

# RESCINDED

Office of Thrift Supervision  
Department of the Treasury

May 22, 2002

**Transmittal**  
**TR-281**

This rescission does not change the applicability of the conveyed document. To determine the applicability of the conveyed document, refer to the original issuer of the document.



Federal Register, Vol. 67, No. 91, pp. 31722 - 31727

**Number TR-281**

The attached final rule regarding Capital: Qualifying Mortgage Loan, Interest Rate Risk Component, and Miscellaneous Changes was published in the Federal Register on May 10, 2002.

to effectuate the declared policy of the Act.

#### List of Subjects in 7 CFR Part 993

Marketing agreements, Plums, Prunes, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 993 is amended as follows:

#### PART 993—DRIED PRUNES PRODUCED IN CALIFORNIA

1. The authority citation for 7 CFR part 993 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

2. A new § 993.409 is added to read as follows:

#### § 993.409 Undersized prune regulation for the 2002–03 crop year.

Pursuant to §§ 993.49(c) and 993.52, an undersized prune regulation for the 2002–03 crop year is hereby established. Undersized prunes are prunes which pass through openings as follows: for French prunes,  $2\frac{4}{32}$  of an inch in diameter; for non-French prunes,  $3\frac{0}{32}$  of an inch in diameter.

Dated: May 3, 2002.

**Barry L. Carpenter,**

*Acting Administrator, Agricultural Marketing Service.*

[FR Doc. 02–11675 Filed 5–9–02; 8:45 am]

BILLING CODE 3410–02–P

## DEPARTMENT OF THE TREASURY

### Office of Thrift Supervision

#### 12 CFR Parts 516 and 567

[No. 2002–19]

RIN 1550–AB45

#### Capital: Qualifying Mortgage Loan, Interest Rate Risk Component, and Miscellaneous Changes

**AGENCY:** Office of Thrift Supervision, Treasury.

**ACTION:** Final rule.

**SUMMARY:** The Office of Thrift Supervision (OTS) is making miscellaneous changes to its capital regulations. These changes are designed to eliminate unnecessary capital burdens and to align OTS capital regulations more closely to those of the other federal banking agencies. Under the final rule, a one-to four-family residential first mortgage loan will qualify for a 50 percent risk weight if it is underwritten in accordance with the prudent underwriting standards found in the Interagency Guidelines for Real

Estate Lending, including standards relating to loan-to-value (LTV) ratios. The final rule also clarifies certain issues regarding the calculation of the LTV ratio.

OTS also is eliminating the requirement that a thrift must deduct from total capital that portion of a land loan or a nonresidential construction loan in excess of an 80 percent LTV ratio; eliminating the interest rate risk component of the risk-based capital regulations; modifying the definition of OECD-based country; and making a technical change to conform its treatment of reserves for loan and lease losses to that of the other federal banking agencies.

**DATES:** Effective July 1, 2002.

#### FOR FURTHER INFORMATION CONTACT:

Michael D. Solomon, Senior Program Manager for Capital Policy, (202) 906–5654; David Riley, Project Manager, (202) 906–6669, Supervision Policy; or Teresa A. Scott, Counsel (Banking and Finance), (202) 906–6478, Regulations and Legislation Division, Office of the Chief Counsel, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On March 15, 2001, OTS published a notice of proposed rulemaking seeking comment on a number of changes to its capital regulations. 66 FR 15049. These changes were designed to eliminate unnecessary burden and to align OTS capital regulations more closely to those of other federal banking agencies.<sup>1</sup> These proposed changes comply with section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994 (CDRIA), which directs the banking agencies to make their regulations and guidance uniform, consistent with principles of safety and soundness, statutory law and policy, and the public interest.

Specifically, OTS proposed to change its definition of a qualifying mortgage loan. Under current rules, a one-to four-family residential first mortgage loan will qualify for a 50 percent risk weight if it has a LTV ratio of 80 percent or less and meets other criteria. OTS proposed to revise the LTV requirement to permit a loan to qualify for a 50 percent risk weight if it has a LTV ratio of less than 90 percent. OTS also proposed to: (1) Eliminate the requirement that a thrift must deduct from total capital that

portion of a non-residential construction and land loan that exceeds an 80 percent LTV ratio; (2) eliminate the interest rate risk component of the capital rules; (3) increase the risk weight on high quality, stripped mortgage-related securities; (4) modify the definition of OECD-based country; and (5) make a technical change to the treatment of reserves for loan and lease losses.

