IV. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111–274) requires Federal agencies to write documents in a clear, concise, well-organized manner that also follows other best practices appropriate to the subject or field and the intended audience. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, ''Plain Language in Government Writing,'' published June 10, 1998 (63 FR 31883). The NRC requests comment on the proposed rule with respect to clarity and effectiveness of the language used.

V. Availability of Documents

The documents identified in the following table are available to interested persons as indicated.

Document	ADAMS Accession No.
Letter and License Application	ML15092A130
Supplement Letter	ML15114A423
Package with the Transmittal and Request for Supplemental Information Responses Supporting HI–STORM FW CoC No. 1032, Amendment No. 2.	ML15170A433
Supplement to HI–STORM FW CoC No. 1032, Amendment 2	ML15233A038
Proposed CoC No. 1032, Amendment No. 2	ML16054A625
Proposed CoC No. 1032, Amendment No. 2 —Appendix A	ML16054A628
Proposed CoC No. 1032, Amendment No. 2—Technical Specifications, Appendix B	ML16054A627
CoC No. 1032, Amendment No. 2—Preliminary Safety Evaluation Report	ML16054A624

The NRC may post materials related to this document, including public comments, on the Federal rulemaking Web site at *http://www.regulations.gov* under Docket ID NRC–2016–0103. The Federal rulemaking Web site allows you to receive alerts when changes or additions occur in a docket folder. To subscribe: (1) Navigate to the docket folder (NRC–2016–0103); (2) click the ''Sign up for Email Alerts'' link; and 3) enter your email address and select how frequently you would like to receive emails (daily, weekly, or monthly).

List of Subjects in 10 CFR Part 72

Administrative practice and procedure, Criminal penalties, Hazardous waste, Indians, Intergovernmental relations, Manpower training programs, Nuclear energy, Nuclear materials, Occupational safety and health, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; the Nuclear Waste Policy Act of 1982, as amended; and 5 U.S.C. 552 and 553; the NRC is adopting the following amendments to 10 CFR part 72.

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL, HIGH-LEVEL RADIOACTIVE WASTE, AND REACTOR-RELATED GREATER THAN CLASS C WASTE

■ 1. The authority citation for part 72 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 223, 234, 274 (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2210e, 2232, 2233, 2234, 2236, 2237, 2238, 2273, 2282, 2021); Energy Reorganization Act of 1974, secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); National Environmental Policy Act of 1969 (42 U.S.C. 4332); Nuclear Waste Policy Act of 1982, secs. 117(a), 132, 133, 134, 135, 137, 141, 145(g), 148, 218(a) (42 U.S.C. 10137(a), 10152, 10153, 10154, 10155, 10157, 10161, 10165(g), 10168, 10198(a)); 44 U.S.C. 3504 note.

■ 2. In § 72.214, Certificate of Compliance 1032 is revised to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1032.

Initial Certificate Effective Date: June 13, 2011, superseded by Amendment Number 0, Revision 1, on April 25, 2016.

Amendment Number 0, Revision 1, Effective Date: April 25, 2016.

Amendment Number 1 Effective Date: December 17, 2014, superseded by Amendment Number 1, Revision 1, on June 2, 2015.

Amendment Number 1, Revision 1, Effective Date: June 2, 2015.

Amendment Number 2, Effective Date: November 7, 2016.

SAR Submitted by: Holtec International, Inc.

SAR Title: Final Safety Analysis Report for the Holtec International HI–STORM FW System.

Docket Number: 72–1032.

Certificate Expiration Date: June 12, 2031.

Model Number: HI–STORM FW MPC–37, MPC–89.

* * * * *

Dated at Rockville, Maryland, this 9th day of August, 2016.

For the Nuclear Regulatory Commission.

Victor M. McCree,

Executive Director for Operations.

[FR Doc. 2016–20091 Filed 8–22–16; 8:45 am]

BILLING CODE 7590–01–P

FEDERAL HOUSING FINANCE AGENCY

12 CFR Part 1272

RIN 2590–AA84

Federal Home Loan Bank New Business Activities

AGENCY: Federal Housing Finance Agency.

ACTION: Notice of proposed rulemaking; request for comment.

SUMMARY: The proposed rule would modify a part of the Federal Housing Finance Agency (FHFA) regulations, which addresses requirements for the Federal Home Loan Banks' (Banks) new business activities (NBAs). The proposed rule would reduce the scope of NBAs for which the Banks must seek approval from FHFA and would establish new timelines for agency review and approval of NBA notices. The proposed rule also would reorganize a part of our regulations to clarify the protocol for FHFA review of NBAs.

DATES: FHFA must receive written comments on or before October 24, 2016.

ADDRESSES: You may submit your comments on the proposed rule, identified by regulatory information number (RIN) 2590–AA84 by any of the following methods:

• *Agency Web site: www.fhfa.gov/open-for-comment-or-input.*

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. If you submit your comments to the *Federal eRulemaking Portal,* please also send it by email to FHFA at *RegComments@FHFA.gov* to ensure timely receipt by the agency. Please include ''RIN 2590–AA84'' in the subject line of the message.

