

Aerospace Defense Command Region (CONR).” The FAA is taking this action in response to a request from the United States Air Force (USAF), supported by United States Customs and Border Protection (legacy United States Customs Service), to reflect an administrative change of responsibility for the restricted area. There are no changes to the boundaries; designated altitudes; time of designation; or activities conducted within the affected restricted area.

**DATES:** *Effective Date:* 0901 UTC, May 7, 2009.

**FOR FURTHER INFORMATION CONTACT:** Colby Abbott, Airspace and Rules Group, Office of System Operations Airspace and AIM, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-8783.

**SUPPLEMENTARY INFORMATION:**

**History**

On December 10, 2008, the USAF requested that the FAA change the using agency for R-6320 from, “United States Customs Service” to “Continental North American Aerospace Defense Command Region (CONR).” The USAF request was based on their interest in retaining the restricted area and expected funding in the future to purchase and house another aerostat system within that restricted airspace. United States Customs and Border Protection (legacy United States Customs Service) confirmed they have no interest in maintaining operational control over R-6320 and agreed to relinquish the using agency responsibility to CONR. Coordination with Houston Air Route Traffic Control Center was effected prior to this using agency change request being submitted by the USAF.

Section 73.63 of 14 CFR Part 73 was republished in FAA Order 7400.8R, dated February 5, 2009.

**The Rule**

This action amends Title 14 Code of Federal Regulations (14 CFR) part 73 by revising the using agency listed for R-6320, Matagorda, TX; transferring using agency responsibility for R-6320 from “United States Customs Service” to “Continental North American Aerospace Defense Command Region (CONR).” This is an administrative change and does not affect the boundaries, designated altitudes, or activities conducted within the restricted area; therefore, notice and public procedures under 5 U.S.C. 553(b) are unnecessary.

The FAA has determined that this action only involves an established

body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (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 this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

**Environmental Review**

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with 311d., FAA Order 1050.1E, Environmental Impacts: Policies and Procedures. 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 73**

Airspace, Prohibited areas, Restricted areas.

**Adoption of the Amendment**

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 73, as follows:

**PART 73—SPECIAL USE AIRSPACE**

■ 1. The authority citation for part 73 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.

**§ 73.63 [Amended]**

■ 2. § 73.63 is amended as follows:

\* \* \* \* \*

**R-6320 Matagorda, TX [Amended]**

By removing the words “Using agency, United States Customs Service” and inserting the words “Using agency, Continental North American Aerospace Defense Command Region (CONR).”

\* \* \* \* \*

Issued in Washington, DC, March 2, 2009.

**Edith V. Parish,**

*Manager, Airspace and Rules Group.*

[FR Doc. E9-4948 Filed 3-9-09; 8:45 am]

**BILLING CODE 4910-13-P**

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

**24 CFR Part 3500**

[Docket No. FR-5180-F-05]

RIN 2502-A161

**Real Estate Settlement Procedures Act (RESPA): Rule To Simplify and Improve the Process of Obtaining Mortgages and Reduce Consumer Settlement Costs; Further Deferred Applicability Date for the Revised Definition of “Required Use” and Solicitation of Public Comment on Withdrawal of Required Use Provision**

**AGENCY:** Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

**ACTION:** Final rule; request for comments.

**SUMMARY:** This final rule delays the effective date of the definition of “required use” as revised by HUD’s November 17, 2008, final rule amending its RESPA regulations, until July 16, 2009. The November 17, 2008, final rule revised HUD’s RESPA regulations to further the purposes of RESPA by requiring more timely and effective disclosures related to mortgage settlement costs for federally related mortgage loans to consumers. The final rule revised the existing definition of “required use,” which revision was directed to enhancing protections for consumers from certain practices conducted by affiliated business arrangements. The revised definition of “required use” would have become effective on January 16, 2009. However, on January 15, 2009, HUD published a final rule that delayed the effective date of the definition of “required use” from January 16, 2009, to April 16, 2009, due to litigation by the National Association of Home Builders, *et al.*, around the time of issuance of the final rule. For this same reason, HUD is further delaying the effective date of required use until July 16, 2009.

In this rule, HUD also solicits comment on withdrawing the revised definition of “required use” from the November 17, 2008, final rule. HUD will consider these comments before pursuing new rulemaking process on this definition. Since promulgating the rule on November 17, 2008, HUD has determined to reevaluate the scope and operation of the required use provision. New rulemaking would give HUD the opportunity to present for public consideration a new proposal based upon HUD’s reevaluation of the required use provision to help ensure better consumer protections.

**DATES:** The amendment to § 3500.1 is effective March 10, 2009. The effective date of the definition of “required use” in § 3500.2, as revised by HUD’s final rule published on November 17, 2008, at 73 FR 68204, and further delayed by final rule published on January 15, 2009, at 74 FR 2369, is further delayed to July 16, 2009.

*Comment Due Date:* April 9, 2009.