##### II. Comment Discussion

Eleven commenters responded to the proposed rule. The commenters included one savings and loan holding company, seven savings associations, and three trade associations. Generally, the commenters supported the proposed rule. These comments are discussed below.

##### A. One-to Four-Family Residential Mortgage Loans

OTS and the other federal banking agencies apply similar, but not identical, capital rules to one- to four-family residential first mortgage loans. Each agency provides that a one- to four-family residential first mortgage loan may receive a 50 percent risk weight if the loan meets certain specified criteria. To be eligible to receive the 50 percent risk weight, each agency requires that the loan may not be more than 90 days delinquent and must be prudently underwritten.<sup>2</sup>

Only OTS rules specifically require that a one- to four-family residential loan must have a LTV ratio of 80 percent or less at origination to qualify for the 50 percent risk weight.<sup>3</sup> All of the federal banking agencies, however, have indicated that prudent underwriting must include an appropriate LTV ratio,<sup>4</sup> and have clarified that a loan secured by a one- to four-family residential property will have an appropriate LTV ratio if the loan complies with the Interagency Guidelines for Real Estate Lending (Interagency Lending Guidelines).<sup>5</sup> These guidelines provide that an institution should establish internal LTV limits for real estate loans, including loans on one- to four-family residential properties. The guidelines do not establish a specific supervisory LTV limit for such loans. Rather the

<sup>2</sup> 12 CFR part 3, App. A., Sec. 3(a)(3)(iii)(OCC); 12 CFR part 208, App. A., Sec. III.C.3.(FRB); 12 CFR part 325, App. A., Sec. I.I.C. (FDIC); 12 CFR 567.1 (OTS).

<sup>3</sup> See definition of qualifying mortgage loans at § 567.1.

<sup>4</sup> 64 FR 10194, 10196, fn. 6 (Mar. 2, 1999).

<sup>5</sup> *Id.* The Interagency Guidelines for Real Estate Lending are located at 12 CFR part 34, subpart D (OCC); 12 CFR part 208, subpart E (FRB); 12 CFR part 365 (FDIC); and 12 CFR 560.100–101 (OTS).

<sup>1</sup> The other federal banking agencies include the Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (FRB), and the Federal Deposit Insurance Corporation (FDIC).

guidelines state that an institution should require appropriate credit enhancements (e.g., private mortgage insurance or readily marketable collateral) for a loan with an LTV that equals or exceeds 90 percent at origination. In addition, a loan that does not comply with this standard is permissible if the loan is supported by other credit factors, is an excluded transaction, or is a prudently underwritten exception to the lender's policies.<sup>6</sup>

OTS proposed to revise its definition of qualifying mortgage loan. Specifically, OTS proposed to raise the current LTV limit from below 80 percent to below 90 percent and to continue to include an express LTV requirement. OTS requested comment whether it should retain an explicit LTV requirement or conform its rule more closely to those of the other banking agencies.

#### 1. Should OTS Include an Explicit LTV Standard in its Definition of Qualifying Mortgage Loan?

Seven commenters discussed whether OTS should retain the explicit LTV requirement in the final rule. Three commenters supported the retention of an explicit LTV standard. Those commenters argued that thrifts' high concentration of mortgage loans justifies a treatment that is substantially similar but more sharply defined than the treatment of mortgage lending at other depository institutions. Moreover, the commenters asserted that an explicit standard provides a clear, non-judgmental definition of a qualifying mortgage loan and limits the potential for confusion between the institution and its examiners. Four commenters urged OTS to delete the explicit LTV requirement. They argued that an explicit standard is unnecessary, and that the change would put thrifts on an equal footing with banks and conform OTS rules to the rules of other banking agencies.