• *Hand Delivery/Courier:* The hand delivery address is: Alfred M. Pollard, General Counsel, Attention: Comments/RIN 2590–AA84, Federal Housing Finance Agency, Constitution Center, (OGC) Eighth Floor, 400 Seventh Street SW., Washington, DC 20219. The package should be delivered to the Seventh Street entrance Guard Desk, First Floor, on business days between 9 a.m. and 5 p.m.

• *U.S. Mail, United Parcel Service, Federal Express, or Other Mail Service:* The mailing address for comments is: Alfred M. Pollard, General Counsel, Attention: Comments/RIN 2590–AA84, Federal Housing Finance Agency, Constitution Center, (OGC) Eighth Floor, 400 Seventh Street SW., Washington, DC 20219.

FOR FURTHER INFORMATION CONTACT: Lara Worley, Principal Financial Analyst, *Lara.Worley@FHFA.gov,* 202–649–3324, Division of Federal Home Loan Bank Regulation; or Winston Sale, Assistant General Counsel, *Winston.Sale@FHFA.gov,* 202–649–3081 (these are not toll-free numbers), Office of General Counsel (OGC), Federal Housing Finance Agency, Constitution Center, 400 Seventh Street SW., Washington, DC 20219. The telephone number for the Telecommunications Device for the Hearing Impaired is 800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Comments

FHFA invites comment on all aspects of the proposed rulemaking, which FHFA is publishing with a 60-day comment period. After considering the comments, FHFA will develop a final regulation.

Copies of all comments received will be posted without change on the FHFA Web site at *http://www.fhfa.gov,* and will include any personal information you provide, such as your name, address, email address, and telephone number. Copies of the comments also will be available for public inspection and copying on government-business days between the hours of 10 a.m. and 3 p.m. at the Federal Housing Finance Agency, Constitution Center, 400 7th Street SW., Washington, DC 20219. To make an appointment to inspect comments please call the Office of General Counsel at (202) 649–3804.

II. Background

FHFA is an independent agency of the federal government established to regulate and oversee the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation (together, the Enterprises), the Banks (collectively with the Enterprises, the regulated entities), and the Bank System's Office of Finance.[1] FHFA is the primary federal financial regulator of each regulated entity. FHFA's regulatory mission is to ensure, among other things, that each of the regulated entities ''operates in a safe and sound manner'' and that its ''operations and activities . . . foster liquid, efficient, competitive and resilient national housing finance markets.'' [2]

The eleven Banks are organized under the Federal Home Loan Bank Act (Bank Act) as cooperatives,[3] meaning that only members may purchase the capital stock of a Bank, and only members or certain eligible housing associates (such as state housing finance agencies) may obtain access to secured loans, known as advances, or other products provided by a Bank.[4] Each Bank is managed by its own board of directors and serves the public interest by enhancing the availability of residential mortgage and community lending credit through its member institutions.[5]

In 2000, the Federal Housing Finance Board (Finance Board), a predecessor to FHFA, adopted a rule (Modernization Rule) implementing certain statutory amendments made by the Federal Home Loan Bank System Modernization Act of 1999.[6] Because the statutory amendments had expanded the types of collateral that the Banks may accept, the Finance Board established a prior review process through which the Finance Board could assess the risks to the Banks of accepting the new types of collateral. That process was codified in the NBA regulation at 12 CFR part 980, which also required the Banks to obtain Finance Board approval prior to undertaking any other NBAs that presented risks the Banks had not previously managed.[7] In 2010, FHFA re-designated part 980 as part 1272 of its regulations.[8] Aside from that re-designation, the NBA regulation has remained unchanged since 2000.

In April 2013, FHFA published a Notice of Regulatory Review (Review Notice) pursuant to its regulatory review plan published in 2012.[9] The Review Notice requested the public's comment on FHFA's existing regulations for purposes of improving their effectiveness and reducing their burden.[10] In response to the Review Notice, FHFA received a letter co-signed by all of the Banks (Request Letter) with comments on certain regulations, including part 1272.[11] The Request Letter's comments on part 1272 focused on two issues: (1) The scope of the NBA rule; and (2) The length of time afforded to FHFA under the rule to respond to an NBA notice.

Specifically, the Request Letter expressed concern that the broad scope of the rule requires the Banks to expend significant time and effort to determine whether a proposed activity is subject to the rule's purview. Further, the Banks expressed concern that the rule requires them to analyze the risks associated with a contemplated NBA to their member institutions, as well to the Banks themselves. The Banks noted that, if applied literally, that provision requires them to:

> evaluate whether risks from certain business activities are regularly managed by hundreds of member banks, credit unions and insurance companies of widely different sizes and locations, which have many different business and operational models and strategies.[12]

The Request Letter also noted that ''the addition of a materiality concept would greatly enhance the FHLBanks' ability to assess the regulations' applicability.'' With respect to the time frame for FHFA's response to NBA notices, the Banks expressed concern that the current regulation allows the review period to be extended indefinitely and that FHFA should revise the regulation to require more prompt decisions on NBA submissions. FHFA is now proposing to amend part 1272 to address the Banks' concerns.

