

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL HOUSING FINANCE BOARD

12 CFR Part 951

[No. 2001-08]

RIN 3069-AB04

Affordable Housing Program Amendments

AGENCY: Federal Housing Finance Board.

ACTION: Proposed rule.

SUMMARY: The Federal Housing Finance Board (Finance Board) is proposing to amend its regulation governing the operation of the Affordable Housing Program (AHP) to improve the operation and effectiveness of the AHP. The proposed changes include: increasing the maximum amount of money that may be set aside annually, in the aggregate, under a Federal Home Loan Bank's (Bank) homeownership set-aside programs to the greater of \$3.0 million or 25 percent of the Bank's annual required AHP contribution; removing one of the criteria for use of homeownership set-aside funds to pay for counseling costs in order to equalize the criteria with that of the competitive AHP application program; permitting members drawn from community and not-for-profit organizations actively involved in providing or promoting community lending in a Bank's District to serve on the Bank's Advisory Council; making the reconciliation of AHP fund requirements applicable to any reduction or increase in the amount of AHP subsidy approved for a project, regardless of whether a direct subsidy writedown is involved; removing the requirement for annual project sponsor certifications on household income eligibility for owner-occupied projects; and removing the requirement for member certifications on habitability and tenant income and rent targeting commitments within the first year of completion of a rental project.

DATES: The Finance Board will accept written comments on the proposed rule

that are received on or before June 11, 2001.

ADDRESSES: Send written comments to: Elaine L. Baker, Secretary to the Board, at the Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006. Comments will be available for inspection at this address.

FOR FURTHER INFORMATION CONTACT: Charles E. McLean, Deputy Director, (202) 408-2537, Melissa L. Allen, Program Analyst, (202) 408-2524, Office of Policy, Research and Analysis; or Sharon B. Like, Senior Attorney-Advisor, (202) 408-2930, Office of General Counsel, Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006.

SUPPLEMENTARY INFORMATION:

I. Statutory and Regulatory Background

Section 10(j)(1) of the Federal Home Loan Bank Act (Bank Act) requires each Bank to establish a program to subsidize the interest rate on advances to members of the Bank System engaged in lending for long-term, low- and moderate-income, owner-occupied and affordable rental housing at subsidized interest rates. *See* 12 U.S.C. 1430(j)(1). The Finance Board is required to promulgate regulations governing the AHP. *See id.* The Finance Board's existing regulation governing the operation of the AHP, which made comprehensive revisions to the AHP, was adopted in August 1997 and became effective January 1, 1998. *See* 62 FR 41812 (Aug. 4, 1997) (*now codified at* 12 CFR part 951).

Various amendments have been made to the AHP regulation since 1998 in order to clarify AHP requirements and improve the operation and effectiveness of the AHP. The Banks and Finance Board staff have, over the course of implementation of the AHP, identified additional amendments that it is believed would improve the operation and effectiveness of the AHP. The proposed amendments are discussed further below. The Finance Board welcomes written comments on all aspects of the proposed rule.

II. Analysis of Proposed Rule

A. Homeownership Set-Aside Programs—§§ 951.3(a), 951.5(a)(7)(iii)

1. Increase in Maximum Allowable Annual Homeownership Set-Aside Amount—§ 951.3(a)

Section 951.3(a)(1) of the existing AHP regulation provides that each Bank, after consultation with its Advisory Council, may set aside annually, in the aggregate, up to the greater of \$1.5 million or 15 percent of its annual required AHP contribution to provide funds to members participating in the Bank's homeownership set-aside programs. 12 CFR 951.3(a)(1). In cases where the amount of homeownership set-aside funds applied for by members in a given year exceeds the amount available for that year, a Bank may allocate up to the greater of \$1.5 million or 15 percent of its annual required AHP contribution for the subsequent year to the current year's homeownership set-aside programs. *Id.*

The AHP homeownership set-aside programs have proven to be an efficient and effective means for the Banks and their members to provide homeownership opportunities for low- and moderate-income households, consistent with the goals of the Bank System and the AHP. Ten Banks currently offer homeownership set-aside programs, eight of which set aside the maximum amount allowable under the current AHP regulation.