The final rule deletes the explicit LTV requirement for qualifying mortgage loans. Although the LTV ratio is a meaningful measure (among others) of credit risk, OTS has concluded that the Interagency Lending Guidelines on LTV ratios sufficiently address the credit risks of residential mortgage lending. In addition, an explicit standard may competitively disadvantage thrifts since banks have been subject to a more flexible standard. Further, deleting the

<sup>6</sup> Under the guidelines, the aggregate amount of all loans in excess of the supervisory LTV limits and all loans made pursuant to exceptions to the general lending policy is limited to 100 percent of total capital.

explicit requirement will align OTS regulations more closely to those of the other banking agencies and, is thus, more consistent with section 303 of CDRIA.

OTS research suggests that one- to four-family residential loans are generally subject to a disproportionately high capital burden, relative to other types of loans.<sup>7</sup> OTS' review of charge-off and delinquency rates<sup>8</sup> for various categories of loans (one- to four-family residential loans, multi-family loans, other real estate loans, consumer loans, agricultural loans, commercial and industrial loans) disclosed that one- to four-family residential loans carry substantially less risk than other loan types, relative to their respective risk weights. In this rule, OTS intends to reduce the disparity of the risk weights among these loans and expand the availability of residential mortgage products.<sup>9</sup>

Accordingly, the final rule provides that a qualifying mortgage loan must be underwritten in accordance with prudent underwriting standards, including standards relating the ratio of the loan amount to the value of the property. The rule will specifically cross-reference the Interagency Lending Guidelines in the Appendix to 12 CFR 560.101.<sup>10</sup>

#### 2. What Types of Credit Enhancement Should OTS Consider in Determining Whether a Loan Meets the LTV Requirement Under the Capital Rules?

Under the current capital rule, a mortgage loan may satisfy the LTV requirement if an issuer approved by Fannie Mae or Freddie Mac provides an appropriate level of private mortgage

<sup>7</sup> See OTS Research Working Paper titled "Based Buckets and Loan Losses: Absolute and Relative Loan Underperformance at Banks and Thrifts," available on the OTS Website at [www.ots.treas.gov](http://www.ots.treas.gov).

<sup>8</sup> The charge off rate is charge offs net recoveries for each loan type divided by the total loan balance of that type of loan. The delinquency rate is the sum of loans more than 90 days past due for each loan type, divided by the total loan balance for that type of loan. Our review of charge-off data, which com-mingled expected and unexpected losses, covered the period from 1984 to 1999. While risk-based capital is primarily for unexpected losses, average (historical) losses are not irrelevant. For example, capital levels can be modeled based on dispersion of expected (historical) losses.

<sup>9</sup> In the past, some institutions have over-invested in fixed-rate one- to four-family mortgage loans, which created interest rate risk problems. However, as discussed below, improved supervisory tools for interest rate risk analysis, industry awareness of interest rate risk, and improved interest rate risk management have mitigated this concern.

<sup>10</sup> In addition, OTS will continue to apply factors described in the Interagency Expanded Guidance for Subprime Lending Programs when determining the level of capital necessary to support subprime lending programs. (OTS CEO Letter No. 137 (February 2, 2001)).

insurance. OTS specifically asked whether it should permit other forms of credit enhancement in determining whether a loan meets the LTV requirement under the capital rules.

Nine commenters addressed this issue. Seven commenters agreed that OTS should permit additional forms of credit enhancement. These commenters noted that the Interagency Lending Guidelines permit other forms of credit enhancement. One commentator argued that savings associations are treated less favorably than other banking entities because OTS current rules differ from the guidelines.

Two commenters opposed additional credit enhancements. One maintained additional credit enhancements would raise questions regarding the financial soundness of any guarantor, the type of credit coverage that is supplied, and the overall credit risk to the banking industry. The other commenter contended that high LTV loans carry substantial risk and that losses could occur not only on single loans but also catastrophically throughout a loan portfolio.

The final rule relies on the Interagency Lending Guidelines, which permit institutions to consider various types of credit enhancements when determining whether a one-to four-family residential property loans has an appropriate LTV ratio. Such appropriate credit enhancements include private mortgage insurance and readily marketable collateral.<sup>11</sup>

OTS believes that the definition of readily marketable collateral in the Interagency Lending Guidelines adequately addresses potential safety and soundness concerns by requiring a perfected security interest and by requiring appropriate discounts from market value in determining the value of readily marketable collateral's value. OTS will, as a part of the examination process, review an institution's use of credit enhancements to ensure that any private mortgage insurance and readily marketable collateral provide protection against loss equivalent to that provided by residential real estate collateral.

