

purpose of paying the credit subsidy cost of the loan guarantee. Each public entity or its designated public agency and each State issuing debt obligations under this subpart is responsible for the payment of any and all fees charged pursuant to this section. The fees are payable from the grant allocated to the issuer pursuant to the Act (including program income derived therefrom) or from other sources, but are only payable from guaranteed loan funds if the fee is deducted from the disbursement of guaranteed loan funds.

(b) *Amount and determination of fee.*

(1) HUD shall calculate the amount of the fee as a percentage of the principal amount of the guaranteed loan as provided by this section, based on a determination that the fees when collected will reduce the credit subsidy cost to the amount established by applicable appropriation acts. The amount of the fee payable by the public entity or State shall be based on the date of the loan guarantee commitment and shall be determined by applying the percentages announced by **Federal Register** notice to guaranteed loan disbursements as they occur or periodically to outstanding principal balances, or both.

(2) HUD shall publish in the **Federal Register** the fees required under paragraph (a) of this section, announcing the fee to be applied, the effective date of the fee, and any other necessary information regarding payment of the fee and, if necessary, provide a 30-day public comment period for the purpose of inviting comment on the proposed fee before adopting changes to the assumptions underlying the fee calculation or if the fee structure itself raises new considerations for Borrowers. HUD will publish a second **Federal Register** notice, if necessary, after consideration of public comments.

Dated: October 26, 2015.

**Harriet Tregoning,**

*Principal Deputy Assistant, Secretary for Community Planning and Development.*

Approved: October 19, 2015.

**Nani A. Coloretti,**

*Deputy Secretary.*

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**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

**24 CFR Part 570**

[Docket No. FR-5767-N-04]

RIN 2506-AC35

**Section 108 Loan Guarantee Program: Announcement of Fee To Cover Credit Subsidy Costs**

**AGENCY:** Office of the Assistant Secretary for Community Planning and Development, HUD.

**ACTION:** Announcement of fee.

**SUMMARY:** This document announces the fee that HUD will collect from borrowers of loans guaranteed under the HUD's Section 108 Loan Guarantee Program (Section 108 Program) to offset the credit subsidy costs of the guaranteed loans pursuant to commitments awarded in FY 2016, as authorized by the Continuing Appropriations Act, 2016. Elsewhere in today's **Federal Register**, HUD is publishing a final rule that amends its regulations to permit HUD to collect fees for Section 108 guaranteed loans.

**DATES:** *Effective Date:* December 3, 2015.

**FOR FURTHER INFORMATION CONTACT:** Paul Webster, Director, Financial Management Division, Office of Block Grant Assistance, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th Street SW., Room 7180, Washington, DC 20410; telephone number 202-708-1871 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number through TTY by calling the toll-free Federal Relay Service at 800-877-8339. FAX inquiries (but not comments) may be sent to Mr. Webster at 202-708-1798 (this is not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

Elsewhere in today's **Federal Register**, HUD is publishing a final rule that amends the Section 108 Program regulations to establish additional procedures when HUD is required or authorized to collect fees from Section 108 borrowers to offset the costs of the Section 108 loan guarantee commitments. Following consideration of the public comments submitted in response to HUD's February 5, 2015 (80 FR 6469) notice that proposed the fee required to offset the credit subsidy costs to the Federal government to guarantee Section 108 loans, HUD has determined to set the fee for Section 108 loan disbursements under loan guarantee commitments awarded in FY

2016 at 2.58 percent of the principal amount of the loan. As discussed below, and as HUD discusses in its final rule published elsewhere in today's **Federal Register**, HUD determined to not to impose a fee with respect to FY 2015 loan guarantee commitments. The public is directed to HUD's final rule for a detailed discussion by HUD of the significant issues raised by the public comments submitted in response to HUD's February 5, 2015, notice and HUD's response to those comments.

**II. FY 2016 Fee: 2.58 Percent of the Principal Amount of the Loan**

This document sets the fee for Section 108 loan disbursements under loan guarantee commitments awarded in FY 2016 at 2.58 percent of the principal amount of the loan. HUD will collect this fee from borrowers of loans guaranteed under the Section 108 Program to offset the credit subsidy costs of the guaranteed loans pursuant to commitments awarded in FY 2016, as authorized by the Continuing Appropriations Act, 2016 (Pub. L. 114-53, approved September 30, 2015). The calculation of the FY 2016 fee, which was specified in the FY 2016 President's Budget,<sup>1</sup> uses the same fee calculation model as the FY 2015 proposed fee included in HUD's February 5, 2015, notice, but incorporates updated information regarding the composition of the Section 108 portfolio and the timing of the estimated future cash flows for defaults and recoveries. The calculation of the fee is also affected by the discount rates required to be used by HUD when calculating the present value of the future cash flows as part of the Federal budget process.

As described in HUD's February 5, 2015, notice, HUD's credit subsidy calculation is based on the amount required to fully offset the credit subsidy cost to the Federal government associated with making a Section 108 loan guarantee. As a result, HUD's credit subsidy cost calculations incorporated assumptions based on: (i) Data on default frequency for municipal debt where such debt is comparable to loans in the Section 108 loan portfolio; (ii) data on recovery rates on collateral security for comparable municipal debt; (iii) the expected composition of the Section 108 portfolio by end users of the guaranteed loan funds (e.g., third party borrowers and public entities); and (iv)

<sup>1</sup> The FY 2016 President's Budget for HUD is available at: <https://www.whitehouse.gov/sites/default/files/omb/budget/fy2016/assets/hud.pdf>. The fee is specified in table 6 of the Federal Credit Supplement to the 2016 budget and is available at: [https://www.whitehouse.gov/sites/default/files/omb/budget/fy2016/assets/cr\\_supp.pdf](https://www.whitehouse.gov/sites/default/files/omb/budget/fy2016/assets/cr_supp.pdf).

other factors that HUD determines may be relevant to this calculation.

