

Proposed Rules

Federal Register

Vol. 66, No. 135

Friday, July 13, 2001

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 Parts 950 and 952

[No. 2001-15]

RIN 3069-AA99

Amendment of Community Investment Cash Advance Programs Regulation

AGENCY: Federal Housing Finance Board.

ACTION: Proposed rule.

SUMMARY: The Federal Housing Finance Board (Finance Board) is proposing to amend its regulation on Community Investment Cash Advance (CICA) Programs (CICA Regulation) to make certain technical revisions clarifying CICA Program requirements and improving the operation of CICA Programs. The proposed rule would clarify that the Federal Home Loan Banks (Banks) may offer grants, in addition to advances, under certain CICA Programs, and add a definition of "median income for the neighborhood" in connection with the funding of manufactured housing park projects and economic development projects located in a neighborhood.

DATES: Comments on this proposed rule must be received in writing on or before August 13, 2001.

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

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

SUPPLEMENTARY INFORMATION:

I. Statutory and Regulatory Background

Section 10(j)(10) of the Federal Home Loan Bank Act (Bank Act) authorizes the Banks to establish CICA Programs to support community investment. *See* 12 U.S.C. 1430(j)(10). In order to facilitate and encourage targeted community lending under section 10(j)(10), in 1998, the Finance Board adopted a final regulation providing the Banks with parameters for the establishment of CICA Programs. *See* 63 FR 65536 (Nov. 27, 1998); 12 CFR part 952 (formerly 12 CFR part 970).

In the course of implementing CICA Programs under the new CICA Regulation, the Banks and Finance Board staff have identified several technical issues, the resolution of which would clarify CICA Program requirements and improve the effectiveness of CICA Programs. These issues are discussed in the Analysis of the Proposed Rule section below.

II. Analysis of the Proposed Rule

A. Providing Grants Under Certain CICA Programs—§§ 950.1, 952.2, 952.3, 952.5, 952.7

A number of Banks have asked whether the CICA Regulation does or could authorize the Banks to provide grants, in addition to advances, to members under certain CICA Programs. The current CICA Regulation defines an "RDA program or Rural Development Advance program" and a "UDA program or Urban Development Advance program" as a program offered by a Bank for community lending in rural or urban areas, respectively. *See* 12 CFR 952.3. Even though these programs are styled as "advance" programs in the CICA Regulation, the definitions do not specify the types of financing, such as advances or grants, that a Bank may offer under such programs nor do they limit financing to advances. Accordingly, the Finance Board has interpreted these definition provisions to mean programs under which a Bank offers advances or grants to members. *See* Finance Board Regulatory Interpretation 2000-RI-2 (April 10, 2000).

The proposed rule would amend the definitional provisions and terminology in § 950.1 of the Finance Board's Advances Regulation and §§ 952.2, 952.3, 952.5 and 952.7 of the CICA Regulation to incorporate the Finance Board's interpretation, thereby

specifying and clarifying the grant authority in the rule.¹ Specifically, references to the authority to provide grants under RDA and UDA Programs would be added, and the word "funding," which incorporates the concept of grants, would be substituted for the word "advance," where applicable. Thus, the "RDA program or Rural Development Advance program" would be renamed the "RDF program or Rural Development Funding program," and the "UDA program or Urban Development Advance program" would be renamed the "UDF program or Urban Development Funding program." The definitions of "RDA or Rural Development Advance" and "UDA or Urban Development Advance" would be deleted as redundant. Certain other technical amendments would be made to provide greater clarity to the language.

Under the current CICA Regulation, members receiving grants from a Bank must use the proceeds of such grants to "provide financing" to targeted beneficiaries, which is defined to include certain types of financing, including making loans to targeted beneficiaries. *See* 12 CFR 952.3. If a Bank chooses to provide grants under its RDF or UDF Programs, the Bank may establish requirements with which members must comply in order to obtain and use the grants.

B. Definition of "Median Income for the Neighborhood"—§ 952.3

Under the current CICA Regulation, economic development projects and manufactured housing parks are eligible for CICA funding if they are located in areas or neighborhoods with a median income at or below the targeted income level of the specific CICA Program (e.g., 80% for CIP, 100% for UDA Programs, 115% for RDA Programs). *See* 12 CFR 952.3. Section 952.3 defines "median income for the area" generally as one or more of the following, as determined by the Bank: (1) The median income for the area, as published annually by the Department of Housing and Urban Development (HUD); (2) the applicable median family income, as determined under 26 U.S.C. 143(f) and published by a state mortgage revenue bond program;

¹ This interpretation and the proposed amendments, however, would not apply to the Banks' Community Investment Programs (CIP), which remain exclusively advance programs.

(3) the median income for the area, as published by the U.S. Department of Agriculture; or (4) the median income for any definable geographic area, as published by a Federal, state or local government entity for purposes of that entity's housing and economic development programs, and approved by the Finance Board, at the request of a Bank. See 12 CFR 952.3. These are the same median income data sources as those adopted by the Finance Board in the revised Affordable Housing Program (AHP) Regulation in 1997. See 12 CFR 951.1 (formerly 12 CFR 960.1).