<sup>11</sup> Readily marketable collateral is defined as "insured deposits, financial instruments, and bullion in which the lender has a perfected security interest. Financial instruments and bullion must be salable under ordinary circumstances with reasonable promptness at a fair market value determined by quotations based on actual transactions, on an auction or similarly available daily bid and ask price market. Readily marketable collateral should be appropriate discounted by the lender consistent with the lender's usual practices for making loans secured by such collateral." See Appendix to 12 CFR 560.101.

### 3. How Should Thrifts Calculate the LTV Ratio?

*Positively Amortizing Loans.* Under the current rule, a qualifying mortgage loan must have a documented LTV ratio that does not exceed 80 percent at origination. OTS proposed to clarify that a mortgage loan that is paid down to an appropriate LTV ratio after origination may become a qualifying mortgage loan, if it meets all other requirements. One commenter specifically supported this provision and no commenter opposed this clarification. Accordingly, OTS has included clarifying language in the final rule.

*Negatively Amortizing Loans.* OTS proposed to clarify that a residential mortgage loan that negatively amortizes to a LTV ratio above 90 percent would not be accorded a 50 percent risk weight. OTS specifically requested comment whether this treatment is appropriate.

Three commenters opined that loans that negatively amortize above a 90 percent LTV ratio, for whatever reason, should be placed in the 100 percent risk-weight category.<sup>12</sup> Another commenter agreed that loans designed to negatively amortize as a routine and predictable matter pose extraordinary collateral risk that should be addressed by capital requirements at origination. This commenter, however, suggested that a loan should qualify for a lower risk weight if it negatively amortizes solely as a result of deferred or capitalized interest. The commenter reasoned that the somewhat higher credit risk was offset by the stabilizing effect on the borrower's ability to service the loan during limited periods of unusual interest rate stress.

One commenter noted that if an LTV rises above 90 percent because of borrower default, the capital requirement should be governed by the rules related to classified loans. Another commenter agreed that negatively amortizing loans should be addressed through increases to the loan loss reserves.

OTS recognizes that some types of negatively amortizing loans may result in additional credit risk and others may not.<sup>13</sup> In light of the differing credit risks posed by these negatively amortizing loan products, OTS declines to specifically address this point in its

<sup>12</sup> One commenter agreed with this position, but would permit the lender to show that the actual LTV remained below 90 percent due to any market appreciation that is confirmed by an appropriate appraisal or other valuation. Reevaluation of loan collateral is discussed below.

<sup>13</sup> The preamble to the proposed rule discusses the risks of various negative amortizing loan products. See 66 FR at 15051.

final rule. Instead, the final rule simply provides that a qualifying mortgage loan must maintain an appropriate LTV ratio based on the amortized principal balance of the loan. OTS expects thrifts to review loans structured with negative amortization features and loans that have the potential for negative amortization to ensure that LTV ratios commensurate with the risk of the loan are maintained. OTS plans a more comprehensive assessment of these issues and may issue supervisory guidance on this matter. In the interim, a savings association that categorizes a substantial number of negatively amortizing loans in the 50 percent risk weight will receive increased regulatory scrutiny to ensure that the savings association maintains capital commensurate with the risk of the loans.

*Reevaluation of loan collateral.* OTS also specifically requested comment whether it should permit the reevaluation of collateral values in an appreciating market, or require reevaluations in a declining market in determining whether a loan meets the LTV standard.

Six commenters specifically opposed any rule that would require a thrift to reevaluate collateral in a declining market. Three commenters argued that collateral deterioration is best addressed through the allowance for loan and lease losses, since these allowances are intended to capture subsequent changes in credit risk. Two commenters argued that a reevaluation requirement would be costly and would add needless complexity to thrift operations. If reevaluations are required, one commenter urged OTS to establish the original collateral value as the lowest value that may be used for LTV computation. The commenter argued that this position is consistent with other regulatory requirements.

Three commenters urged OTS to permit a thrift to reevaluate collateral where there is market appreciation or where the borrower has made property improvements. One of these commenters, however, would permit the thrift to reevaluate for market appreciation only where the principal amount has increased and the increase would otherwise trigger a higher capital requirement. Another commenter would not permit reclassification for market appreciation under any circumstances. Finally, one commenter would permit a thrift to reevaluate collateral for appreciation or depreciation where the expected LTV ratio is close to 90 percent. The commenter suggested that OTS use the examination process to

ensure that thrifts do not ignore declining values.