Taking these factors into consideration, HUD determined that the fee for disbursements made under loan guarantee commitments awarded in FY 2016 is 2.58 percent, which will be applied only at the time of loan disbursements. Note that future notices may provide for a combination of up-front and periodic fees for loan guarantee commitments awarded in future fiscal years but will be subject to the public comment provisions of § 570.712(b)(2) of the final rule.

As HUD discusses in response to public comment on the amount of the fee, the expected cost of a Section 108 loan guarantee is difficult to estimate using historical program data because there have been no defaults in the history of the program that required HUD to invoke its full faith and credit guarantee or use the credit subsidy reserved each year for future losses.<sup>2</sup> This is due to a variety of factors, including the availability of Community Development Block Grant (CDBG) funds as security. As authorized by Section 108 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5308), borrowers may make payments on Section 108 loans using CDBG grant funds. Borrowers may also make Section 108 loan payments from other anticipated sources but continue to have CDBG funds available should they encounter shortfalls in the anticipated repayment source.

The fee of 2.58 percent of the principal amount of the loan will offset the expected cost to the government due to default, financing costs, and other relevant factors. To arrive at this measure, HUD analyzed data on comparable municipal debt over an extended 16 to 23 year period. The estimated rate is based on the default and recovery rates for general purpose municipal debt and industrial development bonds. The cumulative default rates on industrial development bonds (14.62 percent) were higher than the default rates on general purpose municipal debt (0.25 percent) during the period from which the data were taken. (The recovery rates for industrial development bonds and general purpose debt were 74.76 and 90.27 percent, respectively.) These two subsectors of municipal debt were chosen because their purposes and loan terms most closely resemble those of Section 108 guaranteed loans. In this regard, Section

108 guaranteed loans can be broken down into two categories: (1) Loans that finance public infrastructure and activities to support subsidized housing (other than financing new construction) and (2) other development projects (e.g., retail, commercial, industrial). The 2.58 percent fee was derived by weighting the default and recovery data for general purpose municipal debt and the data for industrial development bonds according to the expected composition of the Section 108 portfolio by corresponding project type. Based on dollar amount of Section 108 loan guarantee commitments awarded during the period from FY 2010 through FY 2014, HUD expects that 25 percent of the Section 108 portfolio will be similar to general purpose municipal debt and 75 percent of the portfolio will be similar to industrial development bonds. In setting the fee at 2.58 percent of the principal amount of the guaranteed loan, HUD believes that the amount generated will fully offset the cost to the Federal government associated with making guarantee commitments awarded in FY 2016.

Dated: October 26, 2015.

**Harriet Tregoning,**

*Principal Deputy Assistant, Secretary for Community Planning and Development.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 100

[Docket Number USCG-2015-0949]

RIN 1625-AA08

#### Special Local Regulation; Mavericks Surf Competition, Half Moon Bay, CA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary special local regulation in the navigable waters of Half Moon Bay, CA, near Pillar Point in support of the Mavericks Surf Competition, an annual invitational surf competition held at the Mavericks Break. This special local regulation will temporarily restrict vessel traffic in the vicinity of Pillar Point and prohibit vessels and persons not participating in the surfing event from entering the surf competition area. This regulation is necessary to provide for the safety of life on the navigable waters immediately prior to, during, and immediately after

the surfing competition, which is held only one day during the period of November 1, 2015, through March 31, 2016.

**DATES:** *Effective date:* This rule is effective November 3, 2015 through March 31, 2016.

*Enforcement date:* This rule will be enforced on the competition day, which, if defined wave and wind conditions are met, will occur one day during the period from November 1, 2015, through March 31, 2016. This rule will be enforced from 6 a.m. until 6 p.m. on the actual competition day.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2015-0949 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this rulemaking, call or email Lieutenant Junior Grade Christina Ramirez, U.S. Coast Guard Sector San Francisco; telephone (415) 399-3585, email at [D11-PF-MarineEvents@uscg.mil](mailto:D11-PF-MarineEvents@uscg.mil).

#### SUPPLEMENTARY INFORMATION:

##### I. Table of Abbreviations

CFR Code of Federal Regulations  
DHS Department of Homeland Security  
E.O. Executive order  
FR Federal Register  
Pub. L. Public Law  
§ Section  
U.S.C. United States Code  
OCMI Officer in Charge of Marine Inspections  
NPRM Notice of Proposed Rulemaking

##### II. Background Information and Regulatory History

The Mavericks Surf Competition is a one day "Big Wave" surfing competition between the top 24 big wave surfers. The competition only occurs when 15-20 foot waves are sustained for over 24 hours and are combined with mild easterly winds of no more than 5-10 knots. The rock and reef ridges that make up the sea floor of the Pillar Point area, combined with optimal weather conditions, create the large waves that Mavericks is known for. Due to the hazardous waters surrounding Pillar Point at the time of the surfing competition, the Coast Guard is establishing a special local regulation in the vicinity of Pillar Point that restricts navigation in the area of the surf competition and in neighboring hazardous areas.

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to

<sup>2</sup> U.S. Department of Housing and Urban Development, Study of HUD's Section 108 Loan Guarantee Program, (prepared by Econometrica, Inc. and The Urban Institute), September 2012.