However, the AHP Regulation does not incorporate the concept of "neighborhood" in its median income standards. A "neighborhood" is defined in the CICA Regulation as a small geographic area, *i.e.*, a census tract, block numbering area, unit of local government with a population of 25,000 or less, rural county, or other geographic location designated in comprehensive plans, ordinances, or other local documents as a neighborhood, village, or similar geographic designation that is within, but smaller than, a unit of general local government. 12 CFR 952.3.

The Finance Board has determined that the median income data provided by the above sources for determining the median income for an area are not sufficient for the Banks to determine the median income for a neighborhood, as defined in the CICA Regulation. The sources provide current median income data on an annual basis for areas, such as counties, Metropolitan Statistical Areas and states, but not for smaller geographical areas defined as "neighborhoods" in the CICA Regulation. HUD does publish annually the 1990 Census information for median income for census tracts, but this data is not updated from the 1990 figures. The Finance Board believes that up-to-date income data will enhance the Banks' capacity to implement effectively the "neighborhood" provisions of the CICA Regulation, an important tool in meeting local economic development needs. Consequently, the proposed rule would add a definition of "median income for the neighborhood" to the CICA Regulation that would enable the Banks to obtain median income data for neighborhoods from: (1) The Federal Financial Institutions Examination Council (FFIEC); or (2) other public or private sources with the approval of the Finance Board. The proposed rule specifies FFIEC because it is a Federal government source that publishes such median income data. The proposed rule does not specify any of the possible private sources, but allows the Banks to

obtain Finance Board approval for the use of a source other than FFIEC if one can be identified.

The proposed rule would allow the use of these additional sources of data only for economic development projects and manufactured housing parks located in neighborhoods, as defined in the CICA Regulation, and only when current median income data for the applicable neighborhood is unavailable from the sources prescribed in the definition of "median income for the area" in the CICA Regulation.

C. Technical Clarification of Definition of "Housing Projects"—§ 952.3

Section 952.3 of the current CICA Regulation defines "Housing projects" as projects or activities that involve the purchase, construction or rehabilitation of, or predevelopment financing for, certain types of housing. See 12 CFR 952.3. Section 952.5(c) of the current CICA Regulation states that CICA funding other than AHP funding also may be used to refinance economic development projects and housing projects under certain conditions. See 12 CFR 952.5(c). The proposed rule would add refinancing (subject to the conditions in § 952.5(c)) to the definition of "Housing projects" in § 952.3 to clarify, consistent with § 952.5(c), that housing projects involving refinancing also are eligible projects for CICA funding.

D. Technical Clarification of Definition of "Geographically Defined Beneficiaries"—§ 952.3 (par. (1)(ix))

A "Geographically defined beneficiary" is defined in the current CICA Regulation to include a "project [that] is located in a state declared disaster area, or qualifies for assistance under another Federal or state targeted economic development program, approved by the Finance Board." 12 CFR 952.3 (definition of "Targeted beneficiaries" (par. (1)(ix))). The proposed rule would insert the words "other area that" before the word "qualifies" in this sentence to clarify that, to be a geographically defined beneficiary, it is not the project itself, but rather the area in which the project is located, that must qualify for such targeted economic development assistance.

III. Regulatory Flexibility Act

The proposed rule applies 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). Therefore, in accordance with section 605(b) of the RFA, *see id.* section 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

12 CFR Part 950

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

12 CFR Part 952

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

Accordingly, chapter IX, title 12, Code of Federal Regulations, is hereby proposed to be amended, as set forth below:

Subchapter G—Federal Home Loan Bank Assets and Off-Balance Sheet Items

PART 950—ADVANCES

1. The authority citation for part 950 continues to read as follows:

Authority: 12 U.S.C. 1422a(a)(3), 1422b(a)(1), 1426, 1429, 1430, 1430b, and 1431.

§ 950.1 [Amended]

2. Amend § 950.1 in the definition of *Community Investment Cash Advance* or *CICA* by:

a. Removing the words "advances for targeted community lending" and adding, in their place, the words "funding for targeted community lending"; and

b. Removing the words "Rural Development Advance (RDA)" and "Urban Development Advance (UDA)" and adding, in their place, the words "Rural Development Funding (RDF)" and "Urban Development Funding (UDF)", respectively.

PART 952—COMMUNITY INVESTMENT CASH ADVANCE PROGRAMS

3. The authority citation for part 952 continues to read as follows:

Authority: 12 U.S.C. 1422b(a)(1) and 1430.

§ 952.2 [Amended]

4. Amend § 952.2 by:

a. Removing the words "Rural Development Advance (RDA)" and "Urban Development Advance (UDA)" and adding, in their place, the words "Rural Development Funding (RDF)" and "Urban Development Funding (UDF)", respectively; and

b. Adding a sentence at the end of the section to read as follows:

§ 952.2 Purpose.