OTS believes that further consideration is needed before it determines whether to revise its rules to permit or require recalculation of LTV ratios on the basis of changing market prices. OTS has reviewed the current practices of the other bank regulators and has found that there is no consistent interagency position on reevaluations. As a result, the final rule retains the current requirement that LTV ratios are calculated based upon the value of the collateral at origination.<sup>14</sup>

### 4. Other Comments on LTV Issues

One commenter addressed existing OTS rules regarding the computation of the LTV ratio where there are first and junior liens on the same property. Under current OTS rules, if a savings association holds first and junior liens on the same residential property, both loans are risk-weighted at 100 percent if the combined LTV ratio exceeds 80 percent. The commenter argued that the combined loans should receive a 100 percent risk weight only when the loans are originated simultaneously. It asserted that the two loans pose no greater risk than loans made on separate properties and that a savings association should not incur a higher capital charge on the first loan because of the junior loan.

The banking agencies addressed this issue in the final rule on Risk-Based Capital Standards: Construction Loans on Presold Residential Properties; Junior Liens on One-to-Four-Family Residential Properties; and Investments in Mutual Funds; Leverage Capital Standards: Tier 1 Leverage Ratio.<sup>15</sup> The agencies concluded that it was appropriate to combine first and junior liens when calculating the LTV ratio. The agencies noted that where an institution holds first and junior liens to a single borrower with no intervening liens, it has made the economic equivalent of a single extension of credit that is secured by the same collateral. The agencies were also concerned that institutions could use creative lending arrangements to reduce capital charges

<sup>14</sup> OTS may, on a case-by-case basis, look to the substance of a loan transaction and find that the assigned risk weight for a particular loan does not appropriately reflect the risk imposed on the savings association. Where appropriate, OTS may permit the association to assign a lower risk weight to a mortgage loan where there has been significant appreciation in market value or may require a savings association to apply a higher risk weight where there has been a significant decline in market value. See 66 FR 59614, 59666 (Nov. 29, 2001) to be codified at 12 CFR 567.11(c)(2).

<sup>15</sup> 64 FR 10194, 10195-96 (Mar. 2, 1999).

without reducing risk. OTS sees no reason to depart from this position.

Another commenter encouraged OTS and the other banking agencies to lower the risk weights on various types of loans with low LTV ratios or other characteristics that might lessen risks. OTS is reviewing whether it has sufficient empirical data to support any of these changes and, if appropriate, may commence another rulemaking in this area.

#### *B. Land Loans and Non-Residential Construction Loans*

All of the banking agencies require depository institutions to risk weight land loans at 100 percent.<sup>16</sup> Only OTS, however, also requires savings associations to exclude from assets (and therefore from computations of total capital), that portion of a nonresidential construction or land loan that is above an 80 percent LTV ratio.<sup>17</sup> OTS proposed to eliminate this additional capital charge. The commenters addressing this provision supported the change. Accordingly, OTS adopts this aspect of the proposed rule without change.

One commentator, however, suggested that OTS should also revise its rules to assign a 50 percent risk weight to loans secured by fully improved single family building lots with LTV ratios of 80 percent or less. These loans are considered to be improved property loans and are currently risk weighted at 100 percent.<sup>18</sup> The commenter asserted that a lower risk weight is appropriate because finished lots are not subject to development risk. OTS views these loans differently than one-to four-family loans because they are not secured by the borrowers' own home. Often the borrower is a commercial entity. OTS declines to adopt the commenter's suggestion. Therefore, OTS, consistent with the other agencies, will continue to assign finished lots to the 100 percent risk weight category.

