information collection requirement	Section of CFR affected	Number of respondents	Number of responses per respondent	Total annual response	Hours per response
Completion of Builder's Certification of Plans, Specifications and Site.	203.12(c)(2)	800	82	65,600	0.25
Total hours:					16,400

B. Executive Order 12291

This rule does not constitute a "major rule" as that term is defined in section 1(b) of the Executive Order on Federal Regulation issued by the President on February 17, 1981. Analysis of the rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Department believes, however, that one effect of the rule will be significantly to reduce barriers to affordable housing and that, accordingly, significant cost savings for housing developers and housing purchasers will be realized as a result of the rule.

C. NEPA

An environmental assessment of the effects of this rule has been conducted by the Department and a Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk at the above address.

D. Regulatory Flexibility Act

The Secretary, in approving this rule for publication, has certified under 5 U.S.C. 605(b) (the Regulatory Flexibility Act) that this rule will not have a significant economic impact on a substantial number of small entities. The rule will relieve regulatory burdens on small and large businesses alike, and is expected to yield measurable cost savings to lenders.

E. Executive Order 12606, The Family

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that this rule does not have a potential for significant impact on family formation, maintenance, and general well-being, and, thus, is not subject to review under the Order. The rule alters the administrative procedures associated with subdivision approval, but it has no direct impact on family-related concerns.

F. Executive Order 12612, Federalism

The General Counsel, as the designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the policies contained in this rule do not have substantial direct effects on States or their political subdivisions, or the relationship between the Federal government and State or local governments, or on the distribution of power and responsibilities between them and other levels of government. The rule's major effects are on individuals and businesses. To the extent that the rule relies on state and local law for the supervision of subdivision development concerns, its Federalism impact is in accord with the concept of redistributing authority to local government.

G. Semiannual Agenda

This rule was listed as sequence number 1386 in the Department's Semiannual Agenda of Regulations published on April 26, 1993 (58 FR 24382, 24397) in accordance with the requirements of Executive Order 12291 and the Regulatory Flexibility Act.

List of Subjects

24 CFR Part 50

Environmental assessments, Environmental impact statements, Environmental policies and review procedures, Categorical exclusions.

24 CFR Part 200

Administrative practice and procedure, Claims equal employment opportunity, Fair housing, Home improvement, Housing standards, Lead poisoning, Loan programs—housing and community development, Mortgage insurance, Organization and functions (Government agencies), Reporting and record keeping requirements, Social security.

24 CFR Part 203

Hawaiian Natives, Home improvement, Loan programs—housing and community development, Mortgage insurance, Reporting and record keeping requirements.

24 CFR Part 204

Mortgage insurance.

Accordingly, 24 CFR parts 50, 200, 203 and 204 are amended as follows:

PART 50—PROTECTION AND ENHANCEMENT OF ENVIRONMENTAL QUALITY

1. The authority citation for part 50 is revised to read as follows:

Authority: 42 U.S.C. 3535(d); 42 U.S.C. 4332; Executive Order 11991, 42 FR 26967 (May 24, 1977).

2. In § 50.1, paragraph (c) is revised to read as follows:

§ 50.1 Purpose and authority.

* * * * *

(c) These regulations apply to all HUD policy level actions (as defined in § 50.16), and to all HUD project level actions. For programs, activities or actions not specifically identified, or when there are questions regarding the applicability of this part, the Assistant Secretary for Community Planning and Development should be consulted.

* * * * *

3. In § 50.17, the introductory paragraph and paragraph (a) are revised to read as follows:

§ 50.17 Projects.

Either an environmental assessment and a FONSI or an environmental impact statement (EIS) for individual projects shall be completed before the applicable program decision points below for projects not meeting the criteria of § 50.20, and shall be reevaluated and updated as required by § 50.37.

