Dated: March 12, 1993.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 93-6262 Filed 3-18-93; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8458]

RIN 1545-AJ35

Real Estate Mortgage Investment Conduits; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document contains a correction to Treasury Decision 8458, which was published in the Federal Register for Thursday, December 24, 1992 (57 FR 61293). The final regulations relate to real estate mortgage investment conduits (REMICs).

EFFECTIVE DATE: December 24, 1992.

FOR FURTHER INFORMATION CONTACT: Carol A. Schwartz (202)-622-3920 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these corrections provide rules under sections 860A through 860G of the Internal Revenue Code.

Need for Correction

As published, T.D. 8458 contains an error which may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, the publication of final regulations (T.D. 8458), which was the subject of FR Doc. 92-30944, is corrected as follows:

§1.860A-0 [Corrected]

1. On page 61300, column 2, §1.860A-0, the entry for section 1.860G-2(a)(1)(i) is corrected to read "The 80-percent test.".

2. On page 61300, column 2, §1.860A-0, the entry for section 1.860G-2(c)(3)(ii) is corrected to read "Advances of taxes, insurance payments, and expenses."

§1.860A-1 [Corrected]

3. On page 61301, column 1, §1.860A-1(b)(2)(ii) introductory text, last line of the paragraph, the language "before June 30, 1992 if—" is corrected to read "before June 30, 1992, if—"

4. On page 61301, column 1, §1.860A-1(b)(2)(iii), ninth line of the paragraph, the language "value requirement in §1.860E-1(a)(1)" is corrected to read "value requirement in 1.860E-1(a)(1)".

§1.860G-1 [Corrected]

5. On page 61307, column 1, §1.860G-1(a)(3)(v)(A), tenth line of the paragraph, the language "based on total amount available for" is corrected to read "based on the total amount available for the".

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 93-5895 Filed 3-18-93; 8