#### *C. Interest Rate Risk Component of Risk Based Capital*

Section 305 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA) requires OTS and the banking agencies to review their risk-based capital standards to ensure that

those standards take adequate account of, among other things, interest rate risk.<sup>19</sup> To fulfill this requirement, OTS issued a final rule in 1993 adding an interest rate risk component (IRR component) to its risk-based capital regulation at 12 CFR 567.7.<sup>20</sup> This IRR component is an explicit capital deduction from total capital and is imposed on institutions with above-normal levels of interest rate risk. An institution's interest rate risk is measured by dividing the decline in net portfolio value that would result from a 200 basis point increase or decrease in interest rates by the present value of the institution's assets. The amount deducted from capital is equal to one-half the difference between the institution's measured interest rate risk and a "normal" measured interest rate risk.

OTS concluded that the IRR component is not necessary in light of the other tools that are currently available to measure and control interest rate risk. OTS also concluded that the individual minimum capital provisions at § 567.3 satisfy the FDICIA requirement that the risk-based capital standards must take adequate account of interest rate risk. All six commenters addressing this issue supported the removal of § 567.7. Accordingly, OTS adopts this change.

#### *D. High Quality, Stripped Mortgage-Related Securities*

OTS proposed to amend its capital rules to apply a 100 percent risk-weight to all stripped, mortgage-related securities. Two commenters supported this change. OTS finalized this revision in the final interagency rule on Recourse, Direct Credit Substitutes and Residual Interests in Asset Securitizations. 66 FR 59615, 59626 fn. 24 (Nov. 29, 2001).

#### *E. Definition of OECD-Based Country*

Under existing OTS regulations, certain assets that are supported by the credit standing of the central government of, public-sector entities in, or depository institutions incorporated in Organization for Economic Cooperation and Development (OECD) based countries, receive preferential capital risk weighting over similar entities in non-OECD-based countries. OTS proposed to conform its definition of OECD-based country to the definitions of the other banking agencies. Specifically, OTS proposed to revise its definition to exclude countries that have rescheduled their external

sovereign debt within the previous five years. No commenters addressed this proposed change. The final rule will incorporate the revised definition.

#### *F. Allowance for Loan and Lease Losses*

Under current OTS capital rules, supplemental capital includes general valuation loan and lease loss allowances established under OTS regulations and memoranda to a maximum of 1.25 percent of risk-weighted assets. See 12 CFR 567.5(b)(4). OTS proposed a technical change to the term "general valuation loan and lease loss allowances" to "allowance for loan and lease losses" to conform OTS's rule to the rules of the other banking agencies. No commenter discussed this proposed change. Accordingly, the final rule adopts the proposed change.

#### *G. Other Changes*

OTS solicited comment on whether it should address and eliminate any other capital differences between OTS and the other banking agencies. No commenter addressed this issue.

As a part of this final rule, however, OTS is making minor technical change to its application processing regulation at 12 CFR 516.40 to reflect the recent realignment of its regional offices.

### **III. Executive Order 12866**

OTS has determined that this rule does not constitute a "significant regulatory action" for the purposes of Executive Order 12866.

### **IV. Regulatory Flexibility Act Analysis**

Pursuant to section 605(b) of the Regulatory Flexibility Act, the Director of OTS has certified that this rule does not have a significant economic impact on a substantial number of small entities.

### **V. Unfunded Mandates Reform Act of 1995**

Section 202 of the Unfunded Mandates Reform Act of 1995, Public Law 104-4 (Unfunded Mandates Act) requires that an agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year. OTS has determined that the effect of this rule will not result in expenditures by State, local, or tribal governments or by the private sector of \$100 million or more. Accordingly, OTS has not prepared a budgetary impact statement or specifically addressed the regulatory alternatives considered.

<sup>16</sup> 12 CFR part 3, App. A., Sec. 3(a)(4)(OCC); 12 CFR part 208, App. A., Sec. III. C.4.(FRB); 12 CFR part 325, App. A., Sec. II.C. (FDIC); 12 CFR 567.6(a)(1)(iv)(G) & (H) (OTS).

<sup>17</sup> Compare 12 CFR 567.5(c)(2)(3) with 12 CFR part 3, App. A., Sec. 2(c)(4)(OCC); 12 CFR part 208, App. A., Sec. II. B.(FRB); 12 CFR part 325, App. A., Sec. I.B. (FDIC).

<sup>18</sup> See 12 CFR 560.101 and 123 CFR 561.26 (definition of land loan).

<sup>19</sup> 12 U.S.C. 1828 note.

<sup>20</sup> 58 FR 45799 (Aug. 31, 1993).