(a) *New Construction.* (1) Mortgage insurance or other financial assistance for multifamily housing projects, nursing homes, hospitals, group practice facilities and manufactured home parks: Issuance of SAMA Letter, or equivalent indication of site specific HUD approval, whichever comes first;

(2) Public Housing: Notification of tentative site approval (1977 procedures) or PHA proposal approval (1980 procedures);

(3) Section 8 HAP Program: Notification of selection of preliminary proposal.

* * * * *

4. In § 50.19, the introductory paragraph is revised, and a new paragraph (i) is added, to read as follows:

§ 50.19 Activities not subject to 24 CFR 50.4.

Because certain activities assisted under HUD programs would not alter any conditions that would require review or compliance under the other Federal laws and authorities cited in § 50.4 of this part, the laws and authorities listed in § 50.4 do not apply to these activities, except to the extent that any specific law or authority remains applicable as indicated below. These activities are the following:

* * * * *

(i) HUD's endorsement of FHA insurance on mortgage loans submitted by a Direct Endorsement (DE) mortgagee, without HUD review before the completion of construction and loan closing, for newly constructed homes under the mortgage insurance programs for one- to four-family housing, except that the Flood Disaster Protection Act of 1973 and § 51.303(a)(3) of this chapter shall apply.

5. In § 50.20, paragraph (a) is revised to read as follows:

§ 50.20 Categorical exclusions.

* * * * *

(a) An individual action on a one-to-four family dwelling, including endorsement for insurance of a mortgage covering such a dwelling either through the Direct Endorsement program described in 24 CFR 203.5 or otherwise, or an individual action on a project of five-or-more units developed on scattered sites when the sites are more than 2,000 feet apart and there are not more than four units on any one site;

* * * * *

§ 50.21 [Amended]

6. In § 50.21, paragraph (b) is removed, existing paragraph (a) introductory text becomes an undesignated introductory paragraph, and paragraphs (a) (1) and (2) are redesignated as paragraphs (a) and (b), respectively.

§§ 50.22, 50.36, 50.43 [Removed]

7a. Sections 50.22, 50.36 and 50.43 are removed.

PART 200—INTRODUCTION

10. The authority citation for part 200 is revised to read as follows:

Authority: 12 U.S.C. 1701–1715z–18; 42 U.S.C. 3535(d). Subparts T and U are also issued under 42 U.S.C. 3543, and subpart T also is issued under 12 U.S.C. 1701s and 1715z–11.

Subpart M—Affirmative Fair Housing Marketing Regulations

§ 200.610 [Amended]

11. In § 200.610, after the word "sex," the words "handicap, familial status" are inserted.

12. Section 200.615(a) is revised to read as follows:

§ 200.615 Applicability.

* * * * *

(a) Multifamily projects and manufactured home parks of five or more lots, units or spaces, and initial submissions by a lender for an application for mortgage insurance on a single family property, where the property is located in a subdivision and the builder or developer intends to sell five or more properties in the subdivision; or

* * * * *

§ 200.620 [Amended]

13. Section 200.620 is amended by inserting "handicap or familial status," after the word "sex," the first time it appears in paragraph (a) of that section; to insert ", handicap or familial status" after the word "sex" the second time it appears in paragraph (a) of that section; and to insert "and the handicapped" after the word "sexes" in paragraph (b) of that section.

14. Section 200.630 is revised to read as follows:

§ 200.630 Notice of housing opportunities.

The Director of each Field Office shall prepare monthly a list of all projects covered by this subpart, and of all initial submissions by lenders for single family mortgage insurance where the property is located in a subdivision and the builder or developer intends to sell five or more properties in the subdivision, on which commitments have been issued during the preceding 30 days. The Director shall maintain a roster of interested organizations and individuals (including public agencies responsible for providing relocation assistance and local housing authorities) who have expressed a wish to receive the monthly list, and shall provide the list to these organizations and individuals.

15. Section 200.635 is amended by adding at the end of the section a new sentence, to read as follows:

§ 200.635 Compliance.

* * * The Department will enforce compliance through the procedures outlined in 24 CFR part 108.

