domestic livestock and wildlife and potential risks for spread of disease; and

(iii) Describe mitigation activities to prevent the spread of *B. abortus* from domestic livestock and/or wildlife, as applicable, within or from the brucellosis management area.

* * * * *

Herd blood test. A blood test for brucellosis conducted in a herd on all cattle or bison 6 months of age or over, except steers and spayed heifers.

* * * * *

Done in Washington, DC, this *17th* day of *December 2010.*

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2010–32371 Filed 12–22–10; 8:45 am]

BILLING CODE 3410–34–P

FEDERAL HOUSING FINANCE AGENCY

12 CFR Part 1281

RIN 2590–AA16

Federal Home Loan Bank Housing Goals

AGENCY: Federal Housing Finance Agency.

ACTION: Final rule.

SUMMARY: Section 1205 of the Housing and Economic Recovery Act of 2008 (HERA) amended the Federal Home Loan Bank Act (Bank Act) by adding a new section 10C(a) that requires the Director of the Federal Housing Finance Agency (FHFA) to establish housing goals with respect to the Federal Home Loan Banks' (Banks) purchase of mortgages, if any. Section 10C(b) provides that the Banks' housing goals are to be consistent with the housing goals established by FHFA for the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) (collectively, the Enterprises) under sections 1331 through 1334 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (Safety and Soundness Act), as amended by HERA, taking into consideration the unique mission and ownership structure of the Banks.

To implement section 10C, FHFA is adopting a final rule that is substantially the same as the proposed rule published by FHFA for notice and comment. The final rule establishes three single-family owner-occupied purchase money mortgage goals and one single-family refinancing mortgage goal applicable to the Banks' purchases of single-family owner-occupied mortgages, if any, under their Acquired Member Assets (AMA) programs, consistent with the single-family housing goals for the Enterprises. A Bank will be subject to the housing goals if its AMA-approved mortgage purchases in a given year exceed a volume threshold of $2.5 billion.

DATES: This rule is effective January 26, 2011.

FOR FURTHER INFORMATION CONTACT: Brian Doherty, Acting Senior Associate Director, (202) 408–2991, Charles E. McLean, Associate Director, (202) 408–2537, or Rafe R. Ellison, Senior Program Analyst, (202) 408–2968, Office of Housing and Community Investment, 1625 Eye Street, NW., Washington, DC 20006. (These are not toll-free numbers.) For legal matters, contact Kevin Sheehan, Attorney, (202) 414–8952, or Sharon Like, Managing Associate General Counsel, (202) 414–8950, Office of General Counsel, Federal Housing Finance Agency, Fourth Floor, 1700 G Street, NW., Washington, DC 20552. (These are not toll-free numbers.) The telephone number for the Telecommunications Device for the Hearing Impaired is (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

A. Federal Home Loan Bank System

The Federal Home Loan Bank System (System) was created by the Bank Act to support mortgage lending and related community investment. *See* 12 U.S.C. 1421 *et seq.* The System is composed of 12 Banks with more than 8,000 member financial institutions, and the System's fiscal agent, the Office of Finance. The Banks fulfill their statutory mission primarily by providing secured loans (called advances) to their members. The Bank Act provides the Banks explicit authority to make secured advances. 12 U.S.C. 1430(a). Advances provide members with a source of funding for mortgages and asset-liability management, liquidity for a member's short-term needs, and additional funds for housing finance and community investment. Advances are collateralized primarily by residential mortgage loans and government and agency securities. 12 U.S.C. 1430(a)(3). Community financial institutions (CFIs) (*i.e.,* members with average total assets of less than $1 billion (as adjusted annually for inflation)) may also pledge small business, small agriculture or community development loans as collateral for advances. 12 U.S.C. 1430(a)(3)(E).

Consolidated obligations, consisting of bonds and discount notes, are the principal source for the Banks to fund advances and investments. The Office of Finance issues all consolidated obligations on behalf of the 12 Banks. Although each Bank is primarily liable for the portion of consolidated obligations corresponding to the proceeds received by that Bank, each Bank is also jointly and severally liable with the other eleven Banks for the payment of principal of, and interest on, all consolidated obligations. *See* 12 CFR 966.9.

B. Bank AMA Programs

In July 2000, the Federal Housing Finance Board (FHFB) adopted a final regulation authorizing the Banks to establish Acquired Member Assets (AMA) programs. *See* 12 CFR part 955. A Bank may participate in an AMA program at its discretion; FHFA does not have the authority to compel a Bank to engage in any mortgage purchase activities. Each Bank must receive approval from FHFA pursuant to the requirements for new business activities in order to establish an AMA program. *See* 12 CFR part 980. A majority of the Banks have implemented AMA programs pursuant to the AMA approval authority.

In order for a Bank to acquire a mortgage loan under an AMA program, the loan must meet the requirements set forth under a three-part test established by the regulation. The three-part test consists of: A loan type requirement; a member or housing associate nexus requirement; and a credit risk-sharing requirement. 12 CFR 955.2. The AMA regulation generally authorizes the Banks to purchase conforming whole loans on single-family residential real property not more than 90 days delinquent. In addition, the Banks are authorized to purchase conforming whole loans on single-family residential real property regardless of delinquency status if the loan is insured or guaranteed by the U.S. government, although such loans are not eligible to be counted toward the Enterprises' housing goals, as provided in the Safety and Soundness Act.[1] The Banks acquire AMA from their participating members

[1] *See* 12 U.S.C. 4562. For that reason, consistent with the proposed rule, the final rule provides that such loans are not eligible to be counted toward the Banks' housing goals either. The AMA regulation also authorizes the Banks to purchase other real estate-related collateral, including: second liens and commercial real estate loans; small business, small farm and small agri-business loans; whole loans secured by manufactured housing regardless of whether the housing qualifies as residential real property; and state and local housing finance agency bonds, subject to prior new business activity approval by FHFA under 12 CFR part 980. *See* 12 CFR 955.2(a).

through either a purchase or funding transaction. The Banks are not authorized under the AMA programs to securitize the mortgages they purchase.

To date, FHFA has approved two AMA programs—the Mortgage Partnership Finance (MPF) program and the Mortgage Purchase Program (MPP)—that authorize the Banks to purchase only eligible single-family, fixed-rate mortgages, including manufactured housing loans, from participating financial institution (PFI) members. The Banks are not approved to purchase any other types of mortgages under the AMA programs, including mortgages secured by multifamily properties. In operation, the Banks have limited their AMA programs to purchasing conforming, conventional and government-insured or -guaranteed fixed-rate whole first mortgages on single-family residential property with maturities ranging from 5 to 30 years. Banks have also purchased participations in AMA-approved loan pools after the original Bank acquired the loans. As of June 30, 2010, the combined value of the AMA mortgage loans in the 12 Banks' portfolios was $67 billion, representing approximately seven percent of the Banks' total combined assets. In contrast, the Banks' outstanding advances, their primary business line, totaled $540 billion as of June 30, 2010, representing 58 percent of the Banks' total combined assets.[2]

The MPF and MPP programs are designed such that the Banks manage the interest-rate risk and the PFI assumes a substantial portion of the risks associated with originating the mortgage, particularly the credit risk. The AMA regulation requires that PFIs provide credit enhancement to give the mortgages the Banks purchase the credit quality equivalent to an instrument rated at least investment grade (the fourth highest credit rating category or triple-B), although the approved AMA programs require PFIs to enhance the loans to the second highest investment grade (double-A). 12 CFR 955.3. The PFI may provide this credit enhancement through various means, such as establishing a risk account to cover losses in excess of a borrower's equity and primary mortgage insurance on mortgages purchased by a Bank, accepting direct liability to pay credit losses up to a specified amount, or entering into a contractual obligation to provide supplemental mortgage guaranty insurance.

As previously noted, advances remain the core business activity of the Banks and a principal means by which they fulfill their mission. Participation in an AMA program is elective. The acquisition of AMA has presented certain risk management challenges for some Banks. The AMA are long-term, fixed-rate loans, and the portfolio requires careful attention to interest rate risk management in order to match the duration of assets and liabilities and to adjust for loan prepayments. The Banks must also competitively price their product in the market without eroding their own financial interest. Given these challenges and in light of recent interest rate and earnings volatility, several Banks have scaled down their purchases of AMA and returned to their core products. After peaking in 2003, when the Banks purchased over $91.2 billion in AMA, annual AMA purchases have steadily declined to an annualized average of about $6.7 billion during the period between 2006 and 2009. Several Banks either have stopped accepting additional master commitments to purchase AMA from their members or no longer accept delivery. In 2007, 2008 and 2009, the principal pay-down and maturities of AMA held for portfolio were greater than purchases and funding of new loans held for portfolio.[3]

C. Bank Housing Goals Statutory Provisions

Section 10C(a) of the Bank Act, as amended by HERA, requires the Director of FHFA to "establish housing goals with respect to the purchase of mortgages, if any, by the [Banks]," which "shall be consistent with the goals established under sections 1331 through 1334 of the [Safety and Soundness Act, as amended]." 12 U.S.C. 1430c(a). Section 10C(b) provides that, in establishing the goals for the Banks, "the Director shall consider the unique mission and ownership structure of the [Banks]." 12 U.S.C. 1430c(b). In addition, section 10C(c) provides that, "to facilitate an orderly transition," the Director shall establish interim target goals for the purchase of mortgages by the Banks for the calendar years 2009 and 2010. 12 U.S.C. 1430c(c). Section 10C(d) provides that the monitoring and enforcement requirements of section 1336 of the Safety and Soundness Act shall apply to the Banks in the same manner and to the same extent as they apply to the Enterprises. 12 U.S.C. 1430c(d). Section 10C(e) requires the Director to annually report to Congress on the performance of the Banks in meeting the housing goals under section 10C. 12 U.S.C. 1430c(e).

Sections 1331 through 1333 of the Safety and Soundness Act, as amended by HERA, require the Director of FHFA to establish new housing goals effective for 2010 and beyond for the Enterprises. The new Enterprise housing goals include four goals for conventional conforming single-family owner-occupied housing, one multifamily special affordable housing goal, and one multifamily special affordable housing subgoal. *See* 12 U.S.C. 4561, 4563(a)(2). The single-family housing goals target purchase money mortgages for low-income families,[4] families that reside in low-income areas,[5] and very low-income families,[6] and refinancing mortgages for low-income families. *See* 12 U.S.C. 4562. The multifamily special affordable housing goal targets multifamily housing affordable to low-income families, and the multifamily special affordable housing subgoal targets multifamily housing affordable to very low-income families. *See* 12 U.S.C. 4563. In a separate rulemaking, FHFA has published in the **Federal Register** a final rule for the new housing goals for the Enterprises for 2010 and 2011 pursuant to the requirements of sections 1331 through 1333 of the Safety and Soundness Act, as amended. 75 FR 55892 (Sept. 14, 2010).