List of Subjects

12 CFR Part 516

Administrative practice and procedure, Reporting and recordkeeping requirements, Savings associations

12 CFR Part 567

Capital, Reporting and recordkeeping requirements, Savings associations.

Accordingly, the Office of Thrift Supervision amends chapter V, title 12, Code of Federal Regulations as set forth below:

PART 516—APPLICATION PROCESSING PROCEDURES

1. The authority citation for part 516 continues to read as follows:

Authority: 5 U.S.C. 552, 559; 12 U.S.C. 1462a, 1463, 1464, 2901 et seq.

2. Section 516.40(a)(2) is revised to read as follows:

§ 516.40 Where do I file my application?

(a) \* \* \*

(2) The addresses of each Regional Office and the states covered by each office are:

Table with 3 columns: Region, Office address, States served. Rows include Northeast, Southeast, Midwest, and West.

\* \* \* \* \*

PART 567—CAPITAL

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

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 1828 (note).

4. Section 567.1 is amended by revising the definitions of "OECD-based countries" and "qualifying mortgage loan" as follows:

§ 567.1 Definitions.

\* \* \* \* \*

OECD-based country. The term OECD-based country means a member of that grouping of countries that are full members of the Organization for Economic Cooperation and Development (OECD) plus countries that have concluded special lending arrangements with the International Monetary Fund (IMF) associated with the IMF's General Arrangements to Borrow. This term excludes any country that has rescheduled its external sovereign debt within the previous five years. A rescheduling of external sovereign debt generally would include any renegotiation of terms arising from a country's inability or unwillingness to meet its external debt service obligations, but generally would not include renegotiations of debt in the normal course of business, such as a renegotiation to allow the borrower to take advantage of a decline in interest

rates or other change in market conditions.

\* \* \* \* \*

Qualifying mortgage loan. (1) The term qualifying mortgage loan means a loan that:

(i) Is fully secured by a first lien on a one-to four-family residential property;

(ii) Is underwritten in accordance with prudent underwriting standards, including standards relating the ratio of the loan amount to the value of the property (LTV ratio). See Appendix to 12 CFR 560.101. A nonqualifying mortgage loan that is paid down to an appropriate LTV ratio (calculated using value at origination) may become a qualifying loan if it meets all other requirements of this definition;

(iii) Maintains an appropriate LTV ratio based on the amortized principal balance of the loan; and

(iv) Is performing and is not more than 90 days past due.

(2) If a savings association holds the first and junior lien(s) on a residential property and no other party holds an intervening lien, the transaction is treated as a single loan secured by a first lien for the purposes of determining the LTV ratio and the appropriate risk weight under § 567.6(a).

(3) A loan to an individual borrower for the construction of the borrower's home may be included as a qualifying mortgage loan.

\* \* \* \* \*

5. Section 567.5 is amended by: revising paragraph (b)(4) and footnote 7

to paragraph (b)(4) as set forth below; adding "and" to the end of paragraph (c)(2)(i); adding a period in place of "and" at the end of paragraph (c)(2)(ii); and removing paragraphs (c)(2)(iii) and (c)(3).

§ 567.5 Components of capital.

\* \* \* \* \*

(b) \* \* \*

(4) Allowance for loan and lease losses. Allowance for loan and lease losses established under OTS regulations and memoranda to a maximum of 1.25 percent of risk-weighted assets.7

\* \* \* \* \*

6. Section 567.6 is amended by revising paragraphs (a)(1)(iv)(G) and (a)(1)(iv)(H), to read as follows:

§ 567.6 Risk-based capital credit risk-weight categories.

(a) \* \* \*

7 The amount of the allowance for loan and lease losses that may be included in capital is based on a percentage of risk-weighted assets. The gross sum of risk-weighted assets used in this calculation includes all risk-weighted assets, with the exception of assets required to be deducted under § 567.6 in establishing risk-weighted assets. "Excess reserves for loan and lease losses" is defined as assets required to be deducted from capital under § 567.5(a)(2). A savings association may deduct excess reserves for loan and lease losses from the gross sum of risk-weighted assets (i.e., risk-weighted assets including allowance for loan and lease losses) in computing the denominator of the risk-based capital standard. Thus, a savings association will exclude the same amount of excess allowance for loan and lease losses from both the numerator and the denominator of the risk-based capital ratio.