16. Section 200.640 is revised to read as follows:

§ 200.640 Effect on other requirements.

The requirement for compliance with this part is in addition to, and not in substitution for, any other requirements imposed by or under Executive Order 11063 or the Fair Housing Act.

Subpart S—Minimum Property Standards

17. In § 200.926, paragraph (a)(1) is revised to read as follows:

§ 200.926 Minimum property standards for property which is not multifamily or care-type property.

(a) *Construction standards*—(1) *Applicable structures.* The standards identified or contained in this section and in §§ 200.926a–200.926e shall apply to single family detached homes, duplexes, three-unit homes, and to living units in a structure where the units are located side-by-side in town house fashion. Section 200.926d(c)(4)(iv) also shall apply to four-unit homes.

* * * * *

18. In § 200.926d, paragraph (c)(1)(ii) is revised, and a new paragraph (c)(4)(iv) is added, to read as follows:

§ 200.926d Construction requirements.

* * * * *

(c) *Site design*—(1) *General.* (i) * * *

(ii) With the exception of paragraph (c)(4)(iv) of this section, these site design standards are applicable only in communities that have not adopted criteria for site development applicable to one and two family dwellings.

* * * * *

(4) *Drainage and flood hazard exposure.* * * *

(iv) In all cases in which a Direct Endorsement (DE) mortgagee submits to HUD for endorsement for insurance a mortgage on a newly constructed one- to four-family dwelling (including a newly erected manufactured home) which was processed by the DE mortgagee, the DE mortgagee shall determine whether the property is located in a 100-year floodplain as designated on maps of the Federal Emergency Management Agency and, if so, shall obtain a final Letter of Map Amendment (LOMA) or final Letter of Map Revision (LOMR) before submitting the application for insurance to HUD. Such mortgages shall not be eligible for insurance unless the DE mortgagee submits the LOMA or LOMR to HUD with the mortgagee's request for endorsement.

* * * * *

PART 203—SINGLE-FAMILY MORTGAGE INSURANCE

19. The authority citation for part 203 is revised to read as follows:

Authority: 12 U.S.C. 1709, 1715b; 42 U.S.C. 3535(d). Subpart C also is issued under 12 U.S.C. 1715u.

20. Section 203.12 is revised to read as follows:

§ 203.12 Mortgage insurance on proposed or new construction in a new subdivision.

(a) *Applicability*. This section applies to an application for insurance of a mortgage on a one- to four-family dwelling constructed in a new subdivision, unless the mortgage will be secured by a dwelling that:

(1) Was completed more than one year before the date of the application for insurance or, under the Direct Endorsement Program, was completed more than one year before the date of the appraisal;

(2) Is in a subdivision in which all development construction has been completed and accepted by the local jurisdiction and most dwellings have been completed, or which was approved under paragraph (e) or (f) of this section as in effect prior to [insert effective date of rule]; or

(3) Is being sold to a second or subsequent purchaser.

(b) *Definitions*. For purposes of this section:

(1) *Subdivision* means the total area containing all of the proposed land development activities, building or construction operations which are under centralized control, and planned principal development elements to support the creation of five or more dwelling lots (or a lesser number of lots that HUD determines to be appropriate to require applicability of this section in individual cases).

(2) *Improved area* means an area that is all or part of a subdivision and is at least the minimum size for which the local government is willing to accept the streets, or the water and sewage systems for maintenance, as appropriate.

(3) *Partially completed*, with respect to an improved area, means that:

(i) The local government has accepted the plat of a subdivision or of an improved area, and the plan for its principal development elements and rights-of-way;

(ii) All government approvals to begin development and construction in the improved area have been secured;

(iii) All development or construction of the improved area's streets, water and sewage systems and utilities has proceeded to a point that precludes any major changes; and

(iv) Provisions are in place for continuous maintenance of the streets and water and sewage systems once the improved area is substantially completed.