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[1] 12 U.S.C. 4511.

[2] 12 U.S.C. 4513(a)(1)(B).

[3] *See* 12 U.S.C. 1423 and 1432(a).

[4] *See* 12 U.S.C. 1426(a)(4), 1430(a), and 1430b.

[5] *See* 12 U.S.C. 1427.

[6] *See* 65 FR 44414 (July 18, 2000). The Federal Home Loan Bank System Modernization Act of 1999 is Title VI of the Gramm-Leach-Bliley Act, Pub. L. 106–102, 113 Stat. 1338 (Nov. 12, 1999).

[7] *See* 65 FR 44420 (July 18, 2000).

[8] *See* 75 FR 76622 (Dec. 9, 2010).

[9] *See* 78 FR 23507 (April 19, 2013). *See also* Regulatory Review Plan, 77 FR 10351 (Feb. 22, 2012).

[10] 78 FR 23508 (April 19, 2013).

[11] The Request Letter is available on FHFA's Web site, at the following link: *https://www.fhfa.gov//SupervisionRegulation/Rules/Pages/Comment-Detail.aspx?CommentId=4012.*

[12] *Id* at 2–3.

III. Consideration of Differences Between the Banks and the Enterprises

When promulgating regulations relating to the Banks, section 1313(f) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 requires the Director of FHFA (Director) to consider the differences between the Banks and the Enterprises with respect to the Banks' cooperative ownership structure; mission of providing liquidity to members; affordable housing and community development mission; capital structure; and joint and several liability.[13] The changes proposed in this rulemaking apply exclusively to the Banks and generally affect the scope and timing of their NBA notifications. Apart from those changes, the substance of the proposed rule is substantially similar to that of the existing NBA regulation. In preparing this proposed rule the Director has considered the differences between the Banks and the Enterprises as they relate to the above factors, and requests comments about any particular differences that the Director should consider when developing a final rule.

IV. Analysis of the Proposed Rule

The Proposed Rule. The purposes of the proposed rule are to revise the scope of activities requiring submission of an NBA notice, specify the response time to an NBA notice, and reorganize and clarify the rule. Additional changes are clarifying or conforming in nature. The following paragraphs describe the proposed revisions.

Definitions. In § 1272.1, FHFA proposes to revise the definition of ''new business activity'' and to add new definitions for two terms. In response to the Banks' request to narrow the scope of activities requiring prior FHFA approval under part 1272, FHFA is proposing to exclude from the definition of ''new business activity'' the acceptance of new types of advance collateral, *i.e.,* types of collateral that are legally permissible but that a particular Bank has not previously accepted. Paragraphs (1) and (2) of the existing definition of new business activity, relating to the acceptance of ''other real estate related collateral'' (ORERC) and ''community financial institution collateral'' (CFI collateral), respectively, were included in the definition because prior to 1999 the Banks could only accept limited amounts of ORERC and were not authorized to accept CFI collateral at all. The Finance Board found that the Banks lacked sufficient experience with those new collateral types, and specifically included that collateral within the definition of new business activities so it could ensure that the Banks had processes in place to manage the risks associated with the new collateral.[14] In the 16 years since the adoption of the Modernization Rule, most of the Banks have been approved to accept CFI collateral or some forms of ORERC and have developed significant experience in managing the risks associated with those collateral types. Those types of collateral are no longer new, and the remaining universe of new types of collateral that might potentially fall into the ORERC category is small. Thus, FHFA believes that there would be little risk associated with removing the references to these types of collateral from the definition of new business activity, which will allow the Banks to begin accepting any new types of collateral from their members and housing associates without prior regulatory review. Under the proposed rule, FHFA would assess the Banks' acceptance of new types of collateral through its examination process.

The current definition of new business activity also includes any activity that entails risks not previously and regularly managed by the Bank or by the Bank's members. For the reasons articulated in the Banks' Request Letter, FHFA is proposing to delete from the definition the reference to the Banks' members. Nonetheless, FHFA requests comments from the public about whether such deletion could negatively impact the Banks' safety and soundness or mission.