(1) \* \* \*

(iv) \* \* \*

(G) Land loans;

(H) Nonresidential construction loans;

\* \* \* \* \*

**§ 567.7 [Removed]**

7. Section 567.7 is removed.

Dated: May 6, 2002.

By the Office of Thrift Supervision.

**James E. Gilleran,***Director.*

[FR Doc. 02-11673 Filed 5-9-02; 8:45 am]

BILLING CODE 6720-01-P

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 71****[Docket No. FAA-2002-12007; Airspace  
Docket No. 02-ACE-02]****Revision of Federal Airway V-220; NE****AGENCY:** Federal Aviation  
Administration (FAA), DOT.**ACTION:** Final rule.**SUMMARY:** This action corrects the legal description of Federal Airway 220 (V-220) between McCook, NE, and Kearney, NE. The current description incorrectly includes a reference to Grande Island, NE.**EFFECTIVE DATE:** 0901 UTC, August 8, 2002.**FOR FURTHER INFORMATION CONTACT:**  
Steve Rohring, Airspace and Rules  
Division, ATA-400, Office of Air Traffic  
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telephone: (202) 267-8783.**SUPPLEMENTARY INFORMATION:****Background**

On November 21, 2001, a review of Federal airways in the Kearney, NE, area revealed that the current legal description of V-220 contained an inadvertent reference to Grande Island, NE. The description should refer to the "Kearney, NE, 237° radial" rather than the "Grande Island, NE, 241° radial." This action corrects that error.

**The Rule**

This amendment to 14 CFR part 71 corrects the legal description of V-220 between McCook, NE, and Kearney, NE. Specifically, the "Grande Island, NE, 241° radial" is changed to read "Kearney, NE, 237° radial."

Since this action simply corrects the legal description by removing the

reference to Grande Island, NE, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest.

This regulation is limited to an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since it has been determined that this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Federal airways are published in paragraph 6010(a) of FAA Order 7400.9J dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Federal airway listed in this document will be published subsequently in the Order.

**Environmental Review**

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1D, Policies and Procedures for Considering Environmental Impacts. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

**List of Subjects in 14 CFR Part 71**

Airspace, Incorporation by reference, Navigation (air).

**Adoption of the Amendment**

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR Part 71 as follows:

**PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E, AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS**

1. The authority citation for part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389.

**§ 71.1 [Revised]**

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

*Paragraph 6010(a)—Domestic VOR Federal Airways*

\* \* \* \* \*

V-220 [REVISED]

From Grand Junction, CO; INT Grand Junction, 075° and Rifle, CO, 163° radials; Rifle; Meeker, CO; Hayden, CO; Kremmling, CO; INT Kremmling 081° and Gill, CO, 234° radials; Gill; Akron, CO; INT Akron 094° and McCook, NE, 264° radials; McCook; INT McCook 072° and Kearney, NE, 237° radials; Kearney; Hastings, NE; Columbus, NE.

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Issued in Washington, DC, on April 29, 2002.

**Reginald C. Matthews,***Manager, Airspace and Rules Division.*

[FR Doc. 02-11657 Filed 5-9-02; 8:45 am]

BILLING CODE 4910-13-P

**DEPARTMENT OF TRANSPORTATION****Coast Guard****33 CFR Part 117****[CGD09-01-148]****RIN-2115-AE47****Drawbridge Operation Regulations; Chicago River, IL****AGENCY:** Coast Guard, DOT.**ACTION:** Interim rule; request for comments.

**SUMMARY:** The Coast Guard is revising the operating regulation governing drawbridges over Chicago River waterways. This interim rule adds one bridge to the current list of bridges not required to open for navigation, and removes the requirement for two to open on signal for commercial vessels due to the recent increases in their vertical clearances. This interim rule also requires 12-hours advance notice from commercial vessels year-round for City of Chicago movable bridges; updates ownership of certain railroad bridges; and specifies rush hour times that City of Chicago bridges will not be required to open for any vessels.

**DATES:** This interim rule is effective June 10, 2002. Comments and related material must reach the Coast Guard on or before June 30, 2002.

**ADDRESSES:** You may mail comments and related material to Commander