Information Reading Room (Room No. 1E–190) at the U.S. Department of Energy, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC, between the hours of 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Michael Raymond, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, EE–2J, 1000 Independence Avenue, SW, Washington, DC 20585–0121, (202) 586–9611, e-mail: *Michael.Raymond@ee.doe.gov;* or Francine Pinto, Esq., U.S. Department of Energy, Office of General Counsel, GC–72, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586–9507, e-mail: *Francine.Pinto@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: This Notice of Proposed Rulemaking (NOPR) proposes an amendment to the test procedure for measuring the energy consumption of refrigerators and refrigerator-freezers. The amendment changes the calculation of the test time period for long-time automatic defrost to allow for a control capable of timing defrost to occur other than during a compressor ''on'' cycle, thereby taking advantage of the natural warming of the evaporator during an ''off'' cycle, and saving additional energy. The amendment has no effect on the testing of refrigerators and refrigerator-freezers that do not have a long-time automatic defrost system.

Today, the Department of Energy (Department) is also publishing, elsewhere in this issue of the **Federal Register**, a direct final rule that makes the change to this test procedure that is being proposed in this NOPR. As explained in the preamble of the direct final rule, the Department considers this amendment to be uncontroversial and unlikely to generate any significant adverse or critical comments. If no significant adverse or critical comments are received by the Department on the amendment, the direct final rule will become effective on the date specified in that rule, and there will be no further action on this proposal. If significant adverse or critical comments are timely received on the direct final rule, the direct final rule will be withdrawn. The public comments will then be addressed in a subsequent final rule based on the rule proposed in this NOPR (which is the same as the rule set forth in the direct final rule). Because the Department will not institute a second comment period on this proposed rule, any parties interested in commenting should do so during this comment period.

For further supplemental information, the detailed rationale, and the rule amendment, *see* the information provided in the direct final rule in this **Federal Register**.

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Energy conservation, Household appliances.

Issued in Washington, DC, on February 28, 2003.

David K. Garman,

Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 03–5405 Filed 3–6–03; 8:45 am]

BILLING CODE 6450–01–P

FEDERAL RESERVE SYSTEM

12 CFR Part 203

[Regulation C; Docket No. R–1145]

Home Mortgage Disclosure

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule; official staff commentary.

SUMMARY: In 2002, the Board revised Regulation C and imposed new data collection requirements with an effective date of January 1, 2004. This proposal would revise the official staff commentary to Regulation C to provide transition rules for applications received before January 1, 2004, on which final action is taken on or after January 1, 2004.

DATES: Comments must be received on or before April 8, 2003.

ADDRESSES: Comments should refer to Docket No. R–1145 and should be mailed to Jennifer Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551, or mailed electronically to *regs.comments@federalreserve.gov.* Comments addressed to Ms. Johnson may also be delivered, between 8:45 a.m. and 5:15 p.m., to the Board's mail facility in the West Courtyard, located on 21st Street between Constitution and C Street, NW. Members of the public may inspect comments in Room MP–500 of the Martin Building between 9 a.m. and 5 p.m. on weekdays pursuant to § 261.12, except as provided in § 261.14, of the Board's Rules Regarding Availability of Information, 12 CFR 261.12 and 261.14.

FOR FURTHER INFORMATION CONTACT: John C. Wood, Counsel, Kathleen C. Ryan, Senior Attorney, or Dan S. Sokolov, Attorney, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, DC 20551, at (202) 452–3667 or (202) 452–2412. For users of Telecommunications Device for the Deaf (TDD) only, contact (202) 263–4869.

SUPPLEMENTARY INFORMATION:

I. Background

The Home Mortgage Disclosure Act (HMDA; 12 U.S.C. 2801–2810) has three purposes. One is to provide the public and government officials with data that will help show whether lenders are serving the housing needs of the neighborhoods and communities in which they are located. A second purpose is to help public officials target public investment to promote private investment where it is needed. A third purpose is to provide data that assist in identifying possible discriminatory lending patterns and enforcing antidiscrimination statutes.

HMDA accordingly requires certain depository and for-profit nondepository lenders to collect, report, and disclose data about originations, purchases, and refinancings of home purchase and home improvement loans. Lenders must also report data about applications that did not result in originations.