Experience with the homeownership set-aside programs over the past two years has shown that the demand for homeownership set-aside funds for low- and moderate-income families is such that an increase in the maximum allowable annual homeownership set-aside amount is warranted. The Banks have demonstrated that there is market demand and member demand for financing for low- and moderate-income homeownership, with most homeownership set-aside programs being oversubscribed within the first three to seven months of the year. In 2000, the Finance Board approved a waiver request from one Bank to increase its maximum allowable homeownership set-aside amount to 25 percent of its total annual AHP contribution, a similar waiver request for 2001 is pending, and additional waiver requests of a similar nature from other Banks are anticipated.

The homeownership set-aside programs also are consistent with the cooperative structure of the Bank System, by involving members in financing the mortgages of low- and moderate-income households receiving downpayment assistance with homeownership set-aside funds. The homeownership set-aside programs can provide an important Bank service for members by enabling a greater number of members to become involved in the AHP, by helping members to establish banking relationships with new customers, and by exposing more members to opportunities to help meet low- and moderate-income housing needs in their markets.

The homeownership set-aside programs also are consistent with the goals of the Bank System and the AHP to help finance affordable housing in underserved areas and for underserved households. Homeownership set-aside funds often are the only way to effectively meet scattered-site, affordable housing needs in rural areas or tribal areas, which have difficulty scoring well under the competitive AHP application program and where rental projects are not feasible. In addition, homeownership set-aside funds often are the only way to meet the need for homeownership opportunities for very low-income families, which require larger per-unit subsidies and, therefore, may not score well under the competitive AHP application program. Homeownership set-aside programs also allow a member to use AHP funds to finance housing for individual eligible households on an as-needed basis, even if it is only for one household in the member's market area. These are households that the competitive AHP application program might not otherwise reach.

The decision whether or not to establish homeownership set-aside programs is within the discretion of each Bank. Thus, a Bank, in consultation with its Advisory Council, may decide not to establish homeownership set-aside programs if it determines that such programs are inappropriate for its district, or, if a Bank decides to establish such programs, it need not allocate to the programs the maximum amount allowable under the regulation.

Accordingly, for the reasons discussed above, the proposed rule would revise § 951.3(a)(1) to allow a Bank, after consultation with its Advisory Council, to set aside annually, in the aggregate, up to the greater of \$3.0 million or 25 percent of its annual required AHP contribution for its homeownership set-aside programs. In

addition, in cases where the amount of homeownership set-aside funds applied for by members in a given year exceeds the amount available for that year, the proposed rule would allow a Bank to allocate up to the greater of \$3.0 million or 25 percent of its annual required AHP contribution for the subsequent year to the current year's homeownership set-aside programs.

A higher allowable annual homeownership set-aside amount increases the possibility that demand for such funds may not exhaust the available funds by the end of the year. Under section 10(j)(7) of the Bank Act, 90 percent of such uncommitted or unused AHP funds generally would be required to be deposited by the Bank in an Affordable Housing Reserve Fund established and administered by the Finance Board. See 12 U.S.C. 1430(j)(7); 12 CFR 951.15(a). No such Reserve Fund has been established to date. In order to minimize the possibility of having to create such a Reserve Fund, the proposed rule would provide in § 951.3(a) that any homeownership set-aside funds that are not committed or used by the end of the year in which they were set aside shall be committed or used by the end of such year to fund project modifications or the next highest scoring AHP applications in the Bank's final funding period of the year for its competitive AHP application program.