In the Request Letter, the Banks also asked FHFA to add a materiality concept to the rule. The Banks contended that doing so would ''enhance [their] ability to assess the regulation's applicability'' to particular activities. FHFA has considered this request and proposes to incorporate a materiality provision into the definition of ''new business activity.'' Under the proposed definition, the Banks would be required to submit a notice only for those activities that ''entail material risks not previously and regularly managed by the Bank.'' The scope of this proposed definition would address the agency's principal safety and soundness concerns with respect to NBAs, while also allowing the Banks greater flexibility to initiate those activities, including modifications to existing activities, without prior agency approval. Assessing the materiality of the risks associated with a new activity necessarily will entail some subjective judgments by the Banks. For those instances in which it is unclear whether the risks associated with a proposed activity would be material, FHFA expects that a Bank would discuss the contemplated activity with FHFA staff early in the process to determine whether the risks warrant the submission of an NBA notice. For those instances in which a Bank undertakes a new activity based on its own determination that the associated risks are not material, FHFA expects to assess those decisions as part of the regular examination process, and will address any safety and soundness concerns associated with such activities in the same manner that it addresses such concerns arising from other aspects of a Bank's operations. FHFA specifically requests public comment on whether the proposed inclusion of materiality language within the definition of new business activity is the most appropriate means of incorporating a materiality assessment into the regulation, whether materiality should be defined, and whether limiting the NBA review process to those activities presenting new material risks could present any safety and soundness concerns.

FHFA is also proposing to add two new definitions to the NBA regulation. The proposed rule includes a definition of ''business day'' because deadlines set forth in the proposed rule would be measured by business days rather than calendar days, as is the case under the current rule. FHFA proposes the use of business days because that approach assures that the review periods for NBA notices will be the same in all cases, even if they are filed during periods of the year that have multiple legal holidays. Lastly, FHFA is proposing to define ''NBA Notice Date'' as the date on which FHFA receives an NBA notice. The purpose of this new term is to establish a unified start date against which the various deadlines in the proposed rule are to be measured.

Filing Requirement. The proposed rule would not make any changes to § 1272.2, which prohibits the Banks from commencing any NBAs except in accordance with the requirements of the NBA regulations of part 1272.

New Business Activity Notice Requirement. The proposed rule generally restructures part 1272 to clarify the protocol for notice and review of NBAs. Sections 1272.3 through 1272.7 have been reorganized into the Banks' notice requirements, FHFA's review process, requests for additional information, FHFA's examination authority, and delegation of approval authority, respectively. Functionally, most of the provisions are similar to the current regulation, but

[13] *See* 12 U.S.C. 4513(f).

[14] *See* 65 FR 44420 (July 18, 2000).

reorganized to better reflect the order in which they are performed.

In § 1272.3, FHFA proposes retaining the NBA notice requirement with several changes that will limit its scope to describing the items that must be included as part of the notice. First, the proposed rule would relocate the timelines for commencement of an NBA to § 1272.4, as described in detail below. Second, FHFA proposes to replace the current itemized list of required notice contents with a revised list that includes more principles-based submission requirements. FHFA's intent is to provide the Banks greater flexibility in drafting notices that are appropriate to an NBA's scope. The proposed notice requirements are similar to the current requirements in that a notice must address FHFA's core legal and regulatory concerns. Thus, the proposed requirements would generally require that a Bank provide a thorough and complete description of the proposed activity. This approach is intended to afford the Banks additional discretion in tailoring notice contents to the nature of the proposed activity and its corresponding risks. FHFA would retain the authority to require the submission of additional information from the Banks as necessary to evaluate the risks associated with the new activity. *See* proposed §§ 1272.4(b), 1272.5.

The proposed rule would elaborate on the existing requirement that a Bank provide an opinion of counsel relating to the proposed new activity. For NBAs raising legal questions of first impression, FHFA proposes requiring the opinion to provide a thorough analysis of the legal authority for the activity that not only cites the general legal authority, but clearly explains how the cited authority permits the proposed activity. This proposed language is intended to ensure that the Banks perform a robust analysis of each of the legal issues relating to the contemplated new activity at an early stage of the process and provide FHFA with that analysis. A simple statement that counsel has reviewed the proposed activity and concluded that it is legally permissible will not satisfy this requirement.

FHFA proposes removing the itemized list of informational items found in § 1272.3(a)(3), and replacing it with a requirement that the submission provide a full and complete description of the proposed activity. FHFA expects that NBA notices, and especially those for activities not previously approved for any Bank, will need to discuss many of the items listed in the current regulation. However, FHFA recognizes that not all of the existing items in the regulation would be relevant to all notices, and that there will be some activities for which the current listing of items might be underinclusive. The more thorough and clear the submission, the more readily will FHFA be able to evaluate the request.

The proposed notice requirements also specifically ask the Bank to inform FHFA whether the proposed activity represents a modification of an activity that FHFA has previously approved for that Bank, or whether it is an activity that FHFA has approved for any other Banks. Although FHFA generally will recognize when a proposed NBA has been previously approved for other Banks, the submitting Bank should provide this information to help expedite FHFA's decision on the notice. FHFA specifically requests public comment on whether the proposed notice description requirements appropriately balance the FHFA's informational needs with the associated compliance burden imposed on the Banks.