The Board's Regulation C implements HMDA. 12 CFR part 203. Regulation C generally requires that lenders report data about:

- *Each application or loan,* including the application date; the action taken and the date of that action; the loan amount; the loan type and purpose; and, if the loan is sold, the type of purchaser;
- *Each applicant or borrower,* including ethnicity, race, sex, and income; and
- *Each property,* including location and occupancy status.

Lenders report this information to their supervisory agencies on an application-by-application basis using a loan application register format (HMDA/LAR) set forth in appendix A to the regulation. Each application must be recorded within 30 calendar days after the end of each calendar quarter in which final action is taken (such as origination or purchase of a loan, or denial or withdrawal of an application) on the lender's HMDA/LAR. Lenders must make their HMDA/LARs—with certain fields redacted to preserve applicants' privacy—available to the public. The Federal Financial Institutions Examination Council (FFIEC), acting on behalf of the supervisory agencies, compiles the reported information and prepares an individual disclosure statement for each institution, aggregate reports for all covered lenders in each metropolitan

area, and other reports. These disclosure statements and reports are available to the public.

II. The 2002 Revisions to Regulation C

The Board published final revisions to Regulation C on February 15, 2002, and June 27, 2002 (''the 2002 revisions''). 67 FR 7222; 67 FR 43218. The 2002 revisions include a requirement that lenders report the difference between a loan's annual percentage rate (APR) and the yield on Treasury securities with comparable maturity periods, if the difference equals or exceeds thresholds set by the Board; whether a loan is subject to the Home Ownership and Equity Protection Act; the lien status of applications and loans; and whether an application or loan involves a manufactured home. Certain definitions have also been revised. The definition of an application has been revised to include a request for preapproval as defined in the regulation, for purposes of reporting denials of such requests and identifying loan originations that result from a request for preapproval. The definition of a home improvement loan and the definition of a refinancing have been revised. In addition, the 2002 revisions require lenders to request information on applicants' ethnicity, race, and sex in applications taken by telephone, and conform the collection of data on ethnicity and race to standards established by the Office of Management and Budget (OMB) in 1997.

The 2002 revisions were initially scheduled to take effect on January 1, 2003. In May 2002 the Board delayed the effective date, with two exceptions, to January 1, 2004. 67 FR 30771, May 8, 2002. The Board based its decision to delay the effective date on a determination that some HMDA reporters, especially the largest ones, would not be able to fully implement the revised rule by January 1, 2003, without jeopardizing the quality and usefulness of the data and incurring substantial additional implementation costs that could be avoided by a postponement. The two exceptions related to telephone applications and to census tract data: (1) For all applications taken on or after January 1, 2003, lenders must ask telephone applicants for information on the applicant's race or national origin and sex; and (2) for all applications and loans reported on lenders' 2003 LARs, lenders must use the census tract numbers and corresponding geographic areas from the 2000 Census.

III. Proposed Guidance for Transition from the Current to the Revised Rule

Proposed staff comment 4(a)–4 addresses the collection and reporting of certain data items for applications received before January 1, 2004, for which final action is taken on or after January 1, 2004. Under the proposed transition rules, lenders (1) Would not have to indicate whether an application or loan involved a request for preapproval or related to a manufactured homes; and (2) could at their option continue to apply the current definitions of a home improvement loan and a refinancing. They would follow special rules for reporting applicants' race and ethnicity, to take account of the changed categories. No transition rules are provided for reporting the purchaser type, rate spread, whether a loan is subject to HOEPA, and the lien status of applications and originated loans, because information about these items is available at the time of final action.

In each case, the Board weighed the burden and benefit of applying the effective date to applications received before January 1, 2004. The proposed comment seeks to preserve the integrity of the HMDA data to the extent possible, while minimizing lender burden. For example, the Board believes that the benefit of data that meet revised definitions is not sufficient to warrant the burden on lenders to begin applying the revised definitions before January 1, 2004, or to ''look back'' in 2004 to determine if data should be reported. The proposed rule is discussed below in the order that the affected data items appear on the revised HMDA/LAR. For all other data items, the January 1, 2004, effective date applies, including the data items reported under ''type of purchaser'' and ''other data,'' as discussed in Part IV.

Property Type

Currently lenders must report in the ''loan purpose'' field whether an application or loan involves a one- to four-family or a multifamily dwelling; and manufactured homes are reported as one- to four-family dwellings. The 2002 revisions add a new field for ''property type'' and require lenders to identify applications and loans that involve manufactured housing. The proposed comment provides that lenders may but need not indicate whether an application received before January 1, 2004, involves manufactured housing. Lenders may report the property type as a one- to four-family dwelling.