(4) *Substantially completed*, with respect to an improved area, means that:

(i) With the exception of delays approved by the local government and the Secretary, the improved area's principal development elements have been completed;

(ii) The local government has issued occupancy permits or their equivalent on those new dwellings being processed for conditional commitments; and

(iii) The local government accepts, or will accept, for continuous maintenance the streets and the water and sewage systems. Where local acceptance for maintenance is not available, adequate provision for private maintenance must be demonstrated. However, with respect to private water and sewer systems, the local government also must certify that public systems are economically infeasible, or that the property is served by a system approved by the Secretary under Title X of the National Housing Act.

(5) *Principal development elements* include, without being limited to, necessary grading, streets, water and sewage systems, utilities, storm drainage, and community facilities, as well as measures and devices for the abatement of nuisances and hazards.

(c) *Procedures*. (1) Applications for insurance to which this section applies will be processed in accordance with procedures prescribed by the Secretary. These procedures may only provide for endorsement for insurance of a mortgage covering a dwelling that is:

(i) located in an improved area in accordance with terms of a conditional commitment, or approval under the Direct Endorsement Program, issued as described in paragraph (d) of this section;

(ii) approved under the Direct Endorsement Program and included in a Master Appraisal Report, or in a Certificate of Reasonable Value or in a Master Certificate of Reasonable Value issued by the Department of Veterans Affairs; or

(iii) located in a subdivision approved by the Farmers Home Administration.

(2) Unless paragraph (d) of this section applies, or unless the property is located in a subdivision approved by the Farmers Home Administration, the mortgagee must submit a signed Builder's Certification of Plans, Specifications and Site (Builder's Certification). The Builder's Certification shall be in a form prescribed by the Secretary and shall cover:

(i) Flood hazards;

(ii) Noise;

(iii) Explosive and flammable materials storage hazards;

(iv) Runway clear zones/clear zones;

(v) Toxic waste hazards;

(vi) Other foreseeable hazards or adverse conditions (i.e., rock formations, unstable soils or slopes, high ground water levels, inadequate surface drainage, springs, etc.) that may affect the health and safety of the occupants or the structural soundness of the improvements. The Builder's Certification shall be provided to the appraiser for reference before the performance of an appraisal on the property.

(3) If a builder (or developer) intends to sell five or more properties in a subdivision, an Affirmative Fair Housing Marketing Plan (AFHMP) that meets the requirements of 24 CFR part 200, subpart M must be submitted and approved by HUD no later than the date of the first application for mortgage insurance in that subdivision. Thereafter, applications for insurance on other properties sold by the same builder (or developer) in the same subdivision may make reference to the existing previously approved AFHMP.

(d) *Improved areas*. (1) The conditional commitment or approval of the appraisal by the Direct Endorsement underwriter shall require that the improved area be at least substantially completed before endorsement for insurance. The conditional commitment may be issued or the appraisal may be approved for a dwelling located in an improved area when:

(i) The improved area is at least partially completed;

(ii) There is vehicular access to the finished lot at least to a line beyond the subject site or sites, and the lot and block grading are sufficiently finished to permit the appraiser to analyze the influence of adjacent areas on the subject site or sites;

(iii) Compliance with applicable requirements of the local government and the Secretary can be demonstrated; and

(iv) The mortgagee has submitted an Appraiser/Review Appraiser Checksheet, in a form prescribed by

HUD, that contains information on floodplains, site and soil suitability, proximity to natural and manmade hazards including flammable and explosive materials, historic preservation sites or areas, wetlands, coastal zones, proximity to highways or railroads, toxic waste sites, airport hazards, and other field conditions that would affect acceptability for mortgage insurance of the lots covered by the Appraiser/Review Appraiser Checksheet.

(2) If HUD determines, based upon an assessment of the adequacy of local subdivision standards and their enforcement, that the certification process described in paragraph (c)(2) of this section is inadequate to protect HUD's underwriting risk in an area, HUD may limit the endorsement of mortgages in the area to those mortgages processed in accordance with the procedures set forth in this paragraph (d). HUD will review all Appraiser/Review Appraiser Checksheets submitted in areas subject to a determination made under this paragraph (d)(2).