D. Banks' and Enterprises' Differences

Section 1313 of the Safety and Soundness Act, as amended, 12 U.S.C. 4513(f), requires the Director of FHFA to consider the differences between the Banks and the Enterprises whenever promulgating regulations that affect the Banks. In preparing the final rule, pursuant to section 1313, the Director considered 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, and determined that the final rule is appropriate. As described below, there are significant differences between the Enterprise housing goals and the Bank housing goals—including

[2] *See* "Federal Home Loan Banks Second Quarter 2010 Combined Financial Report, Combined Statement of Condition," at 4.

[3] *See* "Federal Home Loan Banks Combined Financial Report for 2008" at 78–80, and "Federal Home Loan Banks Combined Financial Report for 2009" at 55–56.

[4] "Low-income" is defined as income not in excess of 80 percent of area median income. *See* 12 U.S.C. 4502(14).

[5] "Families in low-income areas" is defined to include families living in census tracts where the median income does not exceed 80 percent of the area median income and families with incomes not in excess of the area median income that either live in a minority census tract or in a designated disaster area. *See* 12 U.S.C. 4502(28).

[6] "Very low-income" is defined as income not in excess of 50 percent of area median income. *See* 12 U.S.C. 4502(24).

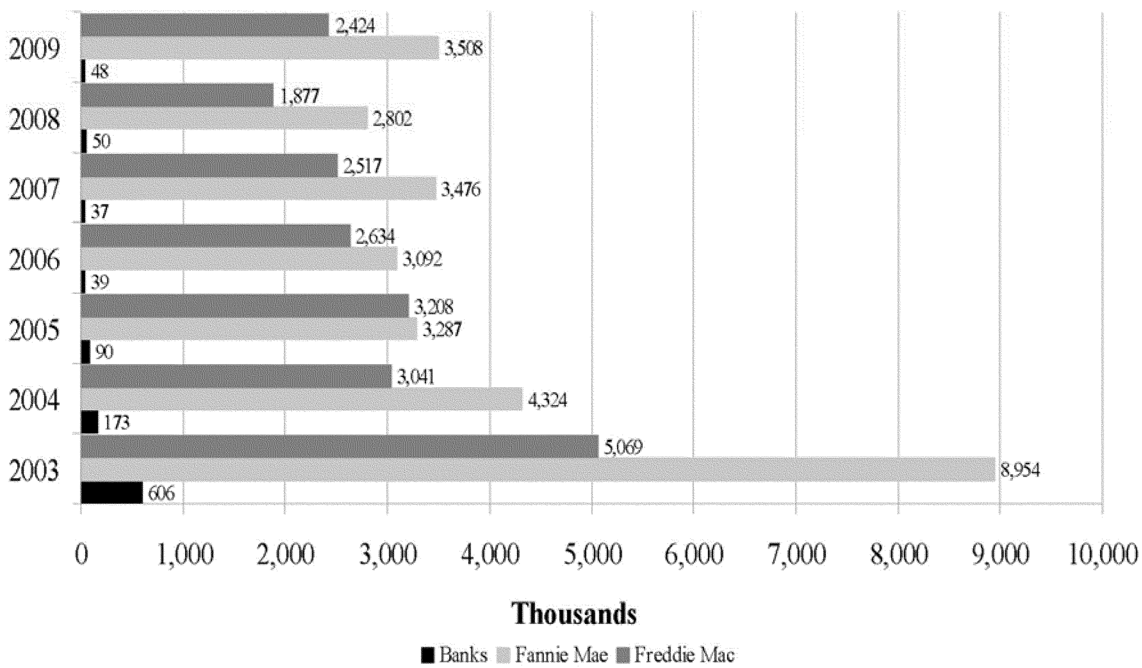
establishing a volume threshold for the Banks to avoid adverse impact on Bank AMA programs, particularly with respect to CFIs that are PFIs—that recognize the significant differences between the Banks' businesses and purposes and those of the Enterprises.

Each Bank is a cooperative owned by financial institution members that act as both owners and customers of the cooperative. Members, as owners, are entitled to receive shares of the cooperative's earnings and access to the cooperative's products and services, including the AMA programs. A Bank is authorized to serve only members of its cooperative, and, as discussed above, its primary business is providing advances to its members.

Fannie Mae and Freddie Mac have been owned by investors through their holdings of preferred or common stock shares since 1968 and 1989, respectively. An Enterprise's primary business is securitizing mortgages originated by financial institutions, and guaranteeing the timely payment of principal and interest on the mortgage-backed securities (MBS). The Enterprises also purchase mortgages for their mortgage portfolios. FHFA has instructed the Enterprises to significantly reduce the size of their mortgage portfolios over time. The Banks are restricted to purchasing loans from their members, most of which are regulated depositories. By contrast, the Enterprises have access to a broad, nationwide network of financial institutions from which they purchase mortgages. Also, unlike the Banks, for which participation in the AMA is an elective activity, the fundamental statutory purpose of the Enterprises is to bring stability in the secondary market for residential mortgages by purchasing and making commitments to purchase residential mortgages. *See* 12 U.S.C. 1451 note; 12 U.S.C. 1716.

The Banks' and Enterprises' different ownership structures and associated statutory restrictions in the Bank Act and the Federal National Mortgage Association Charter Act and the Federal Home Loan Mortgage Corporation Act (together, the Charter Acts), respectively, have a significant impact on their respective mortgage purchase activities. The Enterprises' mortgage purchase activities are substantially greater than that of the Banks. In calendar year 2009, the Banks' combined number of single-family mortgage purchases was slightly over 48,000, while Fannie Mae purchased approximately 3.51 million single-family mortgages and Freddie Mac purchased approximately 2.42 million single-family mortgages. The disparity between the Banks' and Enterprises' mortgage purchase businesses was great even during the peak years of the AMA programs. In 2003, the Banks purchased approximately 606,000 single-family mortgages, which was only 4.3 percent of the approximately 14.02 million single-family mortgages purchased by the Enterprises in that year (*see* Figure 1).

Figure 1. The Banks' and the Enterprises' Mortgage Purchase Activity



Note: The source for the Banks' mortgage purchase activity data was the FHFA's AMA database.
The sources for the Enterprises' mortgage purchase activity data were the 2003 through 2009 Annual Housing Activities Report tables. The data include all single family mortgages purchased by the Enterprises.

II. Proposed Rule

On May 28, 2010, FHFA published in the **Federal Register** a proposed rule to establish new housing goals for the Banks. The 45-day comment period closed July 12, 2010. *See* 75 FR 29947 (May 28, 2010). FHFA received a total of 9 comment letters on the proposed rule. Five of the comment letters were from Banks, one was from a not-for-profit organization, two were from trade associations, and one was from a corporation.

FHFA has considered all of the comments on the proposed rule and has determined to adopt a final rule that is substantially the same as the proposed rule. The comments are discussed below in the Analysis of Final Rule section. Comments that raised issues beyond the scope of the proposed rule are not addressed in this final rule, but may be considered by FHFA at a future date.

III. Applicability of Bank Housing Goals to 2011 and Beyond

HERA requires FHFA to establish 2009 and 2010 interim target housing goals for the Banks that facilitate an orderly transition and are consistent with those of the Enterprises. In order to facilitate an orderly transition, the final rule establishes housing goals for 2011 and beyond. The Banks' unique ownership structure and mission is such that FHFA needed to add criteria to the Bank housing goals that are not necessary for those of the Enterprises, and FHFA required additional time to develop those criteria. The Banks' administrative and monitoring challenges will be reduced by enabling the Banks to establish policies and procedures to meet the housing goals requirements with the knowledge that these requirements will not be changed the following year. FHFA believes this approach will facilitate an orderly transition to housing goals.

IV. Summary of Final Rule

A. Market-Based Housing Goals

Consistent with the proposed rule, the final rule establishes market-based single-family housing goals for the Banks in a manner largely consistent with the market-based single-family housing goals for the Enterprises. Separate goals are established for AMA-approved mortgages on owner-occupied single-family housing. The goals for purchase money mortgages separately measure performance on purchase money mortgages for low-income families, for families in low-income areas, and for very low-income families. The goal for refinancing mortgages measures performance on refinancing mortgages for low-income families.

The final rule does not establish benchmark levels to measure the Banks' housing goals performance. The Banks' performance under the housing goals will be measured relative to the *actual* goals-qualifying shares of the district-level primary mortgage market during the year in their districts. FHFA will calculate the actual goals-qualifying shares of the market using all mortgages originated in the geographic boundaries of each Bank district (meaning that the properties securing the mortgages are located in the district), including mortgages originated both by members and non-members.

A Bank meets a housing goal if its annual performance meets or exceeds the actual share of the market in that district that fits the criteria for a particular housing goal for that year. A Bank fails to meet a housing goal if it falls short of the actual market share for that goal in that year. All mortgages purchased by a Bank that meet the requirements of the final rule will count toward the Bank's goal performance, regardless of where the properties securing the mortgages are located, but the market share against which the Bank's performance will be evaluated will be the market share of mortgages secured by properties located in the district, as described above. The housing goals do not apply to an individual Bank unless it has exceeded the $2.5 billion volume threshold.

B. Volume Threshold

Consistent with the proposed rule, the final rule establishes a dollar volume threshold of $2.5 billion that a Bank's total unpaid principal balance (UPB) of AMA-approved mortgage purchases in a given year must exceed before the Bank is subject to the housing goals. The volume threshold recognizes the Banks' unique mission and ownership structure and the current status of the AMA programs, specifically, their mission to provide liquidity to their members.

V. Analysis of Final Rule

A. Definitions—§ 1281.1

The final rule sets forth definitions applicable to the Bank housing goals provisions. A number of the definitions are the same as those applicable to the Enterprise housing goals, and other definitions were modified to reflect their applicability to the Banks' AMA programs.

"*Designated disaster area.*" The definition of "families in low-income areas" includes families with incomes at or below 100 percent of area median income (AMI) who reside in "designated disaster areas." The final rule defines "designated disaster area" as any census tract that is located in a county designated by the Federal Government as adversely affected by a declared major disaster administered by the Federal Emergency Management Agency (FEMA), where individual assistance payments were authorized by FEMA. In order to remain consistent with the revised definition in the final 2010–2011 Enterprise housing goals rule, the final Bank housing goals rule definition does not include the proposed requirement that average damage severity, as reported by FEMA, exceed $1,000 per household in a census tract.