* * * A Bank may provide advances or grants under its CICA programs except for CIP programs, under which a Bank may only provide advances.

§ 952.3 [Amended]

5. Amend § 952.3 by:

a. In the definition of *CICA program* or *Community Investment Cash Advance program*, in paragraph (3), removing the term “REA” and adding, in its place, the word “A”, and removing the terms “RDA” and “UDA” and adding, in their place, the terms “RDF” and “UDF”, respectively, and in paragraph (4), adding the words “advance or grant” before the word “program”;

b. In the definition of *CIP*, removing the words “a CICA program” and adding, in their place, the words “an advance program under CICA”;

c. In the introductory text of the definition of *Housing projects*, removing the words “purchase, construction or rehabilitation” and adding, in their place, the words “purchase, construction, rehabilitation or refinancing (subject to § 952.5(c) of this part)”;

d. Adding, in alphabetical order, a definition of “Median income for the neighborhood”;

e. In the definition of *Provide financing*, removing the words “an advance” in paragraphs (4) and (5) and the word “advance” in paragraph (6), and adding, in their place, the word “funding”;

f. Removing the definition of *RDA* or *Rural Development Advance*;

g. In the definition of *RDA program* or *Rural Development Advance program*, removing the terms “RDA” and “Advance” and adding, in their place, the terms “RDF” and “Funding”, respectively, and removing the words “a program” and adding, in their place, the words “an advance or grant program”;

h. In paragraph (1)(ix) of the definition of *Targeted beneficiaries*, adding the words “or other area that” before the word “qualifies”;

i. In the definition of *Targeted income level*, amending the introductory text of paragraph (3) by removing the term “CICA”; and amending paragraph (4) by removing the words “CICA advances” and adding, in their place, the words “advances or grants”;

j. Removing the definition of *UDA* or *Urban Development Advance*; and

k. In the definition of *UDA program* or *Urban Development Advance program*, removing the terms “UDA” and “Advance” and adding, in their place, the terms “UDF” and “Funding”, respectively, and removing the words “a

program” and adding, in their place, the words “an advance or grant program”, to read as follows:

§ 952.3 Definitions.

* * * * *

Median income for the neighborhood.

In the case of manufactured housing park projects and economic development projects located in a neighborhood, for which current median income data listed in the definition of “median income for the area” in this section is unavailable, median income for the neighborhood means the median income for the neighborhood published by the Federal Financial Institutions Examination Council, or the median income for the neighborhood obtained from another public entity or a private source and approved by the Board of Directors, at the request of a Bank, for use under the Bank’s CICA programs.

* * * * *

§ 952.5 [Amended]

6. Amend § 952.5 by:

a. In paragraph (a)(3), removing the terms “RDA” and “UDA” and adding, in their place, the terms “RDF” and “UDF”, respectively;

b. In paragraph (c), removing the word “advances” and adding, in its place, the word “funding”;

c. In the heading of paragraph (d), and in paragraphs (d)(2) and (d)(3), removing the term “CICA” wherever it appears; and

d. In paragraphs (d)(5) and (d)(6)(i), removing the words “CICA advances” wherever they appear and adding, in their place, the words “advances made under CICA programs”.

§ 952.7 [Amended]

7. Amend § 952.7 by:

a. In paragraph (a), removing the words “by a CICA advance” and adding, in their place, the words “under a CICA program”; and

b. In paragraph (c), removing the word “lending” and adding, in its place, the word “funding”.

Dated: June 29, 2001.

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

J. Timothy O'Neill,
Chairman.

[FR Doc. 01-17417 Filed 7-12-01; 8:45 am]

BILLING CODE 6725-01-P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[MD059/71/98/114-3068; FRL-7011-9]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Rate of Progress Plans, Contingency Measures and Corrections to the Base Year Inventories for the Maryland Portion of the Philadelphia-Wilmington-Trenton Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and withdrawal of previous proposed rule.

SUMMARY: EPA is proposing to approve State Implementation Plan (SIP) revisions submitted by the State of Maryland. These revisions establish the three percent per year emission reduction rate-of-progress (ROP) requirement for the period from 1996 through 2005 for the Maryland portion of the Philadelphia-Wilmington-Trenton ozone nonattainment area (the Philadelphia area), namely Cecil County. In conjunction with the ROP plans for Cecil County, EPA is also approving the plans’ contingency measures and corrections to the 1990 base year inventories of ozone precursor emissions. EPA is approving these revisions in accordance with the requirements of the Clean Air Act. In conjunction with this proposed action to approve the ROP plans for Cecil County, EPA is also withdrawing a previous Notice of Proposed Rulemaking to approve the 1999 ROP plan for Cecil County published in the **Federal Register** on February 3, 2000.

DATES: Written comments must be received on or before August 13, 2001.

ADDRESSES: Written comments may be mailed to David L. Arnold, Chief, Air Quality Planning and Information Services Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103 and the Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland, 21224.

FOR FURTHER INFORMATION CONTACT: Kristeen Gaffney, (215) 814-2092. Or by e-mail at gaffney.kristeen@epa.gov.