The proposed rule would require a Bank to discuss how the proposed activity would support the Bank's housing finance and community investment mission. The current regulation requires a notice to describe the effect of a proposed activity on the housing or community development market, but does not affirmatively require the Banks to demonstrate how the proposed activity would support the Banks' statutory mission. FHFA's duties include ensuring that the Banks' activities foster such mission, *see* 12 U.S.C. 4513(a). The proposed rule elsewhere includes a related approval standard for NBA notices, which requires that FHFA approve notices only if the activity is conducted in a safe and sound manner and is consistent with the Banks' housing finance and community investment mission. This proposed requirement is also intended to dovetail with the general description requirement so that the submitting Bank produces a comprehensive picture of the proposed activity covering the range of its attributes, from technical production and risk concerns to the activity's potential effects on the Bank's mission.

Paragraphs 1272.3(a)(4) and (5)—regarding the Bank's capacity to manage new risks and its assessment of the risks, respectively—have been combined into proposed § 1272.3(a)(4). FHFA believes that the proposed language captures the fundamental concepts in the current regulation's requirements while streamlining the rule text and reducing the Banks' overall compliance burden.

With respect to the anticipated dollar volume of an activity, the proposed rule clarifies that a Bank is to estimate the volume over the activity's initial three years of operation. This is intended to narrow the scope of the current regulation, which requires an estimate of the dollar volume of the activity over the long- and short-term, and clarifies that the estimate is to be based on anticipated production once the activity begins, especially in cases where the Bank may not immediately implement the new activity.

Finally, FHFA proposes eliminating § 1272.3(b), which addresses the submission requirements for NBAs relating to the acceptance of new types of advance collateral, because the acceptance of new types of collateral would no longer constitute an NBA, as described in the definitions discussion above.

Agency Review. FHFA proposes revising § 1272.4 through § 1272.6 to collapse their respective concepts into a more concise, narrative format and to establish new timelines for agency review of NBA notices. Proposed § 1272.4 establishes FHFA's review process for NBA notices. Under the current regulation, a Bank may commence an NBA 60 days after FHFA's receipt of the associated notice unless FHFA disapproves the activity, instructs the Bank not to commence the activity pending further consideration by the agency, declares its intent to examine the Bank, or requests additional information. *See* § 1272.5(a)(1)–(4). In the Request Letter, the Banks expressed concern that the existing regulation allows FHFA to easily extend its review of NBA notices by either requesting additional information or by instructing the Banks not to commence a new activity shortly after receipt of the notice. *See* § 1272.4(a). The proposed rule would address the concerns by providing for the automatic approval of NBA notices if FHFA fails to act by certain deadlines, as described below. The proposed rule would establish two time periods for FHFA review: A 30 business-day period, generally intended for activities already approved for other Banks, and an 80 business-day period, generally intended for activities of first impression or that otherwise require significant agency examination. Under both proposed timelines, subject to certain extensions and caveats, the Bank would be able to commence the new activity at the end of each time period if FHFA failed to approve, deny, or respond to the Bank regarding the activity.

Proposed § 1272.4(a) sets an initial 30 business-day period for FHFA to

approve or deny an activity, or inform the Bank that the request raises legal, policy, or supervisory issues that require further evaluation. Requests raising new legal or policy issues or which pose significant safety and soundness issues would generally be processed under the 80 business-day timeline in proposed § 1272.4(b). If FHFA fails to take one of those three actions by the end of 30 business days from the NBA Notice Date, the proposed rule provides that the notice would be deemed to have been approved and the Bank could commence the activity for which the notice was submitted. If FHFA notifies the Bank that the activity requires further evaluation, then the proposed rule provides that FHFA must approve or deny the notice no later than 80 business days from the NBA Notice Date. If FHFA fails to approve or deny the notice by that date, then it would be deemed to be approved, and the Bank could commence the activity. For all submissions, FHFA intends to approve or deny the notice prior to the applicable deadline, and expects that it will act on many notices substantially before the deadline. FHFA believes that these time periods will afford it sufficient time to review, consider, and fully evaluate the merits of both routine and novel submissions. The proposed rule includes one exception to the automatic approval provisions, which pertains to NBA submissions that raise significant policy issues that the Director determines require additional time. Proposed § 1272.4(d) provides that the Director may extend the 80 business-day period by an additional 60 business days to facilitate such review. In such cases, FHFA will inform the Bank of the extension before the end of the 80 business-day period and the Bank may not commence the proposed activity until FHFA has affirmatively approved the notice. This proposed exception to the automatic approval provisions is intended to preserve the Director's oversight authority on notices deemed by the Director to be of sufficient consequence to merit an extended review period and also to prevent automatic approval of such notices during periods of transition between FHFA Directors or if the Director is otherwise unable to attend to the matter.