**ADDRESSES:** Interested persons are invited to submit comments regarding this rule to the Regulations Division, Office of General Counsel, 451 7th Street, SW., Room 10276, Department of Housing and Urban Development, Washington, DC 20410-0500.

Communications must refer to the above docket number and title. There are two methods for submitting public comments. All submissions must refer to the above docket number and title.

1. *Submission of Comments by Mail.* Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street, SW., Room 10276, Washington, DC 20410-0500.

2. *Electronic Submission of Comments.* Interested persons may submit comments electronically through the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov). HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the <http://www.regulations.gov> Web site can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

**Note:** To receive consideration as public comments, comments must be submitted through one of the two methods specified above. Again, all submissions must refer to the docket number and title of the rule.

*No Facsimile Comments.* Facsimile (FAX) comments are not acceptable.

**Public Inspection of Public Comments.** All properly submitted comments and communications submitted to HUD will be available for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Due to security measures at the HUD Headquarters building, an advance appointment to review the public comments must be scheduled by calling the Regulations Division at 202-708-3055 (this is not a toll-free number).

Individuals with speech or hearing impairments may access this number through TTY by calling the Federal Information Relay Service at 800-877-8339. Copies of all comments submitted are available for inspection and downloading at [www.regulations.gov](http://www.regulations.gov).

**FOR FURTHER INFORMATION CONTACT:** Ivy Jackson, Director, or Barton Shapiro, Deputy Director, Office of RESPA and Interstate Land Sales, Office of Housing, Department of Housing and Urban Development, 451 7th Street, SW., Room 9158, Washington, DC 20410-8000; telephone 202-708-0502 (this is not a toll-free telephone number). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at 800-877-8339.

**SUPPLEMENTARY INFORMATION:** On November 17, 2008 (73 FR 68204), HUD published a final rule amending its regulations to further the purposes of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601-2617) by requiring more timely and effective disclosures related to mortgage settlement costs for federally related mortgage loans to consumers. The final rule followed publication of a March 14, 2008, proposed rule (73 FR 14030) and made changes in response to public comment and in further consideration of certain issues by HUD. Additional information regarding the regulatory amendments, and the changes made by HUD at the final rule stage, is provided in the preamble to the November 17, 2008, final rule.

The November 17, 2008, final rule became effective on January 16, 2009, but provided a longer transition period for the majority of the new requirements. Other provisions, however, were scheduled to take effect on January 16, 2009. Among regulatory changes identified as being applicable upon the effective date of January 16, 2009, is the revised definition of the term “required use.” The revision of that definition became the subject of litigation, following issuance of the final rule. (*National Association of Home Builders, et al. v. Steve Preston, et al.*, Civ. Action No. 08-CV-1324, United States District Court for the Eastern District of Virginia, Alexandria Division.)

For reasons related to the proper litigation of this case, HUD issued a final rule on January 15, 2009 (74 FR 2369) that deferred the effective date of the revised definition of “required use” for an additional 90 days until April 16, 2009. The litigation continues and HUD finds again that for reasons including

the pending litigation, the applicability date of the definition of “required use” should be further delayed until July 16, 2009. The effective and implementation dates of the remaining provisions of the November 17, 2008, final rule are not affected by the action taken in this rule.

The further delay is consistent with the direction to federal agencies, provided in a January 21, 2009, memorandum from the Director of the Office of Management and Budget to consider extending the effective date for rules published under the prior Administration, which have not yet taken effect. Additionally, the memorandum notes that the Administrative Procedure Act provides for agencies to postpone the effective date of an agency action pending judicial review (see 5 U.S.C. 705). Accordingly, this further extension is consistent with law and the new Administration’s procedural directions.

With the further delay of the effective date, HUD seeks to use this time to solicit public comment on withdrawing the “required use” definition, as promulgated in the November 17, 2008, final rule and commencing new rulemaking on this definition, which would similarly strive to ensure consumers are protected from certain practices conducted by affiliated business arrangements. Since issuance of the final rule, HUD has determined to reevaluate the scope and operation of the required use provision. This issue is one of importance in the RESPA context, and HUD, regulated industries, consumers and the public generally would be better served by new rulemaking. New rulemaking would offer HUD with the opportunity to present a new proposal based upon HUD’s reevaluation of the required use provision. New rulemaking would provide consumers, industry, and other interested members of the public with the opportunity to comment on a definition of “required use,” developed as part of HUD’s evaluation process, and for HUD to make informed decisions based on this new commentary. HUD therefore specifically seeks public comment on withdrawing the required use provision from the November 17, 2008, final rule and commencing new rulemaking on this subject.

In general, HUD publishes a rule for public comment before issuing a rule for effect, in accordance with its own regulations on rulemaking at 24 CFR part 10. Part 10, however, does provide in § 10.1 for exceptions from that general rule where HUD finds good cause to omit advance notice and public participation. The Department finds that good cause exists to publish this final

rule for effect without first soliciting public comment as requiring public comment before extending the effective date would be contrary to the interest of justice and the public interest.