The proposed rule also would provide that, beginning in 2002 and for subsequent years, the maximum homeownership set-aside dollar limits shall be adjusted annually by the Finance Board to reflect any percentage increase in the preceding year's Consumer Price Index (CPI) for all urban consumers, as published by the Department of Labor. Each year, as soon as practicable after the publication of the previous year's CPI, the Finance Board would be required to publish notice by **Federal Register**, distribution of a memorandum, or otherwise, of the CPI-adjusted limits on the maximum set-aside dollar amount.

2. Removal of Criterion For Funding of Counseling Costs—§ 951.5(a)(7)(iii)

Section 951.5(a)(7) of the existing AHP regulation provides that homeownership set-aside funds may be used to pay for counseling costs only where:

- (i) Such costs are incurred in connection with counseling of homebuyers who actually purchase an AHP-assisted unit;
- (ii) The cost of the counseling has not been covered by another funding source, including the member; and

(iii) The homeownership set-aside funds are used to pay only for the amount of such reasonable and customary costs that exceeds the highest amount the member has spent annually on homebuyer counseling costs within the preceding three years. 12 CFR 951.5(a)(7).

By contrast, § 951.5(b)(5) of the existing AHP regulation requires satisfaction of only the first two of the above three criteria in authorizing the use of AHP subsidies to pay for counseling costs under the competitive AHP application program. 12 CFR 951.5(b)(5). The Banks maintain that the criterion in paragraph (a)(7)(iii) above should be removed so that the criteria applicable to the use of AHP funds for counseling costs are the same under both the homeownership set-aside and competitive AHP application programs.

The criterion in paragraph (a)(7)(iii) was intended to prevent homeownership set-aside funds from being used to pay for counseling costs that, in the absence of such funds, customarily would be funded by members participating in a homeownership set-aside program. In this way, AHP funds would be used to expand the pool of resources available to pay for counseling costs, rather than simply replace existing sources of funding for counseling costs.

The Banks maintain that this requirement is difficult and costly to enforce. Moreover, the requirement may actually reduce potential participation by members in homeownership set-aside programs because of members' concerns about liability if the accounting for costs is not accurate. In addition, since the competitive AHP application program does not have a comparable requirement, it is possible that AHP subsidies are already being used under that program to pay for counseling costs that the member, sponsor or another funding source would otherwise have funded.

The Finance Board recognizes that homebuyer counseling is vital to ensuring that AHP subsidies are used successfully to provide homeownership opportunities for low- and moderate-income households. The Finance Board is persuaded that assurance that homebuyers will get such counseling, regardless of how it is funded, outweighs concerns that AHP subsidies may be funding counseling costs that would otherwise be paid for by another funding source. Accordingly, for the reasons discussed above, the proposed rule would remove the additional homeownership set-aside counseling criterion contained in § 951.5(a)(7)(iii).

*B. Advisory Council Membership—
§ 951.4*

Section 951.4(f) of the existing AHP regulation uses two terms—"community investment" and "community development"—in describing the role of the Advisory Councils in this area. Specifically, § 951.4(f)(1) provides that representatives of the board of directors of each Bank shall meet with the Advisory Council at least quarterly to obtain the Advisory Council's advice on ways in which the Bank can better carry out its housing finance and community investment mission, including advice on the low- and moderate-income housing and community investment programs and needs in the Bank's District. Section 951.4(f)(3) provides that each Advisory Council shall submit to the Finance Board annually by March 1 its analysis of the low- and moderate-income housing and community development activity of the Bank by which it is appointed.

The proposed rule would replace the terms community investment and community development, wherever they appear, with the term community lending, which encompasses both terms and is the term used in the Finance Board's recently adopted mission statement for the Banks. See 12 CFR 940.2.¹ Community lending is defined in part 900 of the Finance Board's existing regulations as "providing financing for economic development projects for targeted beneficiaries, and, for community financial institutions, purchasing or funding small business loans, small farm loans or small agribusiness loans, as defined in § 950.1 of this chapter." 12 CFR 900.1.