PART 204—COINSURANCE

21. The authority citation for part 204 continues to read as follows:

Authority: Secs. 244, 211, National Housing Act (12 U.S.C. 1715z–9, 1715b); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

22. Section 204.3 is revised to read as follows:

§ 204.3 Authority to determine eligibility.

(a) A mortgagee approved for coinsurance is authorized to make determinations relating to the eligibility of the mortgage, the mortgagor, and the property, in accordance with instructions and standards issued by the Commissioner, for insurance of a mortgage with respect to any mortgage to be coinsured by the Commissioner and the mortgagee, except for mortgages financing the sale of a property by a non-occupant seller who acquired title to the property during the period beginning two years before the date of application for insurance, and ending on the date of the application for insurance.

(b) * * *

Dated: March 26, 1993.

Henry G. Cisneros,

Secretary.

[FR Doc. 93–17351 Filed 8–2–93; 8:45 am]

BILLING CODE 4210–32–M

federal register

Tuesday
August 3, 1993

Part III

Department of the Interior

Bureau of Indian Affairs

Indian Fishing, Yurok Indian Reservation; Notice

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Fishing—Yurok Indian Reservation (Subsistence Gill Net Fishing)

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: The Sacramento Area Director of the Bureau of Indian Affairs is making pre-season changes to the fishing regulations to assure proper management of the fisheries resources of the Klamath River.

DATES: 25 CFR Part 250.9 is amended as follows: The Fall Chinook Management Season shall be during the period of July 14, 1993, 7:01 pm through midnight December 31, 1993. The season is expected to consist of an early season and a late season. The early season is from July 14 through September 1 or 65% of the subarea quota. Fishing during the early season is permitted from Wednesday at 7 pm through Sunday at 7 pm. The late season will begin on September 1 at 7 pm and continue until December 31, 1993, or the remainder of the subarea quotas. Fishing during the late season would be permitted 24 hours a day, 7 days a week, except for a closure on Monday from 9 am to 5 pm. Any subarea allocations that are not harvested during the early season will be added to the late season allocations.

Prior to this season, the River will be closed to all fishing, and all nets must be out of the water between July 12, 1993, 9 am until July 14, 1993, 7 pm.

FOR FURTHER INFORMATION CONTACT: Ronald M. Jaeger, Area Director, Bureau of Indian Affairs, 2800 Cottage Way, Sacramento, CA 95825.

SUPPLEMENTARY INFORMATION: As authorized by 25 CFR 250.12 Indian Fishing: Hoopa Valley Indian Reservation, the Area Director of the Bureau of Indian Affairs is making the following pre-season changes to the regulations to assure proper management of the fisheries resources of the Klamath River. The total Indian allocation level will be 18,500 adult fall chinook salmon. Of this number, 14,800 will be allocated to be taken on the Yurok Indian Reservation. Subsequently, the subarea adult chinook quota would be 8,900 fish in the Management Area 1 (estuary) and 5,900 fish for Management Area 2 (U.S. 101 Bridge to Weitchpec).

Area 1 is from the confluence of the Klamath River and the ocean upstream to the Highway 101 Bridge. A quota of 5,800 adult fall chinook salmon has been established for the early season. A quota of 3,100 adult fall chinook salmon has been established for the late season.

Area 2 is the remainder of the mainstream Klamath River within the exterior boundaries of the Yurok Reservation. A quota of 3,800 adult fall chinook salmon has been established for the early season. A quota of 2,100 adult fall chinook salmon has been established for the late season.

The Blue Creek conservation zone will be closed to gill net fishing 1/8 mile above the upper portion of the Blue Creek delta (bedrock wall) and 1/2 mile below the lower portion of the Blue Creek delta from September 14 until December 31, 1993.

Dated: July 27, 1993.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 93-18387 Filed 8-2-93; 8:45 am]

BILLING CODE 4310-02-M