Purpose of Loan—Home Improvement and Refinancing

Regulation C requires lenders to report home improvement loans and refinancings. The definitions of a home improvement loan and a refinancing were substantially revised in the final rules adopted in 2002. At the time an application is taken, lenders must apply these definitions (and the definition of a home purchase loan, which has not been revised) to determine whether and how the application or loan must be reported under HMDA.

A home improvement loan is currently defined in § 203.2(f) as a loan that is intended in whole or in part for home improvement *and* that the lender classifies as a home improvement loan. Under the 2002 revisions, dwelling-secured loans for home improvement purposes must be reported as home improvement loans, without regard to whether the loans are classified as home improvement loans. Loans for home improvement purposes that are not dwelling-secured will continue to be reported only if the lender classifies the loans as home improvement loans.

A refinancing is defined as a transaction in which a new obligation satisfies and replaces an existing obligation by the same borrower. Currently, the commentary to § 203.1(c) allows lenders to select from among four scenarios in deciding which refinancings to report:

(1) The existing obligation was a home purchase or home improvement loan, as determined by the lender (for example, by reference to available documents);

(2) the applicant states that the existing obligation was a home purchase or home improvement loan;

(3) the existing obligation was secured by a lien on a dwelling; or

(4) the new obligation will be secured by a lien on a dwelling.

Under the 2002 revisions, reportable refinancings are those in which both the existing and the new loans are secured by a lien on a dwelling.

The proposed transition rule will not require lenders to ''look back'' in reporting home improvement loans and refinancings. The proposed comment provides that for applications received before January 1, 2004, but for which final action is taken on or after January 1, 2004, lenders may continue to apply the current definitions. For example, if a lender receives an application in 2003 for a loan that the lender does not currently classify as a home improvement loan, the lender need not report that application on its 2004 LAR. Similarly, if a lender receives an

application in 2003 for a home equity loan to consolidate credit card debt, and originates the loan in 2004, the lender may report the loan on its 2004 LAR as a refinancing if this is the lender's practice under the current rule. The proposed comment permits lenders to apply the revised definitions to applications received before January 1, 2004, at the option of the lender.

Preapproval

Under the 2002 revisions, lenders must identify whether an application for a home purchase loan is a request for a preapproval as defined in the revised regulation. Currently, requests for preapproval are reported only if the request is approved and results in a traditional loan application, in which case the lender reports on the disposition of that application. The 2002 revisions require lenders to report information on requests for preapproval that are denied, whether or not they resulted in a traditional loan application; they allow, but do not require, lenders to report requests for preapproval that are approved but not accepted by the applicant.

Lenders have asked whether the revised rule requires them to collect information on requests for preapproval that are received in 2003, on the chance that the request might receive final action in 2004. The proposed transition rules provide that lenders may but need not identify requests for preapproval received in 2003 as such. For applications received before January 1, 2004, they may use the code for ''not applicable'' in the preapproval field on the HMDA/LAR.

Applicant Information

Changes were made in the 2002 revisions to the requirement to collect information about an applicant's ethnicity and race, and corresponding changes were made to the codes that must be used on the HMDA/LAR in 2004. These changes were made to conform collection of information under Regulation C to standards issued by OMB in 1997 that are used for the 2000 Census.

Some racial classifications and codes remain unchanged. For example, the classification ''American Indian or Alaskan Native'' and its corresponding code have not changed; the meaning of the classification ''black'' has been clarified but not substantively changed by adding the phrase ''or African-American,'' and the corresponding code remains the same under the revised rule.

However, changes to other racial classifications and codes, and the introduction of a separate question on Hispanic ethnicity, complicate the transition from the current rule to the revised rule. For example, under the current rule, code 2 is used for an applicant whose race is ''Asian or Pacific Islander,'' while under the 2002 revisions, code 2 is used for an applicant who is ''Asian,'' and code 4 is used for ''Native Hawaiian or Other Pacific Islander.'' Moreover, while the current classifications for race include ''Hispanic,'' under the 2002 revisions an applicant's *race* cannot be identified as ''Hispanic.'' Rather, the 2002 revisions require that an applicant be asked to identify his or her *ethnicity* as ''Hispanic or Latino,'' or ''not Hispanic or Latino.'' Thus, if a lender receives an application in 2003 in which the applicant's race is identified as ''Hispanic,'' and the lender takes final action on the application in 2004, using code 4 (the current code for ''Hispanic'') on the 2004 LAR would result in an erroneous identification of the applicant's race.