In addition, since the Advisory Councils are required to give advice on community lending, as well as housing finance, matters, the proposed rule would revise § 951.4(a) to provide that members may be drawn from community and not-for-profit organizations actively involved in providing or promoting community lending in the Bank's District, and would revise § 951.4(b) to provide that, in appointing Advisory Council members, a Bank may give consideration to the diversity of community lending needs and activities within the Bank's District.

¹ Section 940.2 states that "[t]he mission of the Banks is to provide to their members and associates financial products and services, including but not limited to advances, that assist and enhance such members' and associates' financing of:

(a) Housing, including single-family and multi-family housing serving consumers at all income levels; and

(b) *Community lending.*"

12 CFR 940.2 (emphasis added).

*C. Reconciliation of AHP Fund—
§ 951.8(c)(3)(ii)*

Section 951.8(c)(3)(ii) of the existing AHP regulation provides that if a Bank reduces the amount of AHP subsidy approved for a project, the amount of such reduction shall be returned to the Bank's AHP fund. 12 CFR 951.8(c)(3)(ii). Section 951.8(c)(3)(ii) further provides that if a Bank increases the amount of AHP subsidy approved for a project, the amount of such increase shall be drawn first from any currently uncommitted or repaid AHP subsidies and then from the Bank's required AHP contribution for the next year. *Id.* This section is included under the overall heading for paragraph (c)(3), which addresses changes in the approved AHP subsidy amount where a direct subsidy is used to write down prior to closing the principal amount or interest rate on a loan. Therefore, the requirements in paragraph (c)(3)(ii) would appear to apply only in cases where a direct subsidy is used to write down prior to closing the principal amount or interest rate on a loan.

In practice, the Banks have returned to the AHP fund the amount of any reduction in AHP subsidy approved for a project under the competitive AHP application program, regardless of the reason for the reduction, such as a project modification or a change in a project's sources and uses of funds. The question has arisen whether the provision in paragraph (c)(3)(ii) regarding the funding of a subsidy increase should apply to an increase in approved AHP subsidy for a project modification that does not involve a direct subsidy writedown. A Bank has indicated that, in its district, demand for increases in approved AHP subsidies for project modifications not involving direct subsidy writedowns is now exceeding the amount of repaid or de-committed AHP subsidies available to fund such modifications. Therefore, the Bank would like to be able to fund such subsidy increases from the Bank's required AHP contribution for the next year.

If a Bank is permitted to use uncommitted AHP funds from the following year, before such funds are made available under the competitive AHP application program for that year, there will be fewer AHP funds available for new projects to be approved under the competitive AHP application program for that year. However, the overall effect on the amount of AHP funds available for the following year is not likely to be significant. Moreover, funding a new project in the next year, as opposed to funding a modification of

an existing project from a prior year, would not necessarily result in producing more affordable housing, as there is no assurance that the new project ultimately will go forward. It is important that AHP funding be made available for modifications of existing projects that are meeting the goals of the AHP. The ability of an approved project to continue arguably should not be jeopardized simply because uncommitted AHP funds are not available for modifications in the current year. Since the existing AHP regulation already allows the Banks to commit funds from the following year's homeownership set-aside allocation to fund current year needs under the Banks' homeownership set-aside programs, the Banks arguably should have similar flexibility in funding subsidy increases for project modifications approved under the competitive AHP application program. Finally, the decision whether to approve an increase in AHP subsidy for a project modification is within the discretion of each Bank. See 12 CFR 951.7. If a Bank does not want to fund project modifications with subsidies from the next year's AHP allocation, it does not have to approve the project modifications.

Accordingly, for the reasons discussed above, the proposed rule would make § 951.8(c)(3)(ii) applicable to any reduction or increase in the amount of AHP subsidy approved for a project, regardless of whether a direct subsidy writedown is involved, by redesignating this paragraph as § 951.8(c)(4). The Banks, therefore, would be able to fund subsidy increases for project modifications using subsidies drawn first from any currently uncommitted or repaid AHP subsidies, and then from the Bank's required AHP contribution for the next year.