Proposed § 1272.4(c) states that for purposes of calculating the number of days that make up the applicable review period, no days would be counted between the day FHFA communicates a request for additional information and the day the Bank responds to all questions asked. One purpose of the automatic approval provisions is to provide some certainty as to the date by which FHFA should act on a notice. In order for FHFA to act, however, it must have a complete notice, including responses to its requests for additional information. Because FHFA may be unable to continue processing a notice while it is awaiting receipt of additional information from a Bank, those days are not included within the applicable time periods. If a Bank's submitted notice is clear and thorough, FHFA expects that there will be less need to request additional information.

FHFA proposes adding new § 1272.4(e), which would establish an explicit standard under which the agency will make determinations with respect to NBAs. The proposed standard considers whether the activity will be conducted in a safe and sound manner and whether the activity is consistent with the housing finance and community investment mission of the Banks and the cooperative nature of the Bank System. The policy considerations underlying this proposed standard stem from FHFA's statutory oversight duties and reflect current agency practice. *See* 12 U.S.C. 4513(a). The current regulation implies, but does not explicitly set forth, a standard for review, and FHFA now proposes a specific standard in keeping with its statutory mission and practice. Further, FHFA proposes to include in the same section a provision authorizing FHFA to impose conditions in connection with the approval of any NBA. This provision is similar to the current provision at § 1272.7(b)(2).

FHFA proposes establishing a revised protocol for additional information requests in proposed § 1272.5. As with the current regulation, FHFA reserves the right to request additional information regarding a proposed NBA. However, FHFA proposes adding several conditions to such requests. Specifically, after FHFA makes an initial request for additional information, any subsequent requests for additional information must be limited to information that is necessary to fully respond to the initial request, *i.e.,* for cases in which a Bank's response was not fully responsive or otherwise requires clarification, or because the Bank's response raises new legal or policy issues not evident based on the notice or the Bank's previous response. FHFA intends for these proposed conditions to facilitate the review process by limiting the scope and circumstances in which FHFA can make subsequent requests for additional information and to incent the Banks to provide clear and thorough submissions and responses to information requests. These limitations notwithstanding, the proposed rule also authorizes the Director to request any additional information regarding any NBA for which the Director has extended the review period. Ultimately, the Director is responsible for supervising the Banks and otherwise ensuring that they act in a safe and sound manner, and this provision of the proposed rule is intended to allow the Director to have whatever information the Director deems necessary to carry out those responsibilities when reviewing an NBA notice. *See* 12 U.S.C. 4513(a)(2)(B). FHFA specifically requests public comments on whether these proposed conditions on requests for additional information appropriately balance FHFA's regulatory duties with the Banks' compliance burden.

Proposed § 1272.6 reorganizes and combines §§ 1272.7(a) and 1272.7(b)(2)(v) into one paragraph, reserving FHFA's right to examine the Banks with respect to their implementation of an NBA.

Delegation of Authority. Proposed § 1272.7 includes a delegation of authority to the Deputy Director for Federal Home Loan Bank Regulation (Deputy Director) to approve NBA submissions, but further provides that the Director reserves the right to modify, rescind, or supersede any such approvals granted under this delegation of authority. The provision is modeled on a similar delegation of authority in 12 CFR 1211.3, which authorizes the Deputy Director to grant ''approvals'' in accordance with the procedures regulations of that part. Although the term ''approval,'' as defined in § 1211.1, arguably is broad enough to encompass NBA notices, when FHFA first included that delegation in the procedures regulations it explained in the Supplementary Information to the proposed rule that the provisions pertaining to ''approvals'' did not apply to NBA notices. *See* 79 FR 15257, 15258 (March 19, 2014) (because NBA notices ''are subject to the procedural requirements of part 1272 . . . approvals for an NBA would not be subject to'' the ''approvals'' provisions of § 1211.3). FHFA anticipates that most NBA notices will be approved by the Deputy Director pursuant to the proposed delegation of authority and that notices raising novel legal or policy questions will be referred to the Director for decision.

V. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) requires that regulations involving the collection of

information receive clearance from the Office of Management and Budget (OMB). This rule contains no such collection of information requiring OMB approval under the Paperwork Reduction Act. Consequently, no information has been submitted to OMB for review.

VI. 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, FHFA certifies that this proposed rule, if adopted as a final rule, is not likely to have a significant economic impact on a substantial number of small entities.

List of Subjects in 12 CFR Part 1272

Federal home loan banks, Reporting and recordkeeping requirements.

Authority and Issuance

Accordingly, for reasons stated in the **SUPPLEMENTARY INFORMATION** and under the authority of 12 U.S.C. 1431(a), 1432(a), 4511(b), 4513, 4526(a), FHFA proposes to amend subchapter D of chapter XII of title 12 of the Code of Federal Regulations as follows:

CHAPTER XII—FEDERAL HOUSING FINANCE AGENCY

Subchapter D—Federal Home Loan Banks

■ 1. Revise part 1272 to read as follows:

PART 1272—NEW BUSINESS ACTIVITIES

Sec.

