

there is no alternative source or combination of alternative drinking water sources which could physically, legally and economically supply those dependent upon the aquifer (U.S. EPA, 1987, Sole Source Aquifer Designation Decision Process, Petition Review Guidance).

Among the factors considered by the Regional Administrator in connection with the designation of an area under Section 1424(e) are: (1) Whether the Bainbridge Island Aquifer System is the area's sole or principal source of drinking water and (2) whether contamination of the aquifer system would create a significant hazard to public health. On the basis of technical information available to the EPA, the Regional Administrator has made the following findings in favor of designating the Bainbridge Island Aquifer System a SSA:

1. The Bainbridge Island Aquifer System currently serves more than 23,000 residents of Bainbridge Island. One hundred percent of the current population obtains their drinking water from the petitioned aquifer system either from individual wells or from one of the more than 150 water systems on the island.

2. There is no existing alternative drinking water source or combination of sources which supply drinking water to the designated area, nor is there any available cost effective future source capable of supplying the drinking water demands for the population served by the aquifer service area. No potential surface water bodies exist to provide a source of drinking water, piping water from the Kitsap Peninsula across Agate Pass Bridge to Bainbridge Island is cost-prohibitive and installation of a desalination plant is too costly.

3. Since groundwater contamination can be difficult or sometimes impossible to reverse and since the Bainbridge community relies on the Bainbridge Aquifer System for drinking water purposes, contamination of the aquifer system would pose a significant public health hazard.

The legal and technical basis for the proposal was outlined in an EPA publication titled: "Support Document for Sole Source Aquifer Designation of the Bainbridge Island Aquifer System".

III. Description of the Bainbridge Island Aquifer System

The petitioned area includes all of Bainbridge Island. The island is a mix of developed land and forests. Six principal aquifers make up the Bainbridge Island Aquifer System. On island precipitation recharges the aquifers and is the only source of

recharge for lakes, ponds, and streams. The island has a total of 53 miles of seawater shoreline and the aquifer area is bounded on all sides by Puget Sound. Interior plateaus reach maximum elevations of 300 to 400 feet above mean sea level. The island can be divided into 12 drainage basins. Large volumes of unconsolidated glacial and interglacial materials from at least six advances and retreats of Pleistocene continental glaciers over the last 300,000 years has shaped the present-day landscape and underlying hydrostratigraphy of the island and are host to the aquifers on Bainbridge Island. The aquifer system is vulnerable to contamination from potential seawater intrusion, accidental spills, petroleum projects, small hazardous waste generators, household hazardous waste disposal, leachate from the closed island landfill, leachate from the Wyckoff Superfund site in Eagle Harbor, failing septic systems, fertilizers, pesticides and herbicides and improperly abandoned wells. Bainbridge Island's hydrogeologic characteristics are similar to the following Puget Sound islands whose aquifers have already been designated as SSA's by EPA: Camano, Whidbey, Marrowstone, Guemes and Vashon-Maury. Please see the Support Document for a more detailed hydrogeologic description.

IV. Information Utilized in Determination

The information utilized in this determination include the petition; U.S. Geological Survey, 2011, Conceptual Model and Numerical Simulation of the Groundwater-Flow system of Bainbridge Island, Washington, Scientific Investigations Report 2011-5021, 96 pages; Washington Department of Ecology, 2011a, Confirmed and Suspected Contaminated Sites List, Bainbridge Island City Strawberry Plant Site, August 16; EPA guidance documents and the City of Bainbridge Water Resource Study (2000). For a complete list of references used by the petitioner see the Support Document.

V. Project Review

Publication of this determination requires that EPA review proposed projects with Federal financial assistance in order to ensure that such projects do not have the potential to contaminate the Bainbridge Island SSA so as to create a significant hazard to public health. Proposed projects that are funded entirely by state, local, or private concerns are not subject to SSA review by EPA. EPA does not review all possible Federal financially-assisted projects but tries to focus on those

projects which pose the greatest risk to public health. Memorandums of Understanding between EPA and various Federal funding agencies help identify, coordinate and evaluate projects.

VI. Summary

Today's action affects the Bainbridge Island Aquifer System located on Bainbridge Island, Kitsap County, Washington. Projects with federal financial assistance proposed within the Bainbridge Island Aquifer System will be reviewed to ensure that their activities will not endanger public health through contamination of the aquifer. A public notice regarding the SSA designation request was published in the *Bainbridge Islander* newspaper on April 20, 2012. Seven comments were received all in general support of the designation of the Bainbridge Island Aquifer System.

Authority: Section 1424(e) of the Safe Drinking Water Act (42 U.S.C. 300h3(e), Pub. L. 93-523 of December 16, 1974

Dated: March 21, 2013.

Rick Albright,

Acting Regional Administrator.

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FEDERAL HOUSING FINANCE AGENCY

[No. 2013-N-04]

Notice of Annual Adjustment of the Cap on Average Total Assets That Defines Community Financial Institutions

AGENCY: Federal Housing Finance Agency.

ACTION: Notice.

SUMMARY: The Federal Housing Finance Agency (FHFA) has adjusted the cap on average total assets that defines a "Community Financial Institution" based on the annual percentage increase in the Consumer Price Index for all urban consumers (CPI-U) as published by the Department of Labor (DOL). These changes took effect on January 1, 2013.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:**I. Statutory and Regulatory Background**

The Federal Home Loan Bank Act (Bank Act) confers upon insured depository institutions that meet the statutory definition of a "Community Financial Institution" (CFI) certain advantages over non-CFI insured depository institutions in qualifying for Federal Home Loan Bank (Bank) membership, and in the purposes for which they may receive long-term advances and the collateral they may pledge to secure advances.¹ Section 2(10)(A) of the Bank Act and § 1263.1 of FHFA's regulations define a CFI as any Bank member the deposits of which are insured by the Federal Deposit Insurance Corporation and that has average total assets below a statutory cap.² The Bank Act was amended in 2008 to set the statutory cap at \$1 billion and to require the Director of FHFA to adjust the cap annually to reflect the percentage increase in the CPI-U, as published by the DOL, for the prior year.³ For 2012, FHFA set the CFI asset cap at \$1,076,000,000, which reflected a 3.4 percent increase over 2011, based upon the increase in the CPI-U between 2010 and 2011. *See* 77 FR 14366 (Mar. 9, 2012).

II. The CFI Asset Cap For 2013

As of January 1, 2013, FHFA has increased the CFI asset cap from \$1,076,000,000 to \$1,095,000,000, which reflects a 1.8 percent increase in the unadjusted CPI-U from November 2011 to November 2012. The new amount was obtained by rounding to the nearest million, as has been the practice for all prior adjustments. Consistent with the practice of other Federal agencies, FHFA bases the annual adjustment to the CFI asset cap on the percentage increase in the CPI-U from November of the year prior to the preceding calendar year to November of the preceding calendar year, because the November figures represent the most recent available data as of January 1st of the current calendar year.

In calculating the CFI asset cap, FHFA uses CPI-U data that have not been seasonally adjusted (*i.e.*, the data have not been adjusted to remove the estimated effect of price changes that normally occur at the same time and in about the same magnitude every year). The DOL encourages use of unadjusted CPI-U data in applying "escalation" provisions such as that governing the

CFI asset cap, because the factors that are used to seasonally adjust the data are amended annually, and seasonally adjusted data that are published earlier are subject to revision for up to five years following their original release. Unadjusted data are not routinely subject to revision, and previously published unadjusted data are only corrected when significant calculation errors are discovered.

Dated: March 21, 2013.

Edward J. DeMarco,
Acting Director, Federal Housing Finance Agency.

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FEDERAL HOUSING FINANCE AGENCY

[No. 2013-N-05]

Lender Placed Insurance, Terms and Conditions

AGENCY: Federal Housing Finance Agency.

ACTION: Notice; input accepted.

This Notice sets forth an approach to address certain practices relating to lender placed insurance that the Federal Housing Finance Agency (FHFA) considers contrary to prudent business practice, to appropriate administration of Fannie Mae and Freddie Mac (the Enterprises) guaranteed loans, and which expose the Enterprises to potential losses as well as litigation and reputation risks. While FHFA plans a broader review of issues relating to the market for lender placed insurance, that includes receiving input from government and private sector parties, the practices that are addressed here are considered sufficiently distinct as to merit early action by the Agency acting as Conservator for the Enterprises.

Background

The FHFA oversees the operations of Fannie Mae and Freddie Mac. The Enterprises are in conservatorships, and, as Conservator, FHFA has statutory obligations in its conduct of the conservatorships, including preserving and conserving assets.¹ The Enterprises have diverse relationships with seller-servicers, ranging from loan originations to the administration of properties in default. These relationships are governed by their seller-servicer guides and, in certain cases, by individual contracts. Part of the administration by servicers of the interests of the

Enterprises relate to the maintenance of properties.

Lender placed (or forced place) insurance involves the imposition of property and casualty insurance on a property that does not have the coverage required by their mortgage instruments. This commonly occurs due to lapse of voluntary insurance coverage for non-payment of premium. The absence of coverage triggers notifications to borrowers advising them of the need to provide proof of adequate coverage and warning that, in the absence of this proof, insurance will be forced placed, possibly at higher rates and with diminished coverage.

Protection of property values is important to homeowners, communities, and to the Enterprises. At the same time, provision of such insurance products at an appropriate cost is of concern as well. Reportedly, premiums for lender placed insurance are generally double those for voluntary insurance and, in certain instances, significantly higher. FHFA recognizes that some greater risks are involved with lender placed insurance and that lender placed insurance carriers do not have the opportunity to underwrite the properties they insure, however, the multiples involved may not reflect claims experience and other measures. Loss ratios for lender placed insurance are significantly below those for voluntary hazard insurance and some states already have required or have considered rate reductions of 30 percent or more.

The Enterprises, operating in conservatorship and supported by taxpayers, may be affected by such costs where a servicer pays the higher premiums and is unable to recoup the cost from the homeowner or at a foreclosure sale, and the expense is passed along to the Enterprise for reimbursement.

In the wake of the financial crisis, demands for lender placed insurance have risen and, as a result, so have Enterprise expenses related to such coverage. Concerns about lender placed insurance costs, compensation, and practices have been raised by the National Association of Insurance Commissioners, state regulators, the Consumer Financial Protection Bureau, state attorneys general, and consumer organizations. Generally, the focus has centered on excessive rates and costs passed onto borrowers, as well as commissions and other compensation paid to servicers by carriers.

In order to keep lender placed insurance costs to the Enterprises as low as possible, practices that provide

¹ *See* 12 U.S.C. 1424(a), 1430(a).

² *See* 12 U.S.C. 1422(10)(A); 12 CFR 1263.1.

³ *See* 12 U.S.C. 1422(10); 12 CFR 1263.1 (defining the term *CFI asset cap*).

¹ The duties and authorities of the Conservator are set forth primarily at 12 U.S.C. 4617.