*D. Initial Monitoring Requirements—
§ 951.10*

*1. Owner-Occupied Project Sponsor
Annual Certifications—§ 951.10(a)(1)(ii)*

Section 951.10(a)(1)(ii) of the existing AHP regulation provides that where AHP subsidies are used to finance the purchase of owner-occupied units, the project sponsor must certify annually to the member and the Bank, until all approved AHP subsidies are provided to eligible households in the project, that those households receiving AHP subsidies during the year were eligible households, and such certifications shall be supported by household income verification documentation maintained by the project sponsor and available for

review by the member or the Bank. 12 CFR 951.10(a)(1)(ii).

The Banks maintain that this project sponsor certification requirement is not necessary because the certification merely reiterates more extensive documentation of income eligibility previously provided by the project sponsor to the Bank and member at the time of each request for disbursement of AHP funds from the Bank. Under the existing AHP regulation, a Bank is required to verify prior to each disbursement of AHP subsidies for an approved project that the project meets the eligibility requirements of § 951.5(b) and all obligations committed to in the approved AHP application. *See* 12 CFR 951.5(b), 951.8(c)(2). Because the project sponsor's annual certification is based on the information provided to the Bank at the time of disbursement requests, the certification requirement in § 951.10(a)(1)(ii) does not add any new information or independent verification to the monitoring process.

Accordingly, for the reasons discussed above, the proposed rule would remove the project sponsor certification requirement from § 951.10(a)(1)(ii).

Section 951.10(b)(1)(ii) of the existing AHP regulation also requires the member, within one year after disbursement to a project of all approved AHP subsidies, to review the project documentation and make certifications to the Bank on the use of the AHP subsidies and the existence of deed restrictions or other legally enforceable retention agreements and mechanisms. *See* 12 CFR 951.10(b)(1)(ii). Section 951.10(c)(1) of the existing AHP regulation requires each Bank to review the documentation for a sample of projects and units to determine income-eligibility, eligible uses, reasonable and customary costs, financial feasibility and the existence of deed restrictions or other legally enforceable retention agreements or mechanisms. *See* 12 CFR 951.10(c)(1).

Therefore, in order for the member and Bank to be able to continue reviewing project documentation pursuant to these sections, the proposed rule would retain the requirement in § 951.10(a)(1)(ii) that the project sponsor maintain household income verification documentation available for review by the member or the Bank.

2. Member Certification Within the First Year of Rental Project Completion—§ 951.10(b)(2)(ii)

Section 951.10(b)(2)(ii) of the existing AHP regulation provides that within the first year after completion of an AHP-assisted rental project, the member must

review the project documentation and make a certification to the Bank on project habitability, and tenant rents and income targeting commitments. *See* 12 CFR 951.10(b)(2)(ii). The Banks maintain that this member certification requirement is essentially redundant with the requirement in § 951.10(a)(2)(ii) that the owners of rental projects make a certification to the member on the same items. *See* 12 CFR 951.10(a)(2)(ii).

Since the member is essentially duplicating the certification already made by the project owner, and the project owner is also certifying to the Bank, it seems reasonable to eliminate the member certification requirement and simply retain the project owner certification to the Bank. Accordingly, the proposed rule would remove the member certification requirement of § 951.10(b)(2)(ii), as well as the references to the member contained in § 951.10(a)(2)(ii).

III. Paperwork Reduction Act

The current information collection contained in the existing AHP regulation has been approved by the Office of Management and Budget (OMB) and assigned OMB control number 3069-0006, with an expiration date of January 31, 2003. The Finance Board has submitted to OMB for its approval an analysis of the proposed revisions to the collection of information contained in §§ 951.3(a)(1), 951.10(a)(1)(ii), and 951.10(b)(2)(ii) of the proposed rule, described more fully in part II of the **SUPPLEMENTARY INFORMATION**. The proposed increase in the maximum allowable annual homeownership set-aside amount under § 951.3(a)(1) of the proposed rule is expected to result in an increase in applications for such funds. The proposed elimination of the project sponsor and member certification requirements in §§ 951.10(a)(1)(ii) and 951.10(b)(2)(ii) of the proposed rule would reduce the information collection requirement for such parties. The Banks use the information collection in the AHP regulation to determine whether respondents satisfy statutory and regulatory requirements under the AHP. Responses are mandatory and are required to obtain or retain a benefit. *See* 12 U.S.C. 1426.