Authority: 12 U.S.C. 1431(a), 1432(a), 4511(b), 4513, 4526(a).

§ 1272.1 Definitions.

As used in this part:

Business Day means any calendar day other than a Saturday, Sunday, or legal public holiday listed in 5 U.S.C. 6103.

NBA Notice Date means the date on which FHFA receives a new business activity notice.

New business activity (NBA) means any business activity undertaken, transacted, conducted, or engaged in by a Bank that entails material risks not previously managed by the Bank. A Bank's acceptance of a new type of advance collateral does not constitute a new business activity.

§ 1272.2 Limitation on Bank authority to undertake new business activities.

No Bank shall undertake any NBA except in accordance with the procedures set forth in this part.

§ 1272.3 New business activity notice requirement.

Prior to undertaking an NBA, a Bank shall submit a written notice of the proposed NBA that provides a thorough, meaningful, complete, and specific description of the activity such that FHFA will be able to make an informed decision regarding the proposed activity. At a minimum, the notice should include the following information:

(a) A written opinion of counsel identifying the specific statutory, regulatory, or other legal authorities under which the NBA is authorized and, for submissions raising legal questions of first impression, a reasoned analysis explaining how the cited authorities can be construed to authorize the new activity;

(b) A full description of the proposed activity, including, when applicable, infographics and definitions of key terms. In addition, the Bank shall indicate whether the proposed activity represents a modification to a previously approved activity in which the Bank is engaged or is an activity that FHFA has approved for any other Banks;

(c) A discussion of why the Bank proposes to engage in the new activity and how the activity supports the housing finance and community investment mission of the Bank;

(d) A discussion of the risks presented by the new activity and how the Bank will manage these risks; and

(e) A good faith estimate of the anticipated dollar volume of the activity, and the income and expenses associated with implementing and operating the new activity, over the initial three years of operation.

§ 1272.4 Review process.

(a) Within 30 business days of the NBA Notice Date, FHFA will take one of the following actions:

(1) Approve the proposed NBA;

(2) Deny the proposed activity; or

(3) Inform the Bank that the activity raises policy, legal, or supervisory issues that require further evaluation. If FHFA fails to take any of those actions by the 30th business day following the NBA Notice Date, the NBA notice shall be deemed to have been approved and the Bank may commence the activity for which the notice was submitted.

(b) In the case of any notice that FHFA has determined requires further evaluation, FHFA will approve or deny the notice by no later than the 80th business day following the NBA Notice Date. If FHFA fails to approve or deny a NBA notice by that date, and the Director has not extended the review period, the NBA notice shall be deemed to have been approved and the Bank may commence the activity for which the notice was submitted.

(c) For purposes of calculating the review period, no days will be counted between the date that FHFA has requested additional information from the Bank pursuant to § 1272.5 and the date that the Bank responds to all questions communicated.

(d) Notwithstanding anything contained in this part, the Director may extend the 80 business day review period by an additional 60 business days if the Director determines that additional time is required to consider the notice. In such a case, FHFA will inform the Bank of any such extension before the 80th business day following the NBA Notice Date, and the Bank may not commence the NBA until FHFA has affirmatively approved the notice.

(e) In considering any NBA notice, FHFA will assess whether the proposed activity will be conducted in a safe and sound manner and is consistent with the housing finance and community investment mission of the Banks and the cooperative nature of the Bank System. FHFA may deny a NBA notice or may approve the notice, which approval may be made subject to the Bank's compliance with any conditions that FHFA determines are appropriate to ensure that the Bank conducts the new activity in a safe and sound manner and in compliance with applicable laws or regulations and the Bank's mission.

§ 1272.5 Additional information.

FHFA may request additional information from a Bank necessary to issue a determination regarding an NBA. After an initial request for information, FHFA may make subsequent requests for information only to the extent that the information provided by the Bank does not fully respond to a previous request, the subsequent request seeks information needed to clarify the Bank's previous response, or the information provided by the Bank raises new legal, policy, or supervisory issues not evident based on the Bank's NBA notice or responses to previous requests for information. Nothing contained in this paragraph shall limit the Director's authority to request additional information from a Bank regarding an

NBA for which the Director has extended the review period.

§ 1272.6 Examinations.

Nothing in this part shall limit in any manner the right of FHFA to conduct any examination of any Bank relating to its implementation of an NBA, including pre- or post-implementation safety and soundness examinations, or review of contracts or other agreements between the Bank and any other party.

§ 1272.7 Approval of notices.

The Deputy Director for Federal Home Loan Bank Regulation may approve requests from a Bank seeking approval of any NBA notice submitted in accordance with this part. The Director reserves the right to modify, rescind, or supersede any such approval granted by the Deputy Director, with such action being effective only on a prospective basis.

Dated: August 16, 2016.