Under the transition rules, lenders would report monitoring data collected during 2003 on the 2004 LAR in accordance with rules set forth in 4(a)(iv) of the proposed comment. The Board believes lenders can implement the proposed conversion rules by modifying their data collection and reporting systems. The proposed comment states that, in the example offered above, (1) the lender would report the applicant's ethnicity as code 1 (''Hispanic or Latino'') and (2) would report the applicant's race as code 7 (''not applicable'').

IV. Other Revisions

The Board has received inquiries from lenders about the applicability of other changes in the 2002 revisions to applications received before January 1, 2004, including changes made to ''type of purchaser'' and the addition of the data items under ''other data'' such as the lien status on an originated loan. These data items do not impose a significant burden on lenders to ''look back'' to applications received in 2003. Thus, the effective date of January 1, 2004, remains in place for these requirements, as discussed below.

Type of Purchaser

Section 203.4(a)(8) requires lenders to report the type of entity that purchases a loan that the lender originates (or purchases) and sells within the same calendar year. In 2002 the Board revised the list of the types of purchasers and the applicable codes. Because the lender's determination as to type of purchaser is made when the loan is sold, there is no need for a transition rule.

Other Data

The 2002 revisions will require lenders to collect and report new data items under ''other data'' on the 2004 LAR:

- The rate spread on originated loans (excluding unsecured home improvement loans), where the spread (or difference) between the loan's APR and the yield on Treasury securities of comparable maturity meets or exceeds certain thresholds;
- Whether originated loans and purchased loans are subject to the Home Ownership and Equity Protection Act (HOEPA); and
- The lien status of applications and originated loans (whether a loan is unsecured, or secured by a first or subordinate lien on a dwelling).

This information must be reported for all loans closed on or after January 1, 2004. No exception is needed, because information about these items is available at final action.

The 2002 revisions require lenders to use the rate lock date to determine the yield on comparable Treasury securities; lenders must consult the yield on Treasury securities as of the 15th-of-the-month prior to the date the rate is locked or set for the final time before the loan is consummated. Thus, lenders may have to modify their procedures in 2003 to ensure that they retain the rate lock date for loans that may be consummated after December 31, 2003.

Lenders may also have to look back to the Treasury yields from 2003 for a loan consummated in 2004, if the rate was locked before January 15, 2004. Lenders currently are required to make such comparisons to comply with HOEPA and Regulation Z (12 CFR part 226). Historical information on the appropriate Treasury yields, and a tool to assist lenders in calculating the spread between a loan's APR and the Treasury yield will be available to lenders on the Board's web site in May 2003.

The Board does not believe that these requirements warrant an exception to the requirement to report the rate spread for all loans closed on or after January 1, 2004. The Board solicits comment, however, on whether there are less burdensome alternatives to requiring lenders to use the rate lock date for calculating the rate spread during the transition period. Lenders could use the date the application was received or the date of consummation to calculate the rate spread, or the Board could specify a date (such as January 1, 2004) that would not require lenders to look back

to 2003 to calculate the rate spread. If lenders used the date of application or consummation, they would not have to modify their systems because they already capture these dates for current reporting requirements.

The requirements to report HOEPA status and lien status do not require an exception to the effective date. HOEPA status is required only on originated and purchased loans, and is determined based on the difference between the APR at consummation and the yield on Treasury securities with comparable maturity periods; or on the total points and fees charged for the loan. A lender may have to research Treasury yields from 2003 depending on when the application was received; however, as with the rate spread, historical information on Treasury yields is readily available.

For lien status, the 2002 revisions provide that lenders may rely on the best information readily available to them at the time of final action (in 2004). 67 FR 43218, 43227, June 27, 2002. Thus, lenders will not have to look back to 2003 to report lien status.

V. Form of Comment Letters

Comment letters should refer to Docket No. R–1145 and, when possible, should use a standard typeface with a font size of 10 or 12; this will enable the Board to convert text submitted in paper form to machine-readable form through electronic scanning, and will facilitate automated retrieval of comments for review. Comments may be mailed electronically to *regs.comments@federalreserve.gov.* If accompanied by an original document in paper form, comments may also be submitted on 3½ inch computer diskettes in any IBM-compatible DOS- or Windows-based format.