Likely respondents and/or record keepers are Banks, Bank members, project sponsors, and project owners. Potential respondents are not required to respond to the collection of information unless the regulation collecting the information displays a currently valid control number assigned by OMB. *See* 44 U.S.C. 3512(a).

The estimated annual reporting and recordkeeping hour burden for the AHP regulation with the proposed changes is:

- a. Number of respondents—7,720
- b. Total annual responses—10,749
- Percentage of these responses collected electronically—0
- c. Total annual hours requested—65,461
- d. Current OMB inventory—64,274
- e. Difference—1,187

The estimated annual reporting and recordkeeping cost burden for the AHP regulation with the proposed changes is:

- a. Total annualized capital/startup costs—0
- b. Total annual costs (O&M)—0
- c. Total annualized cost requested—\$2,169,795
- d. Current OMB inventory—\$2,118,170
- e. Difference—\$51,625

The Finance Board will accept written comments concerning the accuracy of the burden estimates and suggestions for reducing the burden at the address listed above.

Comments regarding the proposed collection of information may be submitted in writing to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for Federal Housing Finance Board, Washington, DC 20503 by July 9, 2001.

IV. Regulatory Flexibility Act

The proposed rule would apply only to the Banks, which do not come within the meaning of “small entities,” as defined in the Regulatory Flexibility Act (RFA). *See* 5 U.S.C. 601(6). Thus, in accordance with section 605(b) of the RFA, 5 U.S.C. 605(b), the Finance Board hereby certifies that the proposed rule, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 12 CFR Part 951

Community development, Credit, Federal home loan banks, Housing, Reporting and recordkeeping requirements.

Accordingly, the Finance Board hereby proposes to amend part 951, title 12, chapter IX, Code of Federal Regulations, as follows:

PART 951—AFFORDABLE HOUSING PROGRAM

1. The authority citation for part 951 continues to read as follows:

Authority: 12 U.S.C. 1430(j).

2. Amend § 951.3(a)(1) to read as follows:

§ 951.3 Operation of Program and adoption of AHP implementation plan.

(a) *Allocation of AHP contributions—*
(1) *Homeownership set-aside programs.*

Each Bank, after consultation with its Advisory Council, may set aside annually, in the aggregate, up to the greater of \$3.0 million or 25 percent of its annual required AHP contribution to provide funds to members participating in the Bank's homeownership set-aside programs, pursuant to the requirements of this part. Any homeownership set-aside funds that are not committed or used by the end of the year in which they were set aside shall be committed or used by the end of such year to fund project modifications or the next highest scoring AHP applications in the Bank's final funding period of the year for its competitive application program. In cases where the amount of homeownership set-aside funds applied for by members in a given year exceeds the amount available for that year, a Bank may allocate up to the greater of \$3.0 million or 25 percent of its annual required AHP contribution for the subsequent year to the current year's homeownership set-aside programs pursuant to written policies adopted by the Bank's board of directors. Beginning in 2002 and for subsequent years, the maximum dollar limits set forth in this paragraph shall be adjusted annually by the Finance Board to reflect any percentage increase in the preceding year's Consumer Price Index (CPI) for all urban consumers, as published by the Department of Labor. Each year, as soon as practicable after the publication of the previous year's CPI, the Finance Board shall publish notice by **Federal Register**, distribution of a memorandum, or otherwise, of the CPI-adjusted limits on the maximum set-aside dollar amount. A Bank may establish one or more homeownership set-aside programs pursuant to written policies adopted by the Bank's board of directors. A Bank's board of directors shall not delegate to Bank officers or other Bank employees the responsibility for adopting such policies.