Melvin L. Watt,

Director, Federal Housing Finance Agency.

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DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 740

[160519443–6443–01]

RIN 0694–AG97

Temporary Exports to Mexico Under License Exception TMP

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Proposed rule.

SUMMARY: This proposed rule would align the time limit of License Exception Temporary Imports, Exports, Reexports, and Transfers (in-country) (TMP), which authorizes, among other things, certain temporary exports to Mexico, with the time limit of Mexico's Decree for the Promotion of Manufacturing, Maquiladora and Export Services (IMMEX) program. Currently, TMP allows for the temporary export and reexport of various items subject to the Export Administration Regulations (EAR), as long as the items are returned no later than one year after export, reexport, or transfer if not consumed or destroyed during the period of authorized use. Other than a four-year period for certain personal protective equipment, the one-year limit extends to all items shipped under license exception TMP. However, the one-year period does not align with the time constraints of Mexico's IMMEX program, which allows imports of items for manufacturing operations on a time limit that may exceed 18 months. This rule proposes to amend TMP to complement the timeline of the IMMEX program. Under this proposed amendment, items temporarily exported or reexported under license exception TMP and imported under the provisions of the IMMEX program would be authorized to remain in Mexico for up to four years from the date of export or reexport.

DATES: Comments must be received by October 24, 2016.

ADDRESSES: You may submit comments by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* The identification number for this rulemaking is BIS–2016–0023.
- By email directly to *publiccomments@bis.doc.gov.* Include RIN 0694–AG97 in the subject line.
- By mail or delivery to Regulatory Policy Division, Bureau of Industry and Security, U.S. Department of Commerce, Room 2099B, 14th Street and Pennsylvania Avenue NW., Washington, DC 20230. Refer to RIN 0694–AG97.

FOR FURTHER INFORMATION CONTACT: Regulatory Policy Division, Office of Exporter Services, Bureau of Industry and Security, by telephone (202) 482–2440 or email: *RPD2@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

Overview

Mexico's Decree for the Promotion of Manufacturing, Maquiladora and Export Services, known as IMMEX, is a platform used by U.S. and foreign manufacturers to lower production costs by temporarily importing production materials into Mexico. Created in 2006, IMMEX is the product of the merger of two previous Mexican economic policies: The Maquiladora program, which was designed to attract foreign investment by exempting temporary imports from taxes, and the Temporary Import Program to Promote Exports (PITEX), which incentivized Mexican companies to grow and compete in foreign markets by providing temporary import benefits. Under IMMEX, companies located in Mexico are not subject to quotas and do not have to pay taxes on items temporarily imported and manufactured, transformed, or repaired before reexport.

Under IMMEX, the length of time that imports may remain in Mexico is commodity dependent, with some items allowed to remain in-country for 18 months or more. These time allotments are greater than the time limits for License Exception Temporary Imports, Exports, Reexports, and Transfers (in-country) (TMP) allowed under § 740.9(a)(14) of the EAR. With few exceptions, items exported under TMP, if not consumed or destroyed during the authorized use abroad, must be returned to the United States one year after the date of export. The discrepancy between the time periods of IMMEX and TMP reduces the efficacy of both policies, thereby hindering the shipment of items subject to the EAR to and from Mexico.

U.S. companies that produce items subject to the EAR and ship those items to Mexico under IMMEX have notified the Bureau of Industry and Security of this discrepancy and have requested that BIS amend the EAR to increase compatibility with IMMEX. Considering the strength of Mexico's export control regimen, as exemplified by its accession as a member to the Wassenaar Arrangement, the Australia Group, and the Nuclear Suppliers Group, BIS proposes to amend § 740.9(a) to account for IMMEX's time limit. For the purpose of simplicity, BIS does not propose to match the various time periods instituted by IMMEX. Instead, this rule proposes to revise § 740.9(a)(8) to allow temporary exports and reexports to remain in Mexico for up to four years, which accommodates the maximum available time that temporarily imported items may remain in Mexico under IMMEX and is in parallel with the validity period of BIS's licenses. Additionally, this rule proposes to revise introductory paragraph § 740.9(a)(14) to include a reference to § 740.9(a)(8) as an exception to the one-year time limit of TMP.

Export Administration Act

Since August 21, 2001, the Export Administration Act of 1979, as amended, has been in lapse. However, the President, through Executive Order 13222 of August 17, 2001, 3 CFR, 2001 Comp., p. 783 (2002), as amended by Executive Order 13637 of March 8, 2013, 78 FR 16129 (March 13, 2013), and as extended by the Notice of August 7, 2015, 80 FR 48233 (August 11, 2015) has continued the EAR in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*). BIS continues to carry out the provisions of the Export Administration Act, as appropriate and to the extent permitted by law, pursuant to Executive Order 13222 as amended by Executive Order 13637.

Rulemaking Requirements

1. Executive Orders 13563 and 12866 direct agencies to assess all costs and