Section 682.409 – Retention of Disbursement Records Supporting MPNs

Proposed changes to §682.409(c)(4)(viii) of the FFEL Program regulations would require the guaranty agency to provide the Secretary with the name and location of the entity in possession of an original, electronically signed MPN that has been assigned to the Department. The Department is amending §682.409 of the FFEL Program regulations to support the Department's efforts to enforce electronicallysigned promissory notes that are assigned to the Department. These requirements will help ensure that the Department has the evidence to enforce the loan in cases in which a factual dispute or a legal challenge is raised in connection with the validity of the borrower's electronic signature and the MPN. In order to preserve the integrity of the FFEL program as well as the Federal fiscal interest, the Department believes it is essential that an institution or lender be able to guarantee the authenticity of a borrower's signature on loans assigned and collected by the Department. During the regulatory negotiations, the Department originally proposed to require in §682.406(a) that a lender submit a certification regarding the creation and maintenance of the electronic MPN or promissory note, including the lender's authentication and signature process, to the guaranty agency as part of the default claim process. The certification would have then been submitted to the Department when the guaranty agency assigned a FFEL loan under the mandatory assignment provisions in §682.409(c). The proposed addition of §682.409(c)(4)(vii), requiring a guaranty agency to submit a record of the lender's disbursement records upon assigning an FFEL loan to the Department, would accomplish the same enforcement goals. Lastly, the Department originally proposed to require that the guaranty agency, upon assignment of a FFEL loan to the Department, submit a record of the school's delivery of loan disbursements to the borrower. Currently, guarantors submit loans for assignment in an automated format. Since the burden associated with the submission of defaulted loans for assignment had not previously been included in this collection, that analysis is being added at this time and provided below. The additional requirement to provide the Secretary the name and location of the entity in possession of the originals of electronically signed MPNs that have been assigned to the Department does not represent any additional burden to the guarantors, rather these changes to the data sent to the Department will be a part of the annual systems changes that guarantors make to their systems on a periodic and regular basis.

Projected # of loans assigned per year: 250,000

X amt. of time to prepare the file

for submission per loan X .33 hours (20 minutes)

Annual amount of burden: 82,500 hours

Affected Entity:

GUARANTORS: 82,500 burden hours = 2,357 hours per GA

35 guarantors

Respondents, Responses and Burden Hours:

of Respondents # of Responses # Hrs/Response #Hrs

Burden