VI. Solicitation of Comments Regarding the Use of ''Plain Language''

Section 722 of the Gramm-Leach-Bliley Act of 1999 requires the Board to use ''plain language'' in all proposed and final rules published after January 1, 2000. The Board invites comments on whether the proposed commentary is clearly stated and effectively organized, and how the Board might make the commentary easier to understand.

List of Subjects in 12 CFR part 203

Banks, Banking, Federal reserve system, Mortgages, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Board proposes to amend 12 CFR part 203 as follows:

PART 203—HOME MORTGAGE DISCLOSURE (REGULATION C)

1. The authority citation for part 203 continues to read as follows:

Authority: 12 U.S.C. 2801–2810.

2. In Supplement I to part 203, under Section 203.4—Compilation of Loan Data, under 4(a) *Data Format and Itemization,* a new paragraph 4 is added:

SUPPLEMENT I to PART 203—STAFF COMMENTARY

* * * * *

Section 203.4—Compilation of Loan Data

4(a) *Data Format and Itemization.*

* * * * *

►4. *Transition rules for applications received before January 1, 2004, when final action is taken on or after January 1, 2004.* For applications received before January 1, 2004, on which final action is taken on or after January 1, 2004, data must be collected and reported on the HMDA LAR under the revised Regulation C that takes effect on January 1, 2004, subject to the exceptions for property type, loan purpose, requests for preapproval, and applicant information set forth in this comment.

i. *Property type.* Lenders need not determine whether an application received before January 1, 2004 involves a manufactured home, and may report the property type as 1- to 4-family.

ii. *Loan purpose.* For applications received before January 1, 2004, lenders may use the definitions of a home improvement loan and a refinancing that were in effect in 2003. For example, a lender need not report data on an application received before January 1, 2004, for a dwelling-secured loan made for the purpose of home improvement, if the lender did not classify the loan as a home improvement loan. Similarly, a lender may report data on an application for a refinancing received in 2003 whether or not the existing obligation was secured by a lien on a dwelling.

iii. *Requests for preapproval.* Lenders need not report requests for preapproval (as that term is defined in § 203.2(b)(2) of the revised Regulation C) received before January 1, 2004, that do not result in a loan application. Lenders need not specify whether an application for a home purchase loan application involved a request for preapproval, and should use code 3 (not applicable) in the preapproval field on the LAR. Lenders may at their option, report requests for preapproval that are denied or that are approved but not accepted.

iv. *Applicant information.* For applications received before January 1, 2004, lenders must collect data on race or national origin using the categories in effect in 2003, and must convert the data to the codes in effect in 2004 for reporting purposes, using the following conversion guide:

(A) Ethnicity. The revised Regulation C requires lenders to request an applicant's ethnicity first (Hispanic or Latino, Not Hispanic or Latino), and then to request the applicant's race. The HMDA/LAR has been revised accordingly, so that ethnicity and race are distinct fields.

(1) If code 4 (Hispanic) was entered for race under the 2003 codes, use code 1 (Hispanic or Latino) for reporting ethnicity.

(2) If code 1, 2, 3, 5, 6, or 8 was entered for race under the 2003 codes, use code 4 (not applicable) for reporting ethnicity.

(3) If code 7 (information not provided by applicant in mail or telephone application) was entered for race under the 2003 codes, use code 3 (information not provided by applicant in mail, Internet, or telephone application) for reporting ethnicity.

B. Race.

(1) If the applicant's race was identified as American Indian or Alaskan Native, Black, or White under the 2003 codes, use the corresponding code for 2004. For example, if code 3 (Black) was entered for race in 2003, use code 3 (Black or African-American).

(2) If the applicant's race was identified as Asian or Pacific Islander in 2003, use code 2 (Asian).

(3) If the applicant's race was identified as Hispanic in 2003, use code 7 (not applicable).

(4) If the applicant's race was identified as code 6 (Other) in 2003, use code 7 (not applicable).

(5) If the applicant's race was identified as code 7 (Information not provided by applicant in mail or telephone application) in 2003, use code 6 (Information not provided by applicant in mail, Internet, or telephone application).

(6) If code 8 (Not applicable) was used in 2003, use code 7 (Not applicable).◄

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By order of the Board of Governors of the Federal Reserve System, acting through the Director of the Division of Consumer and Community Affairs under delegated authority, March 3, 2003.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 03–5365 Filed 3–6–03; 8:45 am]

BILLING CODE 6210–01–P