* * * * *

§ 951.4 [Amended]

3. Amend § 951.4 by:
 a. In paragraph (a), adding "and/or community lending" after "housing";
 b. In paragraph (b), adding "and/or community lending" after "housing";
 c. In paragraph (f)(1), removing "community investment" wherever it appears and adding, in its place, "community lending"; and
 d. In paragraph (f)(3), removing "community development" and adding, in its place, "community lending".

§ 951.5 [Amended]

4. Amend § 951.5 by removing paragraph (a)(7)(iii).

§ 951.8 [Amended]

5. Amend § 951.8(c)(3) by:
 a. Removing the heading for paragraph (c)(3)(i);
 b. Removing paragraph designation (c)(3)(i); and
 c. Redesignating paragraph (c)(3)(ii) as paragraph (c)(4).
 6. Amend § 951.10 by:
 a. Revising paragraph (a)(1)(ii);
 b. In paragraph (a)(2)(ii), removing "the member and" and "the member or" wherever they appear; and
 c. In paragraph (b)(2), removing paragraph (b)(2)(ii), and removing paragraph designation (b)(2)(i).
 The revision reads as follows:

§ 951.10 Initial monitoring requirements.

(a) * * *
 (1) * * *
 (ii) Where AHP subsidies are used to finance the purchase of owner-occupied units, the project sponsor must maintain household income verification documentation available for review by the member or the Bank.

* * * * *

Dated: May 2, 2001.

By the Board of Directors of the Federal Housing Finance Board.

Allan I. Mendelowitz,
 Chairman.

[FR Doc. 01-11706 Filed 5-9-01; 8:45 am]

BILLING CODE 6725-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 301

[REG-101739-00]

RIN-1545-AX75

Clarification of Entity Classification Rules; Hearing Cancellation

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Cancellation of notice of public hearing on proposed rulemaking.

SUMMARY: This document provides notice of cancellation of a public hearing on proposed regulations relating to section 7701 that address the Federal tax classification of a business entity wholly owned by a foreign government and provide that a nonbank entity that is wholly owned by a foreign bank cannot be disregarded as an entity separate from its owner for purposes of applying the special rules of the Internal Revenue Code applicable to banks.

DATES: The public hearing originally scheduled for May 16, 2001, at 10 a.m., is cancelled.

FOR FURTHER INFORMATION CONTACT:

Sonya M. Cruse of the Regulations Unit at (202) 622-7180 (not a toll-free number).

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking and notice of public hearing that appeared in the **Federal Register** on Friday, January 12, 2001, (66 FR 2854), announced that a public hearing was scheduled for May 16, 2001, at 10 a.m., in room 6718. The subject of the public hearing is proposed regulations under section 7701 of the Internal Revenue Code. The public comment period for these regulations expired on April 25, 2001.

The notice of proposed rulemaking and notice of public hearing, instructed those interested in testifying at the public hearing to submit a request to speak and an outline of the topics to be addressed. As of Friday, May 4, 2001, no one has requested to speak. Therefore, the public hearing scheduled for May 16, 2001, is cancelled.

Cynthia E. Grigsby,

Chief, Regulations Unit, Office of Special Counsel (Modernization & Strategic Planning).

[FR Doc. 01-11842 Filed 5-9-01; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 904

[SPATS No. AR-038-FOR]

Arkansas Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; reopening and extension of public comment period on proposed amendment.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is announcing receipt of revisions to a previously proposed amendment to the Arkansas regulatory program (Arkansas program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The revisions concern submission and processing of requests for valid existing rights determinations; interpretative rule related to subsidence due to underground coal mining in areas designated by Act of Congress; road systems; public notices of filing of permit applications; and legislative public hearings. Arkansas intends to revise its program to be consistent with the corresponding Federal regulations.