Disaster areas are declared when an area is adversely affected by some unforeseen event. However, not all disasters impact housing to the same degree, and the severity of the impact varies within the declared area. Presidential Major Disaster Declarations are defined by FEMA at the county level in the area affected by the major disaster and can be declared to be eligible for public assistance, individual assistance, or both. Public assistance is available to local governments for the repair, replacement, or clean-up of public infrastructure. Individual assistance is broken down further into two categories, housing needs and "other than housing needs." [7] Housing needs include repair, replacement, and construction of homeowner residences. Consistent with the proposed rule and with the Community Reinvestment Act (CRA), the final rule limits the definition of "designated disaster areas" to those counties eligible for individual assistance.

For purposes of complying with CRA, regulators have made the determination that "[e]xaminers will consider institution activities related to disaster recovery that revitalize or stabilize a designated disaster area for 36 months following the date of designation. Where there is a demonstrable community need to extend the period for recognizing revitalization or stabilization activities in a particular disaster area to assist in long-term recovery efforts, this time period may be extended." [8] To accommodate the Banks' business planning requirements, for purposes of the low-income areas housing goal, the final rule, consistent with the proposed rule, will treat a designated disaster area as effective beginning on the January 1 after the FEMA designation of the county and continuing through December 31 of the third full calendar year following the FEMA designation. If data are available in a particular case to support treatment as a designated disaster area from an earlier date or for a longer period of

[7] Federally declared disaster areas are managed by FEMA and can be tracked at FEMA's Web site. *See http://www.fema.gov/news/disasters.fema.*

[8] The Department of the Treasury, the Federal Reserve Board and the Federal Deposit Insurance Corporation, *Community Reinvestment Act; Interagency Questions and Answers Regarding Community Reinvestment; Notice,* 74 FR 498, 509 (Jan. 6, 2009).

time, FHFA may provide for such treatment by notice to the Banks.

"*Families in low-income areas.*" Consistent with the proposed rule, the definition of "families in low-income areas" in the final rule includes families with incomes at or below 100 percent of AMI who reside in "minority census tracts," which is defined by the Safety and Soundness Act to mean a census tract that has a minority population of at least 30 percent and a median family income of less than 100 percent of AMI. 12 U.S.C. 4502(29). In addition, the definition of "families in low-income areas" includes families with incomes at or below 100 percent of AMI who reside in "designated disaster areas."

"*Mortgage.*" Consistent with the proposed rule and the final Enterprise 2010–2011 housing goals rule, the definition of "mortgage" in the final rule does not include personal property manufactured housing loans. Therefore, any purchases of personal property manufactured housing loans will not qualify for credit under the Bank housing goals.

"*Mortgage purchase.*" Consistent with the proposed rule, the final rule defines "mortgage purchase" as a transaction in which a Bank bought or otherwise acquired a mortgage. The Banks commented that the phrase "otherwise acquired a mortgage" is overly broad and could be read to include the Banks' Affordable Housing Program (AHP) and collateral received from members. The Banks requested that FHFA clarify the definition to mean a transaction in which a Bank bought or otherwise acquired a mortgage pursuant to the Bank's authority under the AMA regulation. The final rule does not limit the definition of "mortgage purchase" to mean only purchases of AMA-approved mortgages, because the types of mortgage purchases that are covered by the Bank housing goals are set out in § 1281.11. That section provides that the Bank housing goals are limited to purchases of AMA-approved mortgages.

"*Refinancing mortgage.*" Consistent with the final Enterprise 2010–2011 housing goals rule, the definition of "refinancing mortgage" in the final Bank housing goals rule provides that changes to a loan as a result of a workout agreement generally will not be treated as a separate refinancing mortgage. The proposed Bank housing goals rule did not address workout agreements in the definition "refinancing mortgage," but the provision is included in the final rule to maintain consistency with the long-standing definition of "refinancing" under the Enterprise housing goals.

B. Housing Goals—Proposed §§ 1281.10 and 1281.11

General. Consistent with the proposed rule, § 1281.10 of the final rule provides an overview of the contents of this subpart. FHFA will evaluate Bank performance under the housing goals established for 2010 on a calendar year basis.

Volume Threshold. Consistent with the proposed rule, § 1281.11(a) of the final rule establishes a volume threshold that will trigger application of the housing goals to a Bank. Specifically, a Bank that in a calendar year purchased AMA-approved mortgages with a total UPB greater than $2.5 billion will be subject to the housing goals for that year, a threshold that FHFA selected as one which would result in goals being applied to substantial AMA programs, of a size that a number of Banks have operated in the past, while enabling small programs, which might serve as mortgage sales outlets for CFIs, to operate without compliance burdens that might cause them to be abandoned. To illustrate the magnitude of this volume threshold, it is currently equal to approximately 0.25 percent of the overall single-family market, which equaled $986 billion (approximately $1.0 trillion). (FHFA arrived at this estimate of the size of the market by using 2008 HMDA mortgage origination data to calculate the total UPB of conforming, first lien mortgages originated in 2008 that were secured by owner-occupied, single-family residences. Mortgages for home improvement and Home Ownership and Equity Protection Act (HOEPA) mortgages were excluded to be consistent with the market estimate approach for the Enterprise housing goals.) Looking at this threshold another way, assuming that the average UPB of the mortgages a Bank purchases equals $200,000, a Bank would need to purchase only 12,500 mortgages in a given year to meet the volume threshold. In FHFA's view, below this threshold it would be challenging for Banks to ensure that the small numbers of AMA mortgages purchased—in transactions that the Banks do not themselves initiate—are representative of the market and include sufficient affordable mortgages to meet housing goals.

FHFA requested comment on whether a volume threshold should apply, whether the proposed volume threshold of $2.5 billion is appropriate, whether a higher or lower threshold should apply, and whether the volume threshold alternatives discussed in the proposed rule or any other alternatives might be used. The Banks recommended establishing a volume threshold at $5.0 billion, or on a sliding scale up to $5 billion, if the Bank met specified qualitative factors that serve the Banks' housing mission, such as a Bank's purchase of Federal Housing Administration (FHA) or U.S. Department of Veterans Affairs (VA) mortgages and its use of Bank AHP funds in conjunction with AMA mortgage purchases. The Banks stated that applying a higher threshold to Banks that met such qualitative measures would encourage the Banks to be accountable to their housing mission. The Banks also recommended that mortgages purchased from CFIs be excluded when determining whether a Bank exceeded the volume threshold. Finally, the Banks commented that because a Bank may not know until the fourth quarter whether it will exceed the volume threshold that year, the housing goals should apply to a Bank only in the year following the year for which the Bank exceeded the volume threshold.

A trade association recommended establishing a volume threshold of 6,000 AMA-approved mortgages purchased annually. Assuming that the average UPB of the mortgages a Bank purchases equals $200,000, the volume threshold would be equivalent to $1.2 billion. A not-for-profit organization recommended that there be no volume threshold.

FHFA has considered the comments on the proposed $2.5 billion volume threshold and concluded that this volume threshold will adequately balance the Banks' missions to support affordable housing and to provide liquidity to CFIs. The volume threshold is intended in part to ensure that Banks with significant AMA volume in any year are subject to the housing goals. For that reason, the Bank housing goals will apply in the same calendar year for which a Bank exceeded the volume threshold. In determining whether the proposed $2.5 billion is an appropriate level for the volume threshold, FHFA considered the volume of mortgages purchased by the Banks over the past decade. From 2002 to 2004, when the Banks had their largest presence in the national market, a number of Banks had annual volumes of AMA-approved mortgages greater than $2.5 billion: seven Banks in 2002, eight Banks in 2003 and four Banks in 2004. A significant percentage of Banks' annual volume of AMA-approved mortgage purchases exceeded $5.0 billion in 2002 and 2003: four Banks in 2002 and seven Banks in 2003. Annual volumes of AMA-approved mortgages were significantly lower from 2005 to 2009.

Although a few Banks had annual volumes exceeding $2.5 billion during that period, none of the Banks exceeded an annual volume of $5.0 billion. (*See* Table 1.)

Based on this analysis of the volume of the Banks' AMA-approved mortgage purchases, a volume threshold of $2.5 billion is mid-way between the higher volume threshold of $5.0 billion and housing goals that would apply without regard to the volume of mortgages purchased by the Bank. Increasing the volume threshold above $2.5 billion would unnecessarily reduce the likelihood that a Bank would be subject to housing goals in the future and would not meet the intent of Congress that the Banks be subject to housing goals, as reflected in HERA.

Table 1

Banks' AMA Mortgages Purchased
Total Unpaid Principal Balance by Year
(Dollars in Millions)

Bank	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Boston	$32	$644	$3,123	$9,912	$4,091	$3,415	$371	$174	$620	$328
New York	$571	$131	$268	$539	$707	$450	$184	$176	$138	$147
Pittsburgh	$3,643	$6,448	$10,959	$14,306	$3,769	$1,222	$473	$131	$515	$414
Atlanta	$267	$449	$514	$1,798	$912	$1,014	$503	$914	$163	$0
Cincinnati	$0	$556	$3,683	$7,586	$3,546	$1,748	$1,160	$1,509	$1,027	$3,239
Indianapolis	$82	$371	$5,539	$4,780	$1,905	$3,325	$1,636	$468	$496	$564
Chicago	$767	$3,406	$5,824	$16,915	$4,991	$1,842	$1,129	$1,355	$2,684	$43
Des Moines	$6,469	$3,519	$4,997	$17,515	$1,907	$469	$361	$370	$1,065	$1,519
Dallas	$2,219	$2,024	$1,429	$1,938	$569	$332	$225	$179	$190	$0
Topeka	$11	$200	$266	$808	$1,058	$326	$228	$254	$764	$1,159
San Francisco	$0	$0	$522	$8,497	$532	$72	$18	$0	$0	$0
Seattle	$418	$1,489	$8,005	$6,651	$1,561	$86	$0	$0	$0	$0
System	**$14,479**	**$19,236**	**$45,128**	**$91,245**	**$25,549**	**$14,300**	**$6,289**	**$5,530**	**$7,663**	**$7,413**

The volume threshold is also intended to ensure that Banks with a relatively low annual volume of purchases of AMA-approved mortgages, *i.e.,* $2.5 billion or less, can continue to serve CFIs without being subject to the housing goals. Several Banks offer their AMA programs as a service to CFIs, which is consistent with their mission to provide liquidity to their members. FHFA set the volume threshold at an amount that would ensure that the housing goals would not cause the Banks that offer AMA programs primarily to service CFIs to discontinue their programs. The AMA programs are an important source of liquidity for such CFIs, and the discontinuance of an AMA program could adversely impact CFIs, such as those in rural areas, that may have limited or no access to the secondary market because of the higher per-mortgage sales cost associated with delivering a relatively small number of mortgages to purchasers, or the inability of these CFIs to meet purchasers' mortgage servicing requirements. Because the volume threshold already limits the impact of the housing goals on a Bank with an AMA program focused on its small members, the final rule does not exclude mortgages purchased from CFIs from counting for purposes of the volume threshold.