#### List of Subjects in 24 CFR Part 3500

Consumer protection, Condominiums, Housing, Mortgagees, Mortgage servicing, Reporting and recordkeeping requirements.

■ Accordingly, 24 CFR part 3500 is corrected by making the following amendments:

#### PART 3500—REAL ESTATE SETTLEMENT PROCEDURES ACT

■ 1. The authority citation for part 3500 continues to read as follows:

**Authority:** 12 U.S.C. 2601 *et seq.*; 42 U.S.C. 3535(d).

■ 2. Section 3500.1(b)(1) is revised to read as follows:

##### § 3500.1 Designation and applicability.

\* \* \* \* \*

(b) \* \* \*

(1) The definition of *Required use* in § 3500.2 is applicable commencing on July 16, 2009; §§ 3500.8(b), 3500.17, 3500.21, 3500.22 and 3500.23, and Appendices E and MS-1 are applicable commencing January 16, 2009.

\* \* \* \* \*

Dated: March 6, 2009.

**Brian D. Montgomery,**

*Assistant Secretary for Housing—Federal Housing Commissioner.*

[FR Doc. E9-5221 Filed 3-9-09; 8:45 am]

BILLING CODE 4210-67-P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[TD 9444]

RIN 1545-B142

#### Application of Section 367 to a Section 351 Exchange Resulting From a Transaction Described in Section 304(a)(1); Treatment of Gain Recognized Under Section 301(c)(3) for Purposes of Section 1248; Correction

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Correction to final and temporary regulations.

**SUMMARY:** This document contains a correction to final and temporary regulations (TD 9444) that were published in the **Federal Register** on

Wednesday, February 11, 2009, under sections 367(a), 367(b) and 1248(a) of the Internal Revenue Code. The final regulations under section 367 revise existing final regulations and add cross-references. The final regulations under section 1248 update an effective/applicability date. The temporary regulations under section 367(a) and (b) revise existing final regulations concerning transfers of stock to a foreign corporation that are described in section 351 by reason of section 304(a)(1). The temporary regulations under section 1248(a) provide that, for purposes of section 1248(a), gain recognized by a shareholder under section 301(c)(3) in connection with the receipt of a distribution of property from a foreign corporation with respect to its stock shall be treated as gain from the sale or exchange of the stock of such foreign corporation. The temporary regulations affect certain persons that transfer stock to a foreign corporation in a transaction described in section 304(a)(1), or certain persons that recognize gain under section 301(c)(3) in connection with the receipt of a distribution of property from a foreign corporation with respect to its stock.

**DATES:** This correction is effective March 10, 2009, and is applicable on February 11, 2009.

**FOR FURTHER INFORMATION CONTACT:** Sean W. Mullaney, (202) 622-3860 (not a toll-free number).

#### SUPPLEMENTARY INFORMATION:

##### Background

The final and temporary regulations that are the subject of this document are under sections 367 and 1248 of the Internal Revenue Code.

##### Need for Correction

As published Wednesday, February 11, 2009 (74 FR 6824), final and temporary regulations (TD 9444) contains an error that may prove to be misleading and is in need of clarification.

##### Correction of Publication

Accordingly, the publication of the final and temporary regulations (TD 9444), which was the subject of FR Doc. E9-2835, is corrected as follows:

On page 6825, column 2, in the preamble, under the paragraph heading “*A. Modified Application of Section 367(a) to Deemed Section 351 Exchanges*”, first paragraph of the column, fourth line from the bottom of the paragraph, the language “recognized \$100x gain under section” is corrected

to read “recognize \$100x gain under section”.

**Guy Traynor,**

*Acting Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, (Procedure and Administration).*

[FR Doc. E9-4997 Filed 3-9-09; 8:45 am]

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[TD 9444]

RIN 1545-B142

#### Application of Section 367 to a Section 351 Exchange Resulting From a Transaction Described in Section 304(a)(1); Treatment of Gain Recognized Under Section 301(c)(3) for Purposes of Section 1248; Correction

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Correcting amendment.

**SUMMARY:** This document contains a correction to final and temporary regulations (TD 9444) that were published in the **Federal Register** on Wednesday, February 11, 2009, under sections 367(a), 367(b) and 1248(a) of the Internal Revenue Code. The final regulations under section 367 revise existing final regulations and add cross-references.

The final regulations under section 1248 update an effective/applicability date. The temporary regulations under section 367(a) and (b) revise existing final regulations concerning transfers of stock to a foreign corporation that are described in section 351 by reason of section 304(a)(1). The temporary regulations under section 1248(a) provide that, for purposes of section 1248(a), gain recognized by a shareholder under section 301(c)(3) in connection with the receipt of a distribution of property from a foreign corporation with respect to its stock shall be treated as gain from the sale or exchange of the stock of such foreign corporation. The temporary regulations affect certain persons that transfer stock to a foreign corporation in a transaction described in section 304(a)(1), or certain persons that recognize gain under section 301(c)(3) in connection with the receipt of a distribution of property from a foreign corporation with respect to its stock.