met on July 29, 1991, and unanimously recommended an assessment rate of $0.07 per 23-pound lug, the same as last season. Anticipated shipments of 39,606 lugs would yield $2,772.42 in assessment income. This, along with $2,602.58 from the committee's authorized reserve, would be adequate to cover budgeted expenses. Funds in the reserve at the end of the 1991–92 fiscal period are estimated to be approximately $476, which is within the maximum permitted by the order of one fiscal period's expenses.

While this proposed action would impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be offset by the benefits derived from the operation of the marketing orders. Therefore, the Administrator of the AMS has determined that this action would not have a significant economic impact on a substantial number of small entities.

This action should be expedited because the committees need to have sufficient funds to pay their expenses which are incurred on a continuous basis. The 1991–92 fiscal period for the Kiwifruit Administrative Committee began on August 1, 1991, and the 1991–92 fiscal period for the Tokay Grape Industry Committee began on April 1, 1991, and each marketing order requires that the rate of assessment for the fiscal period apply to all assessable kiwifruit or grapes handled during the fiscal period. In addition, handlers are aware of this action which was recommended by the committees at public meetings. Therefore, it is found and determined that a comment period of 10 days is appropriate because the budget and assessment rate approval for these programs need to be expedited.

List of Subjects in 7 CFR Parts 920 and 926

Marketing agreements, Grapes, Kiwifruit, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, it is proposed that 7 CFR parts 920 and 926 be amended as follows:

PART 920—KIWIFRUIT GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 920 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. A new § 920.209 is added to read as follows:

§ 920.209 Expenses and assessment rate.

Expenses of $138,452 by the Kiwifruit Administrative Committee are authorized, and an assessment rate of $0.015 per 7½ pound tray of California kiwifruit is established for the fiscal period ending July 31, 1992. Unexpended funds may be carried over as a reserve.

PART 926—TOKAY GRAPES GROWN IN SAN JOAQUIN COUNTY, CALIFORNIA

3. The authority citation for 7 CFR part 926 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended, 7 U.S.C. 601–674.

4. A new § 926.230 is added to read as follows:

§ 926.230 Expenses and assessment rate.

Expenses of $5,375 by the Tokay Grape Industry Committee are authorized, and an assessment rate of $0.07 per 23-pound lug of California Tokay grapes is established for the fiscal period ending March 31, 1992. Unexpended funds may be carried over as a reserve.

Dated: August 23, 1991.

William J. Doyle,

Associate Deputy Director, Fruit and Vegetable Division.

[FR Doc. 91–20647 Filed 8–27–91; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 966

[Docket No. FV-91-267]

Tomatoes Grown in Florida; Proposed Rule To Revise Pack and Container Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise the three mandatory size classifications established for Florida tomatoes; authorize the use of an additional container for shipping Florida tomatoes; and clarify existing language in the handling regulation. This action would help promote the marketing of Florida tomatoes by reducing market uncertainties and assisting in the development of new markets.

DATES: Comments must be received by September 27, 1991.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal to: Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456. Three copies of all written material should be submitted, and they will be made available for public inspection at the Office of the Docket Clerk during regular business hours. All comments should reference the docket number and the date and page number of this issue of the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Kenneth G. Johnson, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456, telephone (202) 447–5331.

SUPPLEMENTARY INFORMATION: This rule is proposed under Marketing Agreement No. 125 and Marketing Order No. 966 (7 CFR part 966), both as amended, regulating the handling of tomatoes grown in Florida. The marketing agreement and order are authorized under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This rule has been reviewed by the Department of Agriculture in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this proposal on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 50 handlers of Florida tomatoes subject to regulation under the marketing order, and approximately 250 Florida tomato producers in the production area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of the handlers and producers of Florida tomatoes may be classified as small entities.

The Florida Tomato Committee (committee), the agency responsible for local administration of the order, met on May 15, 1991, and unanimously recommended revising the size classification requirements included in the handling regulation to establish three mandatory size classifications for Florida tomatoes. The committee also unanimously recommended authorizing the use of an additional container for shipping Florida tomatoes and clarifying existing language in the handling regulation.

Under the Florida tomato marketing order (order), tomatoes produced in the production area and shipped to fresh market channels are required to meet certain handling requirements specified in § 966.323. Current requirements include a minimum grade of U.S. No. 3 and a minimum size of 2$\frac{9}{32}$ inches in diameter. Pack and container requirements are also in effect for tomato shipments to destinations outside the regulated area, which is defined as all of the State except the panhandle. The current regulation establishes three tomato size designations which are defined as 6x7, 6x6, 5x6 and Larger. Each size designation is in terms of a minimum and maximum diameter. For example, 6x7 size tomatoes range from a minimum diameter of 2$\frac{9}{32}$ inches to a maximum diameter of 2$\frac{19}{32}$ inches. There is a $\frac{2}{32}$ inch overlap between the current size designations.

The committee recommended that the size classifications in the handling regulation be revised to three mandatory size classifications (Medium, Large, and Extra Large), each with a $\frac{1}{32}$ inch overlap.

The United States Standards for Grades of Fresh Tomatoes (Standards) were recently revised to include four size designations (Small, Medium, Large and Extra Large), with a $\frac{1}{32}$ inch overlap between the different size classifications (56 FR 21913; effective October 1, 1991). These size designations are not factors in determining specific grades; that is, tomatoes could meet a U.S. No. 1 grade without regard to these provisions.

The Standards are in effect pursuant to the Agricultural Marketing Act of 1946. Under most circumstances, the use of the standards is voluntary. One exception is when a Federal marketing order, such as that covering Florida tomatoes, requires a commodity to be graded in accordance with the Standards. The committee believes that revising the size designations under the handling regulation to conform to the revised Standards would promote more uniform trading practices in the industry. Therefore, to assure that Florida tomatoes are packed and sold on the same basis as tomatoes produced in other producing areas on a national level, it would be necessary to amend the Florida tomato handling regulation accordingly.

The committee also recommended that a 10-pound container be added to the list of containers currently authorized for use under the handling regulation. Currently, the handling regulation provides authority for the use of 20- or 25-pound containers when shipping Florida tomatoes into interstate channels. Handlers have been shipping Florida tomatoes packed in 10-pound containers in intrastate markets. Receivers in interstate markets have expressed an interest in buying Florida tomatoes in 10-pound containers. The 10-pound container has been well received by the trade within the regulated area. The committee believes that authorizing the use of this container in interstate markets would provide buyers with a desired product and have a positive impact on the Florida tomato industry.

Section (a)(3)(i) Containers of the current regulation requires that containers of Florida tomatoes comply with § 51.1863 of the Standards. This section of the Standards provides, in part, that when packages are marked with a net weight of 15 pounds or more the net weight of the contents must be no less than the designated net weight, and no more than 2 pounds above that weight. Packages weighing less than 15 pounds are not covered by these requirements. The committee has requested that this standard weight requirement also apply to 10-pound containers for shipping tomatoes to interstate markets. The handling regulation is being proposed to be amended accordingly.

Tomatoes grown outside the production area are not covered by the marketing order and therefore are not required to meet the established grade, size, pack and container requirements, even when packed in the production area. It has become a practice for many of the 50 Florida tomato handlers to haul unregulated tomatoes in bulk to packinghouses located in the production area and pack them for shipment into interstate commerce. According to the committee, handlers are finding it less costly to haul tomatoes to production area packinghouses and prepare such tomatoes for market than to invest in new packinghouses outside the production area. There has been some confusion in the Florida tomato industry as to whether or not these tomatoes are covered under the marketing order. The committee believes that revising the handling regulation to specify that only tomatoes produced in the production area must meet the applicable requirements would clarify the handling regulation for the industry. However, if production area tomatoes are commingled with unregulated tomatoes during the packing process, such tomatoes would lose their identity. There is no readily identifiable means to determine regulated tomatoes from unregulated tomatoes when commingled. In order to ensure that the applicable provisions of the handling regulation are met, the handling requirements would apply to all such commingled tomatoes.

Additional clarification of the handling regulation pertains to yellow-meated tomatoes. Yellow-meated tomatoes are exempt from the container net weight requirements, but must meet all other applicable requirements. However, there has been a misunderstanding in the Florida tomato industry among handlers who believe that the limited exemption provided for yellow-meated tomatoes from the container requirements also exempts such tomatoes from grade, size, pack and inspection requirements. The committee believes that the regulation should be revised to clarify that yellow-meated tomatoes must meet the established grade, size, pack and inspection requirements.

Section 8(e) of the Act requires that whenever grade, size, quality or maturity requirements are in effect for tomatoes under a domestic marketing order, imported tomatoes must meet the same or comparable requirements. However, this rule does not propose any changes in the minimum grade and size requirements under the domestic handling regulation. Further, the Act does not authorize the imposition of container and pack requirements on imports. Therefore, no change would be necessary in the tomato import regulation as a result of this action.

Based on the above, the Administrator of the AMS has determined that this action would not have a significant economic impact on a substantial number of small entities.

A 30-day comment period is provided to allow interested persons an opportunity to respond to this proposal. All written comments timely received will be considered before a final determination is made on this matter.

List of Subjects in 7 CFR Part 966

Marketing agreements, Reporting and recordkeeping requirements, Tomatoes.

For the reasons set forth in the preamble, it is proposed that 7 CFR part 966 be amended as follows:

PART 966—TOMATOES GROWN IN FLORIDA

1. The authority citation for 7 CFR part 966 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 966.323 is amended by revising the introductory text and paragraphs (a)(1), (a)(2)(i), (a)(2)(iii), (a)(3)(i) and (d)(1) to read as follows:

§ 966.323 Handling regulation.

From October 10 through June 30 of each season, except as provided in paragraphs (b) and (d) of this section, no person shall handle any lot of tomatoes produced in the production area for shipment outside the regulated area unless it meets the requirements of paragraph (a) of this section, and no person shall handle any lot of tomatoes for shipment within the regulated area unless it meets the requirements of paragraphs (a)(1), (a)(2)(i), and (a)(4) of this section.

(a) *Grade, size, container and inspection requirements*—(1) *Grade.* Tomatoes shall be graded and meet the requirements specified for U.S. No. 1, U.S. Combination, U.S. No. 2, or U.S. No. 3, of the U.S. Standards for Fresh Tomatoes, except that all shipments of Medium size tomatoes must grade U.S. No. 2 or better. When not more than 15 percent of the tomatoes in any lot fail to meet the requirements of U.S. No. 1 grade and not more than one-third of this 15 percent (or 5 percent) are comprised of defects causing very serious damage including not more than 1 percent of tomatoes which are soft or affected by decay, such tomatoes may be shipped and designated as at least 85 percent U.S. No. 1 grade.

(2) *Size.* (i) All tomatoes packed by a handler shall be at least $2\frac{8}{32}$ inches in diameter. Tomatoes shipped outside the regulated area shall also be sized with proper equipment in one or more of the following ranges of diameters. Measurements of diameters shall be in accordance with the methods prescribed in § 51.1859 of the U.S. Standards for Grades of Fresh Tomatoes of this chapter.

Size classification	Inches	
	Minimum diameter	Maximum diameter
Medium	$2\frac{8}{32}$	$2\frac{17}{32}$
Large	$2\frac{16}{32}$	$2\frac{25}{32}$
Extra large	$2\frac{24}{32}$	

* * * * *

(iii) Only Medium, Large, Extra Large or abbreviations of same may be used to indicate the above listed size designations on containers of tomatoes.

* * * * *

(3) *Containers.* (i) All tomatoes packed by a registered handler shall be packed in containers of 10, 20, and 25 pounds designated net weights. The net weight of the contents shall not be less than the designated net weight and shall not exceed the designated net weight by more than two pounds. Section 51.1863(b) of the U.S. Tomato Standards shall apply to all containers.

* * * * *

(d) *Exemption.*—(1) *For types.* The following types of tomatoes are exempt from these regulations: Elongated types commonly referred to as pear shaped or paste tomatoes and including but not limited to San Marzano, Red Top, and Roma varieties; cerasiform type tomatoes commonly referred to as cherry tomatoes; hydroponic tomatoes; and greenhouse tomatoes. Yellow-meated tomatoes are exempt from the container net weight requirements specified in paragraph (a)(3)(i) of this section, but must meet the other requirements of this section.

* * * * *

Dated: August 23, 1991.

Robert O. Keeney

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 91–20648 Filed 8–27–91; 8:45 am]

BILLING CODE 3410–02–M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 20 and 35

[Docket No. PRM–20–20]

Carol S. Marcus; Filing of Petition for Rulemaking; Extension of Comment Period

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking: Extension of comment period.

SUMMARY: On June 12, 1991 (56 FR 26945), the NRC published a notice of a petition for rulemaking filed by Carol S. Marcus (PRM–20–20). The petition requests that the Commission revise its standards for protection against radiation to raise the annual radiation dose absorbed by individual members of the public from 1 mSv to 5 mSv (500 mrems). The notice of receipt requested public comment on the petition and established a comment closing date of August 12, 1991. In response to requests from potential commenters, the NRC is extending the comment period on PRM–20–20 for 60 days from the original comment closing date.

DATES: The comment period for PRM–20–20 has been extended from August 12, 1991, to October 12, 1991.

ADDRESSES: All persons desiring to submit written comments concerning the petition for rulemaking should send their comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Attention: Docketing and Service Branch.

Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland 20852, between 7:45 and 4:15 p.m. Federal workdays. (Telephone 301–492–1966).

A copy of the petition for rulemaking is available for public inspection in the Commission's Public Document Room at 2120 L Street NW. Lower Level, Washington, DC 20037. A copy of the petition may be obtained by writing to the Rules Review Section, Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: Michael T. Lesar, Chief, Rules Review Section, Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: 301–492–7758 or Toll Free: 800–368–5642.

Dated at Rockville, Maryland this 22d day of August, 1991.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 91–20642 Filed 8–27–91; 8:45 am]

BILLING CODE 7590–01–M

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 34

[Docket No. 91–10]

Appraisals

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of the Comptroller of the Currency ("OCC") is proposing to amend subpart C of part 34 to exempt additional transactions from the requirements of the final appraisal rule

published on August 24, 1990 (55 FR 34,684). If adopted, the proposed amendment would: (1) Eliminate the requirement for regulated institutions to obtain appraisals by certified or licensed appraisers for real estate related financial transactions having a value, as defined in the rule, of $100,000 or less; (2) permit regulated institutions to use appraisals prepared for loans insured or guaranteed by an agency of the federal government if the appraisal conforms to regulations or other written requirements of the federal insurer or guarantor; and (3) add a definition of "real estate" and "real property" to clarify that the appraisal regulation does not apply to mineral rights, timber rights, or growing crops.

The OCC is proposing this amendment to address concerns raised by national banks concerning the cost of complying with the appraisal requirement for certain loans which have not resulted in substantial losses to national banks. If adopted, this proposal would decrease the number of real estate related financial transactions requiring an appraisal prepared by a certified or licensed appraiser in accordance with the OCC's final appraisal rule, thereby reducing costs associated with those transactions.

OCC is soliciting comments regarding all aspects of the proposed rule and is requesting that comments include specific information regarding real estate related loans held by banks where the transaction value is: $50,000 or below; $50,001 to $100,000; and above $100,000. All comments received by the OCC will be reviewed and given appropriate consideration.

DATES: Comments must be received by September 27, 1991.

ADDRESSES: Comments should be directed to: Communications Division, Comptroller of the Currency, 9th Floor, 250 E Street SW., Washington, DC 20219, Attention: Docket No. 91-10. Comments will be available for public inspection and photocopying at the same location.

FOR FURTHER INFORMATION CONTACT: Thomas E. Watson, National Bank Examiner, Office of the Chief National Bank Examiner, (202) 874-5350, or Horace G. Sneed, Senior Attorney, Legal Advisory Services Division, (202) 874-5310, Office of the Comptroller of the Currency, Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

Background

Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 ("FIRREA") directed the OCC, and the other financial institutions regulatory agencies,[1] to publish appraisal rules for federally related transactions within the jurisdiction of each agency. In accordance with statutory requirements, OCC's final rule set minimum standards for appraisals used in connection with federally related transactions and identified those federally related transactions that require a State certified appraiser and those that require either a State certified or licensed appraiser. The final rule was published August 24, 1990 (55 FR 34684).

De Minimis Threshold

Section 1121 of FIRREA, 12 U.S.C. 3350, defines a "federally related transaction" as a real estate-related financial transaction which, *inter alia*, requires the services of an appraiser. In the notice of proposed rulemaking published February 16, 1990 (55 FR 5808), the OCC stated its intention not to require the services of a certified or licensed appraiser for transactions below a $15,000 *de minimis* threshold and asked for specific comment on "the amount and appropriateness of the *de minimis* level" below which the services of an appraiser would not be required.

The OCC received over 180 comments on the *de minimis* provision, the overwhelming majority of which suggested raising the *de minimis* threshold. Suggested values ranged from $25,000 to $500,000, with the greatest number of commenters recommending that the threshold be raised to $100,000.

In the preamble to the final rule, the OCC stated that it believed the *de minimis* threshold may appropriately be set at $100,000. However, because Title XI of FIRREA expressed a preference for uniform appraisal rules among the financial institutions regulatory agencies, the OCC set the threshold level at $50,000 based on its understanding that the other agencies would adopt a $50,000 threshold amount.

Subsequent to adoption of OCC's final rule, individual bankers and representatives of associations representing a broad range of banks have contacted the OCC to request that the threshold level be raised. These bankers stated that they have not experienced substantial losses from real estate-related financial transactions below $100,000. Moreover, several bankers stated that they are experiencing increased costs and substantial delays in obtaining appraisals that conform to the regulation because of the increased demand for appraisers who are likely to meet state certification and licensing requirements. The experience of these bankers has indicated that the increased cost and delay associated with obtaining appraisals that conform to the rule for transactions below $100,000 outweigh any benefits that might be obtained from requiring appraisals by certified or licensed appraisers for these transactions.

The OCC also has received a petition from the American Institute of Real Estate Appraisers, Society of Real Estate Appraisers, and the International Right of Way Association (collectively "Petitioners"), requesting that the OCC reopen the rulemaking to amend its appraisal regulation by reducing or eliminating the *de minimis* threshold, among other things. Petitioners argue that title XI of FIRREA does not authorize the OCC to establish a *de minimis* provision and that the $50,000 threshold established by the final rule is too high and cannot be supported in the record. The OCC disagrees with these assertions.

The requirements of title XI of FIRREA apply to federally related transactions. See FIRREA section 1110, 12 U.S.C. 3339 (requiring the OCC to prescribe standards for "the performance of real estate appraisals in connection with *federally related transactions*") (emphasis supplied); FIRREA section 1112, 12 U.S.C. 3341 (requiring the OCC to prescribe "which categories of *federally related transactions* should be appraised by a State certified appraiser and which by a State licensed appraiser") (emphasis supplied). "The term *federally related transaction* means any real estate-related financial transaction which * * * requires the services of an appraiser." FIRREA section 1121, 12 U.S.C. 3350(4). Title XI of FIRREA does not require the use of an appraiser in connection with all real estate-related financial transactions, nor does it identify any class of real estate-related financial transactions for which financial institutions must obtain the services of an appraiser.

As the supervisor of national banks, the OCC is responsible for ensuring the safety and soundness of the national banking system and, under 12 U.S.C. 93a, the OCC is authorized to issue rules and regulations to carry out that responsibility. This authority permits the OCC to determine by regulation when the services of an appraiser should be required in connection with a real

[1] These are: The Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, and the National Credit Union Administration. In addition, the Resolution Trust Corporation has issued appraisal rules under title XI of FIRREA.

estate-related financial transaction involving a national bank.

The OCC believes that real estate-related financial transactions involving amounts below $100,000 have not led to substantial losses for national banks and do not pose a systemic threat to the national banking system. This conclusion is based on the agency's experience in examining national banks, the comments received in response to the proposed rule, and comments received from bankers subsequent to publication of the final rule. In light of the foregoing, the OCC now proposes to amend § 34.43(a)(1) to increase the threshold level from $50,000 to $100,000.

The OCC recognizes that regardless of the threshold level adopted, additional experience with the appraisal regulation may indicate a need to modify this provision by raising, lowering or eliminating the *de minimis* threshold. Consequently, the OCC is committed to reconsidering the appropriateness of this provision no later than 24 months after a final rule is adopted with respect to this proposal.

Government Guaranteed Loans

The OCC also proposes to amend § 34.43 to add a new paragraph (a)(6) which would exempt from the appraisal requirement any transaction involving a loan insured or guaranteed by an agency of the federal government if that loan is supported by a current appraisal that meets the standards of the federal agency providing the insurance or guarantee. The OCC is proposing this amendment in response to banks' concerns about the differences in requirements for appraisals under OCC's rule and appraisals required by various federal agencies insuring or guaranteeing the loans.

Because of differences in appraisal requirements, it has not always been clear to bankers what appraisal rules were applicable to particular transactions. Moreover, some bankers were told that certain federal loan insurance or guarantee programs do not allow their appraisers to report any additional information in an appraisal or prepare a supplement to an appraisal which includes information beyond that required on the agency's appraisal form. consequently, some banks believed that they were required to obtain two separate appraisals in order to comply with the requirements of the federal insurer or guarantor and the requirements of part 34, subpart C.

The proposed amendment would eliminate this problem by exempting those transactions that involve federally insured or guaranteed loans from OCC's appraisal rule if the transaction is supported by a current appraisal that conforms to the appraisal regulations or other written appraisal requirements of the insuring or guaranteeing agency. The OCC believes that the appraisal standards of the federal agencies that insure or guarantee loans protect federal financial and public policy interests in those real estate-related financial transactions. Consequently, requiring these transactions to meet additional appraisal requirements would increase costs for national banks and consumers of federally insured or guaranteed loans without providing additional benefits or furthering the purposes for which title XI of FIRREA was enacted.

Defintion of "Real Estate" and "Real Property"

Finally, the OCC is proposing a technical amendment which adds a definition of "real estate" and "real property" to its appraisal rule. This change is being made in response to questions from several bankers concerning the application of the appraisal rule to interests in real property such as mineral rights, standing timber and growing crops.

Title XI of FIRREA does not define "real estate" or "real property" nor does the context in which these terms are used unambiguously suggest that the terms are intended to have different technical meanings. For instance, real estate-related financial transaction is defined as:

> Any transaction involving (A) the sale, lease, purchase, investment in or exchange of real property, including interests in property, or the financing thereof; (B) the refinancing of real property or interests in real property; and the use of real property or interests in real property as security for a loan or investment, including mortgage-backed securities.

FIRREA section 1121(5), 12 U.S.C. 3350. Title XI of FIRREA also directs the OCC to issue regulations requiring "that *real estate appraisals* be performed in accordance with generally accepted appraisal standards promulgated by the Appraisal Standards Board of the Appraisal Foundation." (Emphasis supplied.) The Appraisal Foundation's standards, the Uniform Standards of Professional Appraisal Practice ("USPAP"), have separate definitions for real property ("the interest, benefits, and rights inherent in the ownership of real estate") and real estate ("an identified parcel or tract of land, including improvements, if any"). USPAP also recognizes that the terms are used interchangeably in some jurisdictions.

In its appraisal rule, the OCC used "real property" and "real estate" interchangeably to mean interests in an identified parcel or tract of land and improvements. However, the OCC did not intend these terms to include mineral rights, timber rights, or growing crops, since valuation of such interests generally requires the services of a professional other than an appraiser. The proposed amendment makes the OCC's intent clear by defining "real property" and "real estate" for purposes of the appraisal regulation as "an identified parcel or tract of land, including easements, rights of way, undivided or future interests and similar rights in a tract of land, but excluding mineral rights, timber rights, or growing crops."

Public Comment

Public comment is solicited on all aspects of this proposed rule, and the OCC will consider all comments received. In conjunction with the comments on the proposal to increase the *de minimis* threshold to $100,000, the OCC also requests financial institutions to determine or estimate:

(I) The total assets of the institution;

(II) The number and total dollar amount of real estate related loans held by the institution and losses experienced within the last 12-month period for all real estate secured loans, for real estate secured loans above $100,000, for all real estate secured loans of $50,001 to $100,000, and all real estate secured loans of $50,000 or below; and

(III) The cost and time necessary to obtain an appraisal (A) before August 24, 1990, (B) on or after August 24, 1990, and (C) after regulated institutions are required to use either licensed or certified appraisers for all federally related transactions.

All commenters are advised that, pursuant to the Administrative Procedure Act, all information provided to the OCC will be available for public inspection. To assist the OCC in compiling and analyzing the comments, the OCC requests that commenters use the following format:

All Comments Provided to the OCC Regarding This Proposed Rule Will Be Available to the Public as Part of the Public File of the Rulemaking

I. Total Assets of the Institution

II. Summary of Real Estate Loans Held

Categories of Loans Secured by Real Estate (R.E. Loans)	Number of R.E. Loans	Total Dollar Amount of R.E. Loans Held by the Institution	Loss on R.E. Loans Within the Last 12 Months
All Real Estate Secured Loans			
Real Estate Secured Loans Above $100,000			
Real Estate Secured Loans of $50,001 to $100,000			
Real Estate Secured Loans of $50,000 or below			

III. Time Necessary to Obtain an Appraisal

Please estimate the cost and lapse of time between ordering and obtaining a written appraisal:

		Days
A. Before August 24, 1990	$	
B. On or After August 24, 1990	$	
C. When appraisals must be prepared by State certified or licensed appraisers for all federally related transactions	$	

IV. General Comments

A. De Minimis Threshold.

B. Exemption for Government Guaranteed Loans.

C. Definition of "Real Property" or "Real Estate."

D. Other comments.

All comments are voluntary and no individual or institution is required to provide any of the information requested above, nor must comments be provided in the format outlined above.

Regulatory Flexibility Act: Executive Order 12291

Pursuant to section 605(b) of the Regulatory Flexibility Act, the Comptroller of the Currency certifies that these changes, if adopted, are not expected to have a significant economic impact on a substantial number of small entities.

The OCC also has determined that this proposal does not constitute a "major rule" within the meaning of Executive Order 12291 and Treasury Department Guidelines. Accordingly, a Regulatory Impact Analysis is not required on the grounds that the proposed regulation, if adopted, (1) would not have an annual effect on the economy of $100 million or more, (2) would not result in a major increase in bank operations or governmental supervision, and (3) would not have a significant adverse effect on competition (foreign and domestic), employment, investment, productivity, or innovation, within the meaning of the executive order.

Overall, the OCC expects the changes to benefit consumers and national banks regardless of size by reducing costs without substantially increasing the risk of loss for the banks arising from fraudulent or inaccurate appraisals of real estate collateral. Accordingly, the changes should not substantially increase the risk of loss to the federal deposit insurance fund arising from the affected transactions.

Paperwork Reduction Act

When this regulation was adopted in August 1990, the information collection requirements in § 34.44 were approved by the Office of Management and Budget under control number 1557–0190 in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). At that time, the annual reporting burden for part 34 was estimated at 243,600 burden hours.

The changes proposed in this Notice of Proposed Rulemaking would, if adopted as a final rule, reduce this burden by approximately 62,300 hours to a total of 181,300 burden hours. The OCC estimates that 4,100 banks would maintain records, with an estimated average annual recordkeeping burden of 44.2 hours.

The average burden will be approximately 21 minutes per federally related transaction. Depending on the type of property appraised, the actual burden per transaction is estimated to range from approximately two hours for a large, complex, commercial real estate loan to approximately five minutes or less for a loan secured by a single family residence. Large banks, by their nature, will make more large commercial loans.

The information collection requirements in § 34.44 are intended to protect federal financial and public policy interests in real estate-related financial transactions requiring the services of an appraiser. National banks will use this information in determining whether and on what terms to enter into federally related transactions, such as making loans secured by real estate or selling foreclosed real estate collateral. The OCC will use this information in its examination of national banks to ensure that national banks undertake real estate related financial transactions in accordance with safe and sound banking principles. The likely recordkeepers are for-profit institutions.

Comments on the collections of information contained in this notice of proposed rulemaking should be sent to the Comptroller of the Currency, Legislative and Regulatory Analysis Division, 8th Floor, 250 E Street, SW., Washington, DC 20219, with a copy to the Office of Management and Budget, Paperwork Reduction Project (1557–0190), Washington, DC 20503.

Total Burden if the Rule Is Adopted as Proposed

4100 recordkeepers x 44.2 hours = 181,300 total burden hours.

List of Subjects in 12 CFR Part 34

Mortgages, National banks, Real estate appraisals, Reporting and recordkeeping requirements.

Authority and Issuance

For the reasons set out in the preamble, part 34 of chapter I of title 12 of the Code of Federal Regulations is proposed to be amended as follows:

PART 34—REAL ESTATE LENDING AND APPRAISALS

1. The authority citation for part 34 is revised to read as follows:

Authority: 12 U.S.C. 1 *et seq.*; 12 U.S.C. 93a; 12 U.S.C. 371; 12 U.S.C. 1701j–3; 12 U.S.C. 3331 *et seq.*

2. In § 34.42, existing paragraphs (g) through (k) are redesignated as paragraphs (h) through (l) and a new paragraph (g) is added to read as follows:

§ 34.42 Definitions.

* * * * *

(g) *Real estate* or *real property* means an identified parcel or tract of land, including easements, rights of way, undivided or future interests and similar rights in a tract of land, but excluding mineral rights, timber rights, and growing crops.

* * * * *

3. In § 34.43, paragraphs (a)(1), (4)(iv) and (5) are revised and a new paragraph (a)(6) is added to read as follows:

§ 34.43 Appraisals not required; transactions requiring a State certified or licensed appraiser.

(a) *Appraisals not required.* An appraisal performed by a State certified or licensed appraiser is not required for any real estate-related financial transaction in which:

(1) The transaction value is $100,000 or less;

* * * * *

(4) * * *

(iv) There has been no obvious and material deterioration in market conditions or physical aspects of the property which would threaten the institution's collateral protection;

(5) A regulated institution purchases a loan or interest in a loan, pooled loans, or interests in real property, including mortgage-backed securities, provided that the appraisal prepared for each loan, pooled loan, or real property interest met the requirements of this regulation, if applicable, at the time of origination; or

(6) A regulated institution makes or purchases a real estate loan that is insured or guaranteed by an agency of the United States government, provided the transaction is supported by an appraisal that conforms to the appraisal rules or other written appraisal requirements of the Federal agency providing the insurance or guarantee.

* * * * *

Dated: August 23, 1991.

Robert L. Clarke,

Comptroller of the Currency.

[FR Doc. 91-20640 Filed 8-27-91; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 240 and 249

[Release No. 34-29593; International Series Release No. 309; File No. S7-24-91]

RIN 3235-AE42

Large Trader Reporting System

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Securities and Exchange Commission is publishing for comment proposed Rule 13h-1 (17 CFR 240.13h-1), pursuant to section 13 of the Securities Exchange Act of 1934 ("Act"), that would establish an activity-based large trader reporting system. The rule would establish a definition for large traders, and require large traders to make certain disclosures to the Commission. Registered broker-dealers would be required to maintain account and transaction records for each large trader and report transactions on a special call basis to the Commission or a self-regulatory organization ("SRO") designated by the Commission. Rule 13h-1 is proposed pursuant to the provisions of the Market Reform Act of 1990 ("Market Reform Act") to provide the Commission with the information necessary for reconstructing trading activity in periods of market stress and for surveillance, enforcement, and other regulatory purposes.

DATES: Comments must be received on or before November 26, 1991.

ADDRESSES: Persons wishing to submit written comments should file three copies with Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. All comment letters should refer to File No. S7-24-91. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street NW., Washington, DC 20549.

FOR FURTHER INFORMATION CONTACT: Julio A. Mojica, Assistant Director, (202) 272-7497, Nicholas T. Chapekis, Special Counsel, (202) 272-3115 or James M. Martin, Staff Attorney, (202) 272-2789, Division of Market Regulation, 450 Fifth Street NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION:

I. Introduction

During the past decade, the securities markets have experienced a fundamental change in the predominant type of market participant and the manner in which such participants conduct business.[1] Market information and communication systems have become global in nature and have increased the scope and velocity at which information is disseminated to investors. As a result, securities are now traded rapidly in a global securities market. During this period of change, the securities markets also have experienced a significant increase in activity and volatility. Further, in today's securities market many small individual investors have relinquished direct management of their investments to professional investment managers. Accordingly, large institutional investors such as public and private pension or retirement funds, mutual funds, insurance companies, foundations, hedge funds and investment managers have grown extraordinarily in number and size, and have become a predominant type of market participant. Investor demands for returns greater than market averages have caused institutional investors and investment managers to develop complex and innovative relationships, products, and trading strategies. These new investment relationships, products and strategies have led to increased specialization in investment management and linked capital markets around the world. These developments enable institutional investors to trade large amounts of securities and commodities with stunning swiftness to minimize risk or to profit from small differences in valuation.

The Market Reform Act [2] was born from the findings of the studies conducted following the declines in the United States securities markets in October 1987 and October 1989.[3] In the legislative history accompanying the Market Reform Act, the Senate Committee on Banking, Housing and Urban Affairs ("Committee") noted a consensus among these studies that the Commission's efforts to analyze the causes of a market crisis were impeded by its lack of specific statutory authority to gather trading information.[4] Broad-based samples of investor trading activity reconstructed in time sequence provide the empirical data necessary for the Commission's evaluations of market crises and volatility and enhance its ability to detect illegal trading activity.[5] The Committee also noted that existing self-regulatory organization ("SRO") audit trails provide a time sequenced report of broker-dealer securities transactions but do not identify the broker-dealer's customers.[6] As a result

[1] See S. Rep. No. 300, 101st Cong., 2d Sess. 2-5 (1990). ("Senate Report")

[2] Pub. L. No. 101-432, 104 Stat. 963 (1990).

[3] See Senate Report, *supra* note 1, at 7-12. See also Report of the Presidential Task Force on Market Mechanisms (January 1988) ("Brady Report"), The October 1987 Market Break, a Report by the Division of Market Regulation, U.S. Securities and Exchange Commission (February 1988) ("Market Break Report"), and Trading Analysis of October 13 and 16, 1989, a Report by the Division of Market Regulation, U.S. Securities and Exchange Commission (May 1990) ("October 1989 Report").

[4] Senate Report, *supra* note 1, at 34.

[5] *Id.* at 4, 44, and 71.

[6] *Id.* at 45. In response to the suggestion of industry representatives and SROs that the existing electronic bluesheet system could be used to obtain broad-based samples of large trader information, the Committee stated:

However, based on the SEC's recent difficulties in reconstructing trading for the October 1989 market events using the Electronic Blue Sheets, the Committee believes that the SEC needs the

Continued