Market-Based Housing Goals. Consistent with the proposed rule, § 1281.11(b) of the final rule provides that compliance with the housing goals will be measured by comparing a Bank's performance with the *actual* goals-qualifying shares of the primary market during the year in the Bank's district. Under this retrospective, market-based approach, FHFA will calculate the actual goals-qualifying shares of the district-level primary mortgage market during the year using all mortgages originated in the geographic boundaries of each Bank district (meaning that the properties securing the mortgages are located in the district), including mortgages originated both by members and non-members. The Enterprise housing goals rule includes both this market-based approach and specific benchmark housing goal levels for the Enterprises. Under the Bank housing goals rule, a Bank's performance will not be measured against specific benchmark levels. Several provisions in the Enterprise housing goals rule that relate to the benchmark housing goal levels have been omitted from the Bank housing goals rule as unnecessary in light of the retrospective, market-based approach.

As noted in the proposed rule, FHFA believes that the advantages of comparing the Bank's performance to actual market performance outweigh the disadvantages. A more detailed discussion of the market-based approach is included in the final Enterprise 2010–2011 housing goals rule. *See* 75 FR at 55896–55898. The market size analysis used to establish the benchmark levels for the Enterprise housing goals does not reflect differences between the various Bank districts. The difficulties in accurately predicting the size of the market for each housing goal in each Bank district make it impractical to set meaningful annual benchmark levels for each Bank.

A disadvantage of the market-based approach is that public information on the goal-qualifying shares of the single-family primary mortgage market is not available until the release of Home Mortgage Disclosure Act (HMDA) data in late summer of the following year. However, a Bank that is subject to the housing goals will be active in the mortgage market in its district and hence positioned to understand how its performance is likely to compare to the overall market in its district.

In the proposed rule, FHFA discussed other possible alternatives for measuring market size that had been considered and rejected. The Banks recommended using a market measurement that is limited to mortgages that are similar to the types of mortgages a Bank might purchase under its AMA program, namely, prime, fixed rate, fully amortizing mortgage loans that are originated by regulated depository institutions in the member's district and that are intended for sale in the secondary market. However, FHFA has determined that a more inclusive measurement of the market will provide a better basis for evaluating the extent to which a Bank's purchases under its AMA program address mortgage credit needs in the Bank's district.

The Banks also recommended that mortgages purchased from CFIs be excluded from consideration under the Bank housing goals because such mortgages are not represented in the HMDA data used to measure the size of the market. The Banks recommended that such loans also be excluded when determining whether a Bank exceeded the volume threshold and when measuring a Bank's actual performance under the housing goals. The final rule does not exclude mortgages purchased from CFIs from consideration under the housing goals. As discussed above, the volume threshold already limits the impact of the housing goals on a Bank with an AMA program focused on its small members. In addition, removing all mortgages purchased from CFIs from consideration under the housing goals would lead to an inaccurate measure of the extent to which a Bank's purchases of AMA-approved mortgages meet the housing goals.

Consistent with the proposed rule, the final rule does not establish benchmark levels to measure the Banks' performance under the housing goals. FHFA requested comment on whether it would be appropriate to establish benchmark levels as a means of measuring the Banks' housing goals performance, in addition to measuring performance based on a Bank's actual share of goal-qualifying mortgages relative to its district-level market share, and if so, whether it would be appropriate to set benchmark levels for the Bank housing goals equal to the benchmark levels for the Enterprise housing goals. The comments did not specifically address establishing benchmark levels for the Banks, although a trade association suggested that the Banks should be encouraged to exceed the market share.

FHFA has concluded that it would be inappropriate to set benchmark levels for the Banks equal to the benchmark levels for the corresponding Enterprise housing goals, because the Enterprise benchmarks are based on national mortgage market estimates and no Bank has an AMA program with a national scope. In addition, FHFA has concluded that setting benchmark levels based on district-level market size estimates would be inappropriate because the market sizes cannot be reliably estimated in advance.

Section 1281.11(b) establishes criteria for determining the size of the market for each Bank district based on HMDA data on mortgages secured by property located in that Bank district. The criteria for establishing the size of the market reflect the types of mortgages that will count for purposes of the housing goals and that are typically eligible for purchase by a Bank. The criteria are the same as those in the proposed rule except for the definition of higher-priced loan to be used in the measurement of market size. The proposed rule would have excluded from the measurement of the market any mortgages with rate spreads of 300 basis points or more above the applicable Average Prime Offer Rate (APOR) reported under HMDA. Consistent with the definition in the final Enterprise 2010–2011 housing goals rule, for purposes of measuring the market for each Bank district, mortgages with rate spreads of 150 basis points above the applicable APOR reported under HMDA will be excluded. The 150 basis point rate spread is consistent with the definition of higher-priced loan used by the Federal Reserve Board.

Bank Housing Goals. Consistent with the proposed rule, § 1281.11(c) through 1281.11(f) of the final rule establishes four single-family housing goals applicable to any Bank that exceeds the volume threshold in a particular year. Goals are established for purchase money mortgages for low-income families, for families in low-income areas, and for very low-income families. In addition, a goal is established for refinancing mortgages for low-income families. The single-family housing goals will be based on an evaluation of the Bank's performance relative to the market for each housing goal in each year. The Banks have not been approved to purchase multifamily loans under the AMA programs. Accordingly, unlike the new Enterprise housing goals, the Bank housing goals do not include a multifamily special affordable housing goal or multifamily special affordable housing subgoal.

Two commenters recommended expanding the coverage of the Bank housing goals beyond the scope of the Enterprise housing goals. A not-for-profit organization recommended that FHFA give Bank housing goals credit for rental units in single-family properties, stating that such units provide an important source of affordable housing. A trade association suggested that FHFA consider adding a neighborhood goal for refinance lending, in addition to the borrower goal. In order to remain consistent with the Enterprise housing goals, the final rule does not alter the basic structure of the proposed Bank housing goals. The Bank housing goals do not include any investor-owned single-family properties, and they do not provide additional credit for any rental units in owner-occupied single-family properties. The Bank housing goals also do not include a separate goal for refinancing mortgages in low-income areas.

In contrast to the new Enterprise housing goals, the Bank housing goals also do not include a low-income areas subgoal. Because the Bank housing goals do not include benchmark levels set prospectively, there is no need for a separate subgoal to address the unpredictable impact designated disaster areas may have from year to year.

C. General Counting Requirements—§ 1281.12

Consistent with the proposed rule, § 1281.12 of the final rule sets forth general requirements for the counting of Bank AMA-approved mortgage purchases toward the achievement of the housing goals. Performance under the housing goals will be evaluated based on the percentage of all AMA-approved mortgages on single-family, owner-occupied properties purchased by a Bank that meet a particular goal.

As proposed, § 1281.12(a) of the final rule provides that performance under each of the single-family housing goals shall be measured using a fraction that is converted into a percentage. Neither the numerator nor the denominator shall include Bank transactions or activities that are not AMA-approved mortgage purchases as defined by FHFA or that are specifically excluded as ineligible under § 1281.13(b). The numerator is the number of AMA-approved mortgage purchases of a Bank in a particular year that finance owner-occupied single-family properties that count toward achievement of a particular housing goal. The denominator is the total number of AMA-approved mortgage purchases of a Bank in a particular year that finance owner-occupied, single-family properties.

As proposed, § 1281.12(b) of the final rule provides that when a Bank lacks sufficient data or information, *e.g.,* income of mortgagor, to determine whether the purchase of a mortgage counts toward achievement of a particular housing goal, that mortgage purchase shall be included in the denominator for that housing goal, but may not be included in the numerator. The Banks may not use missing data estimation methodologies, as used by the Enterprises, in light of the complexity of developing an estimation methodology suitable for the Banks. FHFA invited comment on whether a method for estimating missing affordability data would be feasible for the Bank housing goals but did not receive comments on this issue.

The provisions in § 1281.12(c) through (f), which address credit toward multiple goals, application of median income, sampling and newly available data, respectively, are consistent with the provisions in the proposed rule and the final Enterprise 2010–2011 housing goals rule.

The MPF program allows Banks to purchase a percentage of a mortgage or mortgage pool initially acquired by another Bank under the program. As discussed in the proposed rule, for purposes of receiving credit under one of the housing goals, each mortgage will be assigned to the Bank that initially acquired the mortgage regardless of whether an interest in the mortgage was later sold to another Bank.

In September 2008, FHFA approved the Chicago Bank's request to establish the MPF Xtra program, under which the Bank would buy certain qualified, conforming mortgages from eligible members for immediate sale to Fannie Mae. As discussed in the proposed rule, the MPF Xtra program is not an AMA program authorized under 12 CFR part 955.[9] Under the MPF Xtra program, the Bank serves essentially as a conduit or intermediary with respect to the sale of the mortgages to Fannie Mae. The mortgages may be counted by Fannie Mae toward compliance with its housing goals. If the mortgages were also to be considered for purposes of the Bank housing goals, double-counting of the mortgages could occur. Avoiding double-counting of mortgage purchases is consistent with the Enterprise housing goals. An Enterprise cannot receive credit towards a housing goal for a mortgage purchase if the other Enterprise received credit for that mortgage. Additionally, under the Enterprise housing goals, credit towards a housing goal is only awarded for a mortgage where the Enterprise purchases the mortgage or assumes the credit risks associated with the mortgage. The Bank does not fund MPF Xtra mortgages or assume any credit risks in MPF Xtra transactions. For these reasons, under the final rule, mortgages purchased by a Bank pursuant to the MPF Xtra program will not be considered for purposes of the Bank housing goals.

[9] In May 2007, FHFB also approved the Atlanta Bank's request to offer the Global Mortgage Alliance Program (GMAP), under which the Bank would facilitate the sale of certain qualified conforming mortgage loans from eligible members to another of its members—Global Mortgage Alliance, LLC, which would then securitize those loans. To date, no transactions have occurred under GMAP. The GMAP is not an AMA program authorized under part 955. Both the MPF Xtra and GMAP programs were separately authorized under the Banks' incidental authority contained in sections 11(a) and 11(e)(1) of the Bank Act. *See* 12 U.S.C. 1431(a), 1431(e)(1).

D. Special Counting Requirements—§ 1281.13

Consistent with the proposed rule, § 1281.13 of the final rule sets forth special counting requirements for the receipt of full, partial or no credit for a transaction toward achievement of the housing goals, a number of which are discussed further below.

Section 1281.13(b) specifies the types of transactions that shall not be counted for purposes of the housing goals and shall not be included in the numerator or the denominator in calculating a Bank's performance under the housing goals. The intent of this section is to specify the counting treatment for transactions in which the Banks are authorized to engage under the approved AMA programs. The counting rules do not purport to authorize the purchase of any types of mortgages, but are intended solely to indicate whether such mortgages shall receive full, partial or no credit toward the housing goals. Accordingly, transactions in which the Banks are not authorized to engage under the approved AMA programs are not included in paragraph (b). The Bank counting rules differ in some respects from the counting rules for the Enterprise housing goals. For example, the Banks are not authorized to purchase private label securities (PLS) under the AMA programs; therefore it is not necessary to exclude PLS from counting under the Bank housing goals. On the other hand, while the Banks are authorized to purchase non-conventional loans under the AMA authority, such loans are excluded from counting under the Enterprise housing goals and, therefore, have been excluded from counting under the Bank housing goals as well.

Section 1281.13(b) of the final rule makes clear that where a mortgage falls within one of the categories excluded from consideration under the housing goals, the mortgage shall be excluded even if it otherwise falls within one of the special counting rules in § 1281.13(c). For example, a non-conventional mortgage that would be excluded from consideration pursuant to § 1281.13(b)(1) cannot be counted even if it otherwise counts as a seasoned mortgage under § 1281.13(c)(2).

Home Equity Conversion Mortgages. Section 1281.13(b)(1) of the final rule excludes the purchases of all non-conventional single-family mortgages, including Home Equity Conversion Mortgages (HECMs), from counting towards the Banks' housing goals—that is, such purchases shall be excluded from both the numerator and denominator in calculating goal performance. This is consistent with the counting treatment for the new Enterprise housing goals, as HERA amended section 1332(a) of the Safety and Soundness Act to restrict the Enterprise single-family housing goals to include only conventional mortgages. *See* 12 U.S.C. 4562(a).

Mortgages financing secondary residences. Section 1281.13(b)(6) of the final rule prohibits the counting of mortgage purchases to the extent they finance any dwelling units that are secondary residences. This is consistent with the counting treatment for the new Enterprise housing goals, as HERA amended section 1332(a) of the Safety and Soundness Act to restrict the Enterprise single-family housing goals to include only purchases of owner-occupied mortgages. *See* 12 U.S.C. 4562.

Subordinate liens. Section 1281.13(b)(8) of the final rule excludes the purchases of subordinate lien mortgages (second mortgages) from counting towards the Banks' housing goals. HERA amended section 1331 of the Safety and Soundness Act to provide that the Enterprise single-family housing goals are limited to purchase money or refinancing mortgages. *See* 12 U.S.C. 4561. Consistent with the counting treatment for the new Enterprise housing goals, the Bank housing goals exclude home equity loans from counting for purposes of the housing goals. The Bank housing goals also exclude other subordinate lien mortgages, such as "piggy-back" loans that may be acquired by a Bank along with the corresponding first lien mortgage. Subordinate lien mortgages are excluded because it is difficult to determine whether such loans are purchase money loans or home equity loans, and because first lien mortgages provide a better measure of a Bank's support for residential housing.

Previously counted mortgages. Section 1281.13(b)(9) of the final rule prohibits the counting of mortgages toward performance under the housing goals if the mortgages have previously been counted for purposes of the performance of the Bank under the housing goals. In order to limit excessively burdensome recordkeeping that could result, the rule makes clear that this limitation only extends back for five years. Although the Banks have not previously been subject to housing goals, this language is included for applicability in future years.

Construction-to-permanent loans. Section 1281.13(b)(10) of the final rule excludes purchases of mortgages secured by properties that have not been approved for occupancy from consideration for purposes of the housing goals.

Housing goals credit for certain transactions. Section 1281.13(c) of the final rule provides that certain types of transactions shall be counted for purposes of the housing goals, including mortgages on cooperative housing and condominium units, seasoned mortgages, and refinancing mortgages. Section 1281.13(c) does not include certain types of transactions that are eligible for housing goals credit under the Enterprise housing goals, including credit enhancements for goal-qualifying mortgages, entering into risk sharing agreements with federal agencies to finance qualifying mortgages, and purchasing mortgage revenue bonds backed by qualifying mortgages. Such transactions are not eligible for Bank housing goals credit because of the more limited scope of the approved AMA programs. Section 1281.13(c) makes clear that where a transaction falls under more than one of the special counting rules in § 1281.13(c), all of the applicable requirements must be satisfied in order for the loan to be counted for purposes of the housing goals.

HOEPA mortgages and mortgages with unacceptable terms and conditions. Consistent with the proposed rule, § 1281.13(d) of the final rule provides that HOEPA mortgages and mortgages with unacceptable terms and conditions must be counted in the denominator as mortgage purchases but may not be counted in the numerator, regardless of whether the mortgages would otherwise qualify based on the affordability and other counting criteria. This treatment is consistent with past practice for the Enterprises and with section 1332(i) of the Safety and Soundness Act, as amended by HERA, which provides that no credit may be given for mortgages that FHFA determines are "unacceptable or contrary to good lending practices." 12 U.S.C. 4562(i).

The proposed rule defined "mortgages with unacceptable terms or conditions" to include mortgages with excessive fees or interest rates, as well as mortgages with prepayment penalties, mortgages sold with prepaid single-premium credit life insurance products, and mortgages originated using practices that violate fair lending laws or that are contrary to the Interagency Guidance on Nontraditional Mortgage Product Risks (71 FR 58609) (Oct. 4, 2006), the Interagency Statement on Subprime Mortgage Lending (72 FR 37569) (July 10, 2007), or similar guidance subsequently issued by federal banking agencies.

A trade association commented that FHFA should strengthen the terms and conditions that constitute unacceptable mortgages, and recommended the use of Regulation Z and HOEPA rather than interagency guidance to determine whether a mortgage is eligible to be counted under the housing goals. The final rule does not change the proposed definition of "mortgages with unacceptable terms or conditions." While the final rule specifically references interagency guidance on subprime and nontraditional loans, FHFA expects the Banks to ensure that mortgage loans they acquire comply with Regulation Z and HOEPA, as well as any federal law related to minimum standards for mortgages and predatory lending. As markets and abusive practices evolve, FHFA may determine additional terms and conditions to be unacceptable.

FHFA guidance. Section 1281.13(e) of the final rule provides that FHFA may provide guidance on the treatment of any transactions under the housing goals. The guidance may be provided in response to a request from a Bank, or at the initiation of FHFA.

Private label securities. As discussed in the proposed rule, because FHFA is counting only mortgages purchased through AMA programs in determining each Bank's housing goal performance, and the Banks are not authorized to purchase PLS through these programs, PLS will not be counted in determining a Bank's housing goals performance.

Housing finance agency obligations and other transactions. Consistent with the proposed rule, the final rule provides that only mortgages purchased through AMA programs will count in determining each Bank's housing goal performance. A trade association commenter recommended giving the Banks housing goals credit for Bank advances and investments, including transactions such as the purchase of housing finance agency (HFA) bonds, investment in housing-related bonds and tax credits, and advances to HFAs. The final rule does not expand the types of transactions that will receive credit under the housing goals to include transactions, such as purchases of HFA obligations, that are not AMA-approved mortgage purchases. Expanding the types of Bank transactions subject to housing goals beyond AMA-approved mortgage purchases would impede the ability of the Banks to make an orderly transition to the housing goals, because it would entail the Banks collecting information they may not currently collect, and for some Banks, modifying their activities involving HFAs.

E. Housing Goals Enforcement—§§ 1281.14 and 1281.15

Consistent with the proposed rule, § 1281.14 of the final rule provides that the Director shall determine whether each Bank has exceeded the volume threshold on an annual basis. For any Bank that has exceeded the volume threshold, the Director will also determine whether the Bank has met the housing goals, in accordance with the standards established under the Safety and Soundness Act, as amended by HERA. If the Director determines that a Bank has failed to meet any housing goal, the Director shall provide notice to the Bank in writing of such preliminary determination.

Consistent with the proposed rule, § 1281.15 of the final rule includes requirements for submission of a housing plan by a Bank for failure to meet any housing goal that is determined to be feasible by FHFA. The requirement to submit a housing plan is at the discretion of the Director.

F. Reporting Requirements—§§ 1281.20 Through 1281.23

As required for the Enterprises, and consistent with the proposed rule, §§ 1281.20 through 1281.23 of the final rule establish reporting requirements for the Banks with respect to their housing goals performance. Section 1281.21(a) requires the Banks to collect and compile computerized loan-level data on each AMA-approved mortgage purchased, as described in FHFA's Data Reporting Manual (DRM). These reporting requirements apply to each Bank, regardless of whether in a particular year the Bank expects to exceed the volume threshold and thus be subject to the housing goals.

Section 1281.21(b) requires each Bank to submit to the Director, on a semi-annual basis, a Mortgage Report containing aggregations of the loan-level mortgage data for year-to-date AMA-approved mortgage purchases, and year-to-date dollar volume, number of units, and number of AMA-approved mortgages on owner-occupied properties purchased that do, and do not, qualify under each housing goal. The loan-level data that must be reported are currently collected by FHFA on a semi-annual basis. As advances in technology have made more frequent submissions less burdensome, FHFA will consider quarterly reporting for the Banks in future years. Quarterly reporting would be consistent with the current requirements for the Enterprises. The additional data provided facilitates

FHFA's monitoring of Enterprise performance under the housing goals. The Enterprises are also required to submit Annual Housing Activities Reports (AHARs) to FHFA. The final rule does not require the Banks to submit AHARs, but FHFA will consider requiring such reports in the future.

Consistent with the proposed rule, § 1281.22 of the final rule requires each Bank to provide to the Director such reports, information and data as the Director may request from time to time, or as may be supplemented in the DRM.

As proposed, § 1281.23 of the final rule sets forth the data integrity process for Bank housing goals data. The final rule requires the senior officer of each Bank who is responsible for submitting any report, data or other information for which certification is requested by the Director, to certify such report, data or information. FHFA will determine on an annual basis the official housing goals performance figures for any Bank that is subject to the housing goals, and may resolve any error, omission or discrepancy by adjusting the Bank's official housing goals performance figure. If the Director determines that the year-end data reported by a Bank for a year preceding the latest year for which data on housing goals performance was reported to FHFA contained a material error, omission or discrepancy, the Director may increase the corresponding housing goal for the current year by the number of mortgages that the Director determines were overstated in the prior year's goal performance.

FHFA will implement the data integrity process pursuant to its general regulatory authority over the Banks. FHFA expects that the Banks will work cooperatively with FHFA to identify and resolve any discrepancies or errors in the housing goals data reported to FHFA.

VI. Paperwork Reduction Act

The final rule does not contain any information collection requirement that requires the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

VII. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires that a regulation that has a significant economic impact on a substantial number of small entities, small businesses or small organizations must include an initial regulatory flexibility analysis describing the regulation's impact on small entities. Such an analysis need not be undertaken if the agency has certified that the regulation will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b). FHFA has considered the impact of the final rule under the Regulatory Flexibility Act. The General Counsel of FHFA certifies that the final rule is not likely to have a significant economic impact on a substantial number of small business entities because the regulation is applicable only to the Banks, which are not small entities for purposes of the Regulatory Flexibility Act.

List of Subjects in 12 CFR Part 1281

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

■ Accordingly, for the reasons stated in the preamble, under the authority of 12 U.S.C. 1430c, FHFA amends chapter XII of title 12 of the Code of Federal Regulations, by adding new part 1281 to subchapter E to read as follows:

SUBCHAPTER E—HOUSING GOALS AND MISSION

PART 1281—FEDERAL HOME LOAN BANK HOUSING GOALS

Authority: 12 U.S.C. 1430c.

Subpart A—General

§ 1281.1 Definitions.

As used in this part:

Acquired Member Assets (AMA) program means a program that authorizes a Bank to hold assets acquired from or through Bank members or housing associates by means of either a purchase or a funding transaction, subject to the requirements of 12 CFR parts 955 and 980, or successor regulations.

AMA-approved mortgage means a mortgage that meets the requirements of the AMA program at 12 CFR part 955, and is approved to be implemented under 12 CFR part 980, or successor regulations.

Balloon mortgage means a mortgage providing for payments at regular intervals, with a final payment (balloon payment) that is at least 5 percent more than the periodic payments. The periodic payments may cover some or all of the periodic principal or interest. Typically, the periodic payments are level monthly payments that would fully amortize the mortgage over a stated term and the balloon payment is a single payment due after a specific period (but before the mortgage would fully amortize) and pays off or satisfies the outstanding balance of the mortgage.

Bank means a Federal Home Loan Bank established under section 12 of the Bank Act (12 U.S.C. 1432).

Bank Act means the Federal Home Loan Bank Act, as amended (12 U.S.C. 1421 *et seq.*).

Bank System means the Federal Home Loan Bank System, consisting of the 12 Banks and the Office of Finance.

Borrower income means the total gross income relied on in making the credit decision.

Conforming mortgage means, with respect to a Bank, a conventional AMA-approved single-family mortgage having an original principal obligation that does not exceed the dollar limitation in effect at the time of such origination and applicable to such mortgage under 12 CFR 955.2(a)(1)(i) and 12 U.S.C. 1717(b)(2), as these sections may be amended.

Conventional mortgage means a mortgage other than a mortgage as to which a Bank has the benefit of any guaranty, insurance or other obligation by the United States or any of its agencies or instrumentalities.

Data Reporting Manual (DRM) means the manual prepared by FHFA in connection with the Banks' reporting requirements, as may be supplemented from time to time, including reporting requirements under this part.

Day means a calendar day.

Designated disaster area means any census tract that is located in a county designated by the federal government as adversely affected by a declared major disaster administered by FEMA, where individual assistance payments were authorized by FEMA. A census tract shall be treated as a "designated disaster area" for purposes of this part beginning on the January 1 after the FEMA designation of the county, or such earlier date as determined by FHFA, and continuing through December 31 of the third full calendar year following the FEMA designation. This time period may be adjusted for a particular disaster area by notice from FHFA to the Banks.

Director means the Director of FHFA, or his or her designee.

Dwelling unit means a room or unified combination of rooms intended for use, in whole or in part, as a dwelling by one or more persons, and includes a dwelling unit in a single-family property, multifamily property, or other residential or mixed-use property.

Families in low-income areas means:

(1) Any family that resides in a census tract or block numbering area in which the median income does not exceed 80 percent of the area median income;

(2) Any family with an income that does not exceed area median income that resides in a minority census tract; and

(3) Any family with an income that does not exceed area median income that resides in a designated disaster area.

Family means one or more individuals who occupy the same dwelling unit.

FEMA means the Federal Emergency Management Agency.

FHFA means the Federal Housing Finance Agency.

HMDA means the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2801, *et seq.*), as amended.

HOEPA mortgage means a mortgage covered by section 103(aa) of the Truth in Lending Act (15 U.S.C. 1602(aa)), as amended by the Home Ownership Equity Protection Act (HOEPA), as implemented by the Board of Governors of the Federal Reserve System.

HUD means the United States Department of Housing and Urban Development.

Low-income means income not in excess of 80 percent of area median income.

Median income means, with respect to an area, the unadjusted median family income for the area as most recently determined by HUD. FHFA will provide the Banks annually with information specifying how the median family income estimates for metropolitan areas are to be applied for the purposes of determining median family income.

Member means an institution that has been approved for membership in a Bank and has purchased capital stock in the Bank in accordance with 12 CFR 1263.20 or 1263.24(b), or successor regulation(s).

Metropolitan area means a metropolitan statistical area (MSA), or a portion of such an area, including Metropolitan Divisions, for which median family income estimates are determined by HUD.

Minority means any individual who is included within any one or more of the following racial and ethnic categories:

(1) American Indian or Alaskan Native—a person having origins in any of the original peoples of North and South America (including Central America), and who maintains tribal affiliation or community attachment;

(2) Asian—a person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent, including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam;

(3) Black or African American—a person having origins in any of the black racial groups of Africa;

(4) Hispanic or Latino—a person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race; and

(5) Native Hawaiian or Other Pacific Islander—a person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

Minority census tract means a census tract that has a minority population of at least 30 percent and a median income of less than 100 percent of the area median income.

Moderate-income means income not in excess of area median income.

Mortgage means a member of such classes of liens, including subordinate liens, as are commonly given or are legally effective to secure advances on, or the unpaid purchase price of, real estate under the laws of the State in which the real estate is located, together with the credit instruments, if any, secured thereby, and includes interests in mortgages. "Mortgage" includes a mortgage, lien, including a subordinate lien, or other security interest on the stock or membership certificate issued to a tenant-stockholder or resident-member by a cooperative housing corporation, as defined in section 216 of the Internal Revenue Code of 1986, and on the proprietary lease, occupancy agreement, or right of tenancy in the dwelling unit of the tenant-stockholder or resident-member in such cooperative housing corporation.

Mortgage data means data obtained by the Director from the Bank or Banks under this part and/or the Data Reporting Manual.

Mortgage purchase means a transaction in which a Bank bought or otherwise acquired a mortgage.

Mortgage with unacceptable terms or conditions means a single-family mortgage, including a reverse mortgage, or a group or category of such mortgages, with one or more of the following terms or conditions:

(1) Excessive fees, where the total points and fees charged to a borrower exceed the greater of 5 percent of the loan amount or a maximum dollar amount of $1,000, or an alternative amount requested by a Bank and determined by the Director as appropriate for small mortgages;

(i) For purposes of this definition, points and fees include:

(A) Origination fees;

(B) Underwriting fees;

(C) Broker fees;

(D) Finder's fees; and

(E) Charges that the member imposes as a condition of making the loan, whether they are paid to the member or a third party;

(ii) For purposes of this definition, points and fees do not include:

(A) Bona fide discount points;

(B) Fees paid for actual services rendered in connection with the origination of the mortgage, such as attorneys' fees, notary's fees, and fees paid for property appraisals, credit reports, surveys, title examinations and extracts, flood and tax certifications, and home inspections;

(C) The cost of mortgage insurance or credit-risk price adjustments;

(D) The costs of title, hazard, and flood insurance policies;

(E) State and local transfer taxes or fees;

(F) Escrow deposits for the future payment of taxes and insurance premiums; and

(G) Other miscellaneous fees and charges that, in total, do not exceed 0.25 percent of the loan amount;

(2) An annual percentage rate that exceeds by more than 8 percentage points the yield on Treasury securities with comparable maturities as of the fifteenth day of the month immediately preceding the month in which the application for the extension of credit was received;

(3) Prepayment penalties, except where:

(i) The mortgage provides some benefit to the borrower in exchange for the prepayment penalty (*e.g.,* a rate or fee reduction for accepting the prepayment premium);

(ii) The borrower is offered the choice of another mortgage that does not contain payment of such a premium;

(iii) The terms of the mortgage provision containing the prepayment penalty are adequately disclosed to the borrower; and

(iv) The prepayment penalty is not charged when the mortgage debt is accelerated as the result of the borrower's default in making his or her mortgage payments;

(4) The sale or financing of prepaid single-premium credit life insurance products in connection with the origination of the mortgage;

(5) Underwriting practices contrary to the Interagency Guidance on

Nontraditional Mortgage Product Risks (71 FR 58609) (Oct. 4, 2006), the Interagency Statement on Subprime Mortgage Lending (72 FR 37569) (July 10, 2007), or similar guidance subsequently issued by federal banking agencies;

(6) Failure to comply with fair lending requirements; or

(7) Other terms or conditions that are determined by the Director to be an unacceptable term or condition of a mortgage.

Non-metropolitan area means a county, or a portion of a county, including those counties that comprise Micropolitan Statistical Areas, located outside any metropolitan area for which median family income estimates are published annually by HUD.

Owner-occupied housing means single-family housing in which a mortgagor resides, including two- to four-unit owner-occupied properties where one or more units are used for rental purposes.

Purchase money mortgage means a mortgage given to secure a loan used for the purchase of a single-family residential property.

Refinancing mortgage means a mortgage undertaken by a borrower that satisfies or replaces an existing mortgage of such borrower. The term does not include:

(1) A renewal of a single payment obligation with no change in the original terms;

(2) A reduction in the annual percentage rate of the mortgage as computed under the Truth in Lending Act, with a corresponding change in the payment schedule;

(3) An agreement involving a court proceeding;

(4) A workout agreement, in which a change in the payment schedule or collateral requirements is agreed to as a result of the mortgagor's default or delinquency, unless the rate is increased or the new amount financed exceeds the unpaid balance plus earned finance charges and premiums for the continuation of insurance;

(5) The renewal of optional insurance purchased by the mortgagor and added to an existing mortgage; or

(6) A conversion of a balloon mortgage note on a single-family property to a fully amortizing mortgage note where the Bank already owns or has an interest in the balloon note at the time of the conversion.

Residence means a property where one or more families reside.

Residential mortgage means a mortgage on single-family housing.

Seasoned mortgage means a mortgage on which the date of the mortgage note is more than one year before the Bank purchased the mortgage.

Second mortgage means any mortgage that has a lien position subordinate only to the lien of the first mortgage.

Secondary residence means a dwelling where the mortgagor maintains (or will maintain) a part-time place of abode and typically spends (or will spend) less than the majority of the calendar year. A person may have more than one secondary residence at a time.

Single-family housing means a residence consisting of one to four dwelling units. Single-family housing includes condominium dwelling units and dwelling units in cooperative housing projects.

Very low-income means income not in excess of 50 percent of area median income.

Subpart B—Housing Goals

§ 1281.10 General.

Pursuant to the requirements of the Bank Act, as amended (12 U.S.C. 1430c), this subpart establishes:

(a) Three single-family owner-occupied purchase money mortgage housing goals, and one single-family refinancing mortgage housing goal;

(b) A volume threshold for the application of the housing goals to a Bank;

(c) Requirements for measuring performance under the housing goals; and

(d) Procedures for monitoring and enforcing the housing goals.

§ 1281.11 Bank housing goals.

(a) *Volume threshold.* The housing goals established in this section shall apply to a Bank for a calendar year only if the unpaid principal balance (UPB) of the Bank's purchases of AMA-approved mortgages in that year exceeds $2.5 billion.

(b) *Market-based housing goals.* A Bank that is subject to the housing goals shall be in compliance with a housing goal if its performance under the housing goal meets or exceeds the share of the market that qualifies for the housing goal. The size of the market for each housing goal shall be established annually by FHFA for each Bank district based on data reported pursuant to the Home Mortgage Disclosure Act for a given year. Unless otherwise adjusted by FHFA, the size of the market for each Bank district shall be determined based on the following criteria:

(1) Only owner-occupied, conventional loans secured by property located in that Bank district shall be considered;

(2) Purchase money mortgages and refinancing mortgages shall be counted only for the applicable housing goal or goals;

(3) All mortgages flagged as HOEPA loans or subordinate lien loans shall be excluded;

(4) All mortgages with original principal balances above the conforming loan limits for single unit properties for the year being evaluated (rounded to the nearest $1,000) shall be excluded;

(5) All mortgages with rate spreads of 150 basis points or more above the applicable average prime offer rate as reported in the Home Mortgage Disclosure Act data shall be excluded; and

(6) All mortgages that are missing information necessary to determine appropriate counting under the housing goals shall be excluded.

(c) *Low-income families housing goal.* For a Bank that is subject to the housing goals, the percentage share of such Bank's total purchases of purchase money AMA-approved mortgages on owner-occupied single-family housing that consists of mortgages for low-income families shall meet or exceed the share of such mortgages in the market as defined in paragraph (b) of this section.

(d) *Low-income areas housing goal.* For a Bank that is subject to the housing goals, the percentage share of such Bank's total purchases of purchase money AMA-approved mortgages on owner-occupied single-family housing that consists of mortgages for families in low-income areas shall meet or exceed the share of such mortgages in the market as defined in paragraph (b) of this section.

(e) *Very low-income families housing goal.* For a Bank that is subject to the housing goals, the percentage share of such Bank's total purchases of purchase money AMA-approved mortgages on owner-occupied single-family housing that consists of mortgages for very low-income families shall meet or exceed the share of such mortgages in the market as defined in paragraph (b) of this section.

(f) *Refinancing housing goal.* For a Bank that is subject to the housing goals, the percentage share of such Bank's total purchases of refinancing AMA-approved mortgages on owner-occupied single-family housing that consists of refinancing mortgages for low-income families shall meet or exceed the share of such mortgages in the market as defined in paragraph (b) of this section.

§ 1281.12 General counting requirements.

(a) *Calculating the numerator and denominator for the housing goals.* Performance under each of the housing goals shall be measured using a fraction that is converted into a percentage. Neither the numerator nor the denominator shall include Bank transactions or activities that are not AMA-approved mortgage purchases as defined by FHFA or that are specifically excluded as ineligible under § 1281.13(b).

(1) *The numerator.* The numerator of each fraction is the number of AMA-approved mortgage purchases of a Bank in a particular year that finance owner-occupied single-family properties that count toward achievement of a particular housing goal.

(2) *The denominator.* The denominator of each fraction is the total number of AMA-approved mortgage purchases of a Bank in a particular year that finance owner-occupied, single-family properties. A separate denominator shall be calculated for purchase money mortgages and for refinancing mortgages.

(b) *Missing data or information for the housing goals.*—(1) When a Bank lacks sufficient data or information to determine whether the purchase of a mortgage originated after 1992 counts toward achievement of a particular housing goal, that mortgage purchase shall be included in the denominator for that housing goal and shall not be included in the numerator for that housing goal.

(2) Mortgage purchases financing owner-occupied single-family properties shall be evaluated based on the income of the mortgagors and the area median income at the time the mortgage was originated. To determine whether mortgages may be counted under a particular family income level (*i.e.,* low- or very low-income), the income of the mortgagors is compared to the median income for the area at the time of the mortgage application, using the appropriate percentage factor provided under § 1281.1.

(c) *Credit toward multiple goals.* A mortgage purchase by a Bank in a particular year shall count toward the achievement of each housing goal for which such purchase qualifies in that year.

(d) *Application of median income.* For purposes of determining an area's median income under § 1281.1, the area is:

(1) The metropolitan area, if the property which is the subject of the mortgage is in a metropolitan area; and

(2) In all other areas, the county in which the property is located, except that where the State nonmetropolitan median income is higher than the county's median income, the area is the State nonmetropolitan area.

(e) *Sampling not permitted.* Performance under the housing goals for each year shall be based on a complete tabulation of mortgage purchases for that year; a sampling of such purchases is not acceptable.

(f) *Newly available data.* When a Bank uses data to determine whether a mortgage purchase counts toward achievement of any housing goal, and new data is released after the start of a calendar quarter, the Bank need not use the new data until the start of the following quarter.

§ 1281.13 Special counting requirements.

(a) *General.* FHFA shall determine whether a Bank shall receive full, partial, or no credit toward achievement of any of the housing goals for a transaction that otherwise qualifies under this part.

(b) *Not counted.* The following transactions or activities shall not be counted for purposes of the housing goals and shall not be included in the numerator or the denominator in calculating a Bank's performance under the housing goals, even if the transaction or activity would otherwise be counted under paragraph (c) of this section:

(1) Purchases of non-conventional single-family mortgages;

(2) Commitments to buy mortgages at a later date or time;

(3) Options to acquire mortgages;

(4) Rights of first refusal to acquire mortgages;

(5) Any interests in mortgages that the Director determines, in writing, shall not be treated as interests in mortgages;

(6) Mortgage purchases to the extent they finance any dwelling units that are secondary residences;

(7) Single-family refinancing mortgages that result from conversion of balloon notes to fully amortizing notes, if a Bank already owns, or has an interest in, the balloon note at the time conversion occurs;

(8) Purchases of subordinate lien mortgages (second mortgages);

(9) Purchases of mortgages that were previously counted by a Bank under any current or previous housing goal within the five years immediately preceding the current performance year;

(10) Purchases of mortgages where the property has not been approved for occupancy; and

(11) Any combination of factors in paragraphs (b)(1) through (b)(10) of this section.

(c) *Other special rules.* Subject to FHFA's determination of whether a Bank shall receive full, partial, or no credit for a transaction toward achievement of any of the housing goals as provided in paragraph (a) of this section, the transactions and activities identified in this paragraph (c) shall be treated as mortgage purchases as described. A transaction or activity that is covered by more than one paragraph below must satisfy the requirements of each such paragraph. The mortgages from each such transaction or activity shall be included in the denominator in calculating a Bank's performance under the housing goals, and shall be included in the numerator, as appropriate.

(1) *Cooperative housing and condominiums.* The purchase by a Bank of a mortgage on a cooperative housing unit ("a share loan") or a mortgage on a condominium unit shall be treated as a mortgage purchase for purposes of the housing goals.

(2) *Seasoned mortgages.* The purchase of a seasoned mortgage by a Bank shall be treated as a mortgage purchase for purposes of the housing goals, except where the Bank has already counted the mortgage under any current or previous housing goal within the five years immediately preceding the current performance year.

(3) *Purchase of refinancing mortgages.* The purchase of a refinancing mortgage by a Bank shall be treated as a mortgage purchase for purposes of the housing goals only if the refinancing is an arms-length transaction that is borrower-driven.

(d) *HOEPA mortgages and mortgages with unacceptable terms or conditions.* The purchase by a Bank of HOEPA mortgages and mortgages with unacceptable terms or conditions, as defined in § 1281.1, shall be treated as mortgage purchases for purposes of the housing goals and shall be included in the denominator for each applicable housing goal, but such mortgages shall not be counted in the numerator for any housing goal.

(e) *FHFA review of transactions.* FHFA may determine whether and how any transaction or class of transactions shall be counted for purposes of the housing goals. FHFA will notify each Bank in writing of any determination regarding the treatment of any transaction or class of transactions under the housing goals.

§ 1281.14 Determination of compliance with housing goals; notice of determination.

(a) *Determination of compliance with housing goals.* On an annual basis, the Director shall determine whether each Bank has exceeded the volume threshold. For each Bank that has exceeded the volume threshold in a year, the Director shall determine the Bank's performance under each housing goal.

(b) *Failure to meet a housing goal.* If the Director determines that a Bank has failed to meet any housing goal, the Director shall notify the Bank in writing of such preliminary determination. Any notification to a Bank of a preliminary determination under this section shall provide the Bank with an opportunity to respond in writing in accordance with the following procedures:

(1) *Notice.* The Director shall provide written notice to a Bank of a preliminary determination under this section, the reasons for such determination, and the information on which the Director based the determination.

(2) *Response period.*—(i) *In general.* During the 30-day period beginning on the date on which notice is provided under paragraph (b)(1) of this section, the Bank may submit to the Director any written information that the Bank considers appropriate for consideration by the Director in finally determining whether such failure has occurred or whether the achievement of such goal was feasible.

(ii) *Extended period.* The Director may extend the period under paragraph (b)(2)(i) of this section for good cause for not more than 30 additional days.

(iii) *Shortened period.* The Director may shorten the period under paragraph (b)(2)(i) of this section for good cause.

(iv) *Failure to respond.* The failure of a Bank to provide information during the 30-day period under this paragraph (b)(2), as extended or shortened, shall waive any right of the Bank to comment on the proposed determination or action of the Director.

(3) *Consideration of information and final determination.* (i) *In general.* After the expiration of the response period under paragraph (b)(2) of this section or receipt of information provided during such period by a Bank, the Director shall issue a final determination on:

(A) Whether the Bank has failed to meet the housing goal; and

(B) Whether, taking into consideration market and economic conditions and the financial condition of the Bank, the achievement of the housing goal was feasible.

(ii) *Considerations.* In making a final determination under paragraph (b)(3)(i) of this section, the Director shall take into consideration any relevant information submitted by a Bank during the response period.

§ 1281.15 Housing plans.

(a) *Housing plan requirement.* If the Director determines that a Bank has failed to meet any housing goal and that the achievement of the housing goal was feasible, the Director may require the Bank to submit a housing plan for approval by the Director.

(b) *Nature of plan.* If the Director requires a housing plan, the housing plan shall:

(1) Be feasible;

(2) Be sufficiently specific to enable the Director to monitor compliance periodically;

(3) Describe the specific actions that the Bank will take to achieve the housing goal for the next calendar year; and

(4) Address any additional matters relevant to the plan as required, in writing, by the Director.

(c) *Deadline for submission.* The Bank shall submit the housing plan to the Director within 45 days after issuance of a notice requiring the Bank to submit a housing plan. The Director may extend the deadline for submission of a plan, in writing and for a time certain, to the extent the Director determines an extension is necessary.

(d) *Review of housing plan.* The Director shall review and approve or disapprove a housing plan as follows:

(1) *Approval.* The Director shall review each submission by a Bank, including a housing plan submitted under this section and, not later than 30 days after submission, approve or disapprove the plan or other action. The Director may extend the period for approval or disapproval for a single additional 30-day period if the Director determines it necessary. The Director shall approve any plan that the Director determines is likely to succeed, and conforms with the Bank Act, this part, and any other applicable provision of law.

(2) *Notice of approval and disapproval.* The Director shall provide written notice to a Bank submitting a housing plan of the approval or disapproval of the plan, which shall include the reasons for any disapproval of the plan, and of any extension of the period for approval or disapproval.

(e) *Resubmission.* If the Director disapproves an initial housing plan submitted by a Bank, the Bank shall submit an amended plan acceptable to the Director not later than 15 days after the Director's disapproval of the initial plan; the Director may extend the deadline if the Director determines an extension is in the public interest. If the amended plan is not acceptable to the Director, the Director may afford the Bank 15 days to submit a new plan.

(f) *Enforcement of housing plan.* If the Director finds that a Bank has failed to meet any housing goal, and that the achievement of the housing goal was feasible, and has required the Bank to submit a housing plan under this section, the Director may issue a cease and desist order, or impose civil money penalties, if the Bank refuses to submit such a plan, fails to submit an acceptable plan, or fails to comply with the approved plan. In taking such action, the Director shall follow procedures consistent with those provided in 12 U.S.C. 4581 through 4588 with respect to actions to enforce the housing goals.

Subpart C—Reporting Requirements

§ 1281.20 General.

This subpart establishes data submission and reporting requirements to provide the Director with mortgage and other information relating to the Banks' performance in connection with the housing goals, as supplemented from time to time in the Banks' Data Reporting Manual (DRM).

§ 1281.21 Mortgage Reports.

(a) *Loan-level data elements.* To implement the data collection and submission requirements for mortgage data, and to assist the Director in monitoring the Banks' housing goal activities, each Bank shall collect and compile computerized loan-level data on each AMA-approved mortgage purchase, as described in the DRM. The Director may, from time to time, issue a list in the DRM specifying the loan-level data elements to be collected and maintained by the Banks and provided to the Director. The Director may revise the DRM list by written notice to the Banks.

(b) *Semi-annual Mortgage Reports.* Each Bank shall submit to the Director, on a semi-annual basis, a Mortgage Report. The second semi-annual Mortgage Report each year shall serve as the annual Mortgage Report and shall be designated as such. Each Mortgage Report shall include:

(1) Aggregations of the loan-level mortgage data compiled by each Bank under paragraph (a) of this section for year-to-date AMA-approved mortgage purchases, in the format specified in writing by the Director;

(2) Year-to-date dollar volume, number of units, and number of AMA-approved mortgages on owner-occupied properties purchased by each Bank that do, and do not, qualify under each housing goal as set forth in this part; and

(3) Year-to-date computerized loan-level data consisting of the data elements required under paragraph (a) of this section.

(c) *Timing of Reports.* Each Bank shall submit its first semi-annual Mortgage Report within 45 days of the end of the second quarter. Each Bank shall submit its annual Mortgage Report within 60 days after the end of the calendar year.

(d) *Revisions to Reports.* At any time before submission of its annual Mortgage Report, a Bank may revise its first semi-annual Mortgage Report for that year.

(e) *Format.* The Banks shall submit to the Director computerized loan-level data with the Mortgage Report, in the format specified in writing by the Director.

§ 1281.22 Periodic reports.

Each Bank shall provide to the Director such reports, information and data as the Director may request from time to time, or as may be supplemented in the DRM.

§ 1281.23 Bank data integrity.

(a) *Certification.* (1) The senior officer of each Bank who is responsible for submitting the annual Mortgage Report, or for submitting any other report(s), data or other information for which certification is requested in writing by the Director, shall certify such report(s), data or information.

(2) The certification shall state as follows: "To the best of my knowledge and belief, the information provided herein is true, correct and complete."

(b) *Adjustment to correct errors, omissions or discrepancies.* FHFA shall determine on an annual basis the official housing goals performance figures for a Bank that is subject to the housing goals. FHFA may resolve any error, omission or discrepancy by adjusting the Bank's official housing goals performance figure. If the Director determines that the year-end data reported by a Bank for a year preceding the latest year for which data on housing goals performance was reported to FHFA contained a material error, omission or discrepancy, the Director may increase the corresponding housing goal for the current year by the number of mortgages that the Director determines were overstated in the prior year's goal performance.

Dated: December 20, 2010.

Edward J. DeMarco,

Acting Director, Federal Housing Finance Agency.

[FR Doc. 2010–32350 Filed 12–23–10; 8:45 am]

BILLING CODE 8070–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2010–0354 Airspace Docket No. 10–AAL–10]

Establishment of Class E Airspace; Port Clarence, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This action corrects errors in the legal description and airport coordinates for Port Clarence Coast Guard Station (CGS) Airport, Port Clarence, AK, contained in a final rule that was published in the **Federal Register.**

DATES: Effective date 0901 UTC, January 13, 2011.

FOR FURTHER INFORMATION CONTACT: Martha Dunn, AAL–538G, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; e-mail: *Martha.ctr.Dunn@faa.gov.* Internet address: *http://www.faa.gov/about/office_org/headquarters_offices/ato.service_units/systemops/fs/alaskan/rulemaking/.*

SUPPLEMENTARY INFORMATION:

History

Federal Register Document FAA–2010–0354, Airspace Docket No. 10–AAL–10, published on Tuesday, October 12, 2010 [75 FR 62457] establishes Class E airspace at Port Clarence CGS Airport, Port Clarence, AK. The airspace description referred to the Anchorage Arctic CTA/FIR boundary as a limitation of the western boundary of the Class E airspace area. This reference is in error and is corrected by substituting the actual coordinates of the boundary. The airport reference point coordinates also contained an error caused by rounding. This action corrects that error. The correct full legal description is provided below.

Correction to Final Rule

■ Accordingly, pursuant to the authority delegated to me, the Class E airspace legal description for Port Clarence CGS Airport, published in the **Federal Register**, Tuesday, October 12, 2010 (75 FR 62457), FR Doc 2010–25479, page 62458, column 2 is corrected as follows:

AAL AK E5 Port Clarence, AK [Corrected]

Port Clarence, CGS Airport, AK

(Lat. 65°15′12″ N., Long. 166°51′27″ W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of the Port Clarence CGS Airport, AK and within 1.5 miles either side of the 180° bearing from the Port Clarence CGS Airport, extending from the 6.4-mile radius to 13.2 miles south of the Port Clarence CGS Airport; and that airspace extending upward from 1,200 feet above the surface within a 73 mile radius of the Port Clarence CGS Airport, AK, excluding that portion extending west of a line from Lat. 64°48′20″ N., Long. 169°31′27″ W., to Lat. 60°00′00″ N., Long. 168°58′23″ W., to Lat. 66°05′44″ N., Long. 168°58′23″ W.

Issued in Anchorage, AK, on December 13, 2010.

James M. Miller,

Acting Manager, Alaska Flight Services Information Area Group.

[FR Doc. 2010–32293 Filed 12–23–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 950

[Docket No. 090113018–9019–01]

RIN 0648–AX74

Schedule of Fees for Access to NOAA Environmental Data, Information, and Related Products and Services

AGENCY: National Environmental Satellite, Data and Information Service (NESDIS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Final rule.

SUMMARY: In this final rule, NESDIS establishes a new schedule of fees for the sale of its data, information, and related products and services to users. NESDIS is revising the fee schedule to ensure that the fees accurately reflect the costs of providing access to the environmental data, information, and related products and services. NESDIS is authorized under 15 U.S.C. 1534 to assess fees, up to fair market value, for access to environmental data, information, and products derived from, collected, and/or archived by NOAA. Other than depreciation, costs to upgrade computer hardware and software systems will not be included in the fees charged to users.

DATES: *Effective Date:* February 28, 2011.

FOR FURTHER INFORMATION CONTACT: Angel Robinson (301) 713–9230 ext 186.

SUPPLEMENTARY INFORMATION: