

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**24 CFR Part 570**

[Docket No. FR-5767-N-06]

RIN 2506-AC35

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

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

ACTION: Notification of fees.

SUMMARY: This document announces the fee that HUD will collect from borrowers of loans guaranteed under HUD's Section 108 Loan Guarantee Program (Section 108 Program) to offset the credit subsidy costs of the guaranteed loans pursuant to commitments awarded in FY 2018.

DATES: *Applicability Date:* October 25, 2017.

FOR FURTHER INFORMATION CONTACT: Paul Webster, Director, Financial Management Division, Office of Block Grant Assistance, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th Street SW., Room 7180, Washington, DC 20410; telephone number 202-402-4563 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number through TTY by calling the toll-free Federal Relay Service at 800-877-8339. FAX inquiries (but not comments) may be sent to Mr. Webster at 202-708-1798 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:**I. Background**

The Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2015 (division K of Pub. L. 113-235, approved December 16, 2014) (2015 Appropriations Act) provided that "the Secretary shall collect fees from borrowers . . . to result in a credit subsidy cost of zero for guaranteeing" Section 108 loans. Identical language was continued or included in the Department's continuing resolutions and appropriations acts authorizing HUD to issue Section 108 loan guarantees during fiscal years 2016 and 2017 (Pub. L. 114-53, 114-113, and 115-31). Section 101(a) of the Continuing Appropriations Act, 2018 (Division D of Pub. L. 115-56, approved September 8, 2017) includes the costs of HUD loan guarantees generally in its continuation of fiscal year 2017 programs. Additionally, the Senate

appropriations bill under consideration (S. 1655) and the House omnibus bill (H.R. 3354) have identical language regarding the fees and credit subsidy cost for the Section 108 Program.

On November 3, 2015, HUD published a final rule (80 FR 67626) that amended the Section 108 Program regulations at 24 CFR part 570 to establish additional procedures, including procedures for announcing the amount of the fee each fiscal year when HUD is required to offset the credit subsidy costs to the Federal government to guarantee Section 108 loans. For fiscal years 2016 and 2017, HUD issued notices to set the fees.¹

II. FY 2018 Fee: 2.365 Percent of the Principal Amount of the Loan

This document sets the fee for Section 108 loan disbursements under loan guarantee commitments awarded for FY 2018 at 2.365 percent of the principal amount of the loan. HUD will collect this fee from borrowers of loans guaranteed under the Section 108 Program to offset the credit subsidy costs of the guaranteed loans pursuant to commitments awarded in FY 2018.

For this fee notice, HUD is not changing the underlying assumptions or creating new considerations for borrowers. The calculation of the FY 2018 fee uses the same fee calculation model as the FY 2016 and FY 2017 final notices, but incorporates updated information regarding the composition of the Section 108 portfolio and the timing of the estimated future cash flows for defaults and recoveries. The calculation of the fee is also affected by the discount rates required to be used by HUD when calculating the present value of the future cash flows as part of the Federal budget process.

As described in 24 CFR 570.712(b), HUD's credit subsidy calculation is based on the amount required to reduce the credit subsidy cost to the Federal government associated with making a Section 108 loan guarantee to the amount established by applicable appropriation acts. As a result, HUD's credit subsidy cost calculations incorporated assumptions based on: (i) Data on default frequency for municipal debt where such debt is comparable to loans in the Section 108 loan portfolio; (ii) data on recovery rates on collateral security for comparable municipal debt; (iii) the expected composition of the Section 108 portfolio by end users of the guaranteed loan funds (e.g., third party borrowers and public entities); and (iv) other factors that HUD determined were

relevant to this calculation (e.g., assumptions as to loan disbursement and repayment patterns).

Taking these factors into consideration, HUD determined that the fee for disbursements made under loan guarantee commitments awarded in FY 2018 will be 2.365 percent, which will be applied only at the time of loan disbursements. Note that future notices may provide for a combination of up-front and periodic fees for loan guarantee commitments awarded in future fiscal years but, if so, will provide the public an opportunity to comment if appropriate under 24 CFR 570.712(b)(2).

The expected cost of a Section 108 loan guarantee is difficult to estimate using historical program data because there have been no defaults in the history of the program that required HUD to invoke its full faith and credit guarantee or use the credit subsidy reserved each year for future losses.² This is due to a variety of factors, including the availability of Community Development Block Grant (CDBG) funds as security for HUD's guarantee as provided in 24 CFR 570.705(b). As authorized by Section 108 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5308), borrowers may make payments on Section 108 loans using CDBG grant funds. Borrowers may also make Section 108 loan payments from other anticipated sources but continue to have CDBG funds available should they encounter shortfalls in the anticipated repayment source. Despite the program's history of no defaults, federal credit budgeting principles require that the availability of CDBG funds to repay the guaranteed loans cannot be assumed in the development of the credit subsidy cost estimate (see 80 FR 67629, November 3, 2015). Thus, the estimate must incorporate the risk that alternative sources are used to repay the guaranteed loan in lieu of CDBG funds, and that those sources may be insufficient. Based on the rate that CDBG funds are used annually for repayment of loan guarantees, HUD's calculation of the credit subsidy cost must take into account the possibility of future defaults if those CDBG funds were not available. The fee of 2.365 percent of the principal amount of the loan will offset the expected cost to the government due to default, financing costs, and other relevant factors. To arrive at this measure, HUD analyzed data on comparable municipal debt over

¹ 80 FR 67634 (November 3, 2015) and 81 FR 68297 (October 4, 2016), respectively.

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

an extended 16 to 23-year period. The estimated rate is based on the default and recovery rates for general purpose municipal debt and industrial development bonds. The cumulative default rates on industrial development bonds (14.62 percent) were higher than the default rates on general purpose municipal debt (0.25 percent) during the period from which the data were taken. (The recovery rates for industrial development bonds and general purpose debt were 74.76 and 90.27 percent, respectively.) These two subsectors of municipal debt were chosen because their purposes and loan terms most closely resemble those of Section 108 guaranteed loans.

In this regard, Section 108 guaranteed loans can be broken down into two categories: (1) Loans that finance public infrastructure and activities to support subsidized housing (other than financing new construction) and (2) other development projects (e.g., retail, commercial, industrial). The 2.365 percent fee was derived by weighting the default and recovery data for general purpose municipal debt and the data for industrial development bonds according to the expected composition of the Section 108 portfolio by corresponding project type. Based on the dollar amount of Section 108 loan guarantee commitments awarded during the period from FY 2012 through FY 2016, HUD expects that 30 percent of the Section 108 portfolio will be similar to general purpose municipal debt and 70 percent of the portfolio will be similar to industrial development bonds. In setting the fee at 2.365 percent of the principal amount of the guaranteed loan, HUD expects that the amount generated will fully offset the cost to the Federal government associated with making guarantee commitments awarded in FY 2018. Note that the FY 2018 fee represents a 0.225 percent decrease from the FY 2017 fee of 2.59 percent. This is due primarily to updated loan repayment patterns and discount rates used in calculating the present value of cash flows. These are variables that ordinarily are modified in the credit subsidy calculation.

This document establishes a rate that does not constitute a development decision that affects the physical condition of specific project areas or building sites. Accordingly, under 24 CFR 50.19(c)(6), this document is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Dated: September 12, 2017.

Neal Rackleff,

Assistant Secretary for Community Planning and Development.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2009-0226; FRL-9968-17-Region 4]

Air Plan Approval; GA: Emission Reduction Credits

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve changes to the Georgia State Implementation Plan (SIP) to revise the Emission Reduction Credits (ERC) regulation. EPA is approving portions of the SIP revision submitted by the State of Georgia, through the Georgia Department of Natural Resources' Environmental Protection Division (GA EPD) on September 15, 2008. The revision expands the eligibility for sources in Barrow County that can participate in the ERC Program, adds a provision for reevaluation of the Certificates of ERC, changes the administrative fees, and eliminates an exemption for certain types of ERCs. This action is being taken pursuant to the Clean Air Act (CAA or Act).

DATES: This direct final rule is effective November 24, 2017 without further notice, unless EPA receives adverse comment by October 25, 2017. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-OAR-2009-0226 at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and

should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT:

Sean Lakeman, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303-8960. Mr. Lakeman can be reached via telephone at (404) 562-9043 or via electronic mail at lakeman.sean@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On September 15, 2008, GA EPD submitted a SIP revision to EPA for approval that involves changes to Georgia's emissions reduction credits rule and the administrative fees found in Georgia Rule 391-3-1-.03(13). Rule 391-3-1-.03(13) provides for the creation, banking, transfer, and use of nitrogen oxides (NO_x) and volatile organic compounds (VOC) ERCs in Federally designated ozone nonattainment areas in Georgia and administrative fees associated with the ERC Program.

GA EPD oversees the ERC Program, which was created in 1999 and approved into Georgia's SIP on July 10, 2001 (66 FR 35906). The ERC Program facilitates construction permitting for major emission sources that are subject to Nonattainment New Source Review (NNSR) permitting in Georgia ozone nonattainment areas. Emissions point sources within the 25-county area surrounding Atlanta that require Best Available Control Technology (BACT) and offset permitting are also eligible for the ERC Program.

The ERC Program allows eligible sources that voluntarily reduce emissions in the affected counties to certify and "bank" these reductions as ERCs for future use by themselves or others. The banked ERCs hold their value for ten years, at which point they begin devaluing ten percent per year until they have reached 50 percent of their original value. The ERC Program is intended to help the Atlanta area achieve compliance with federal standards for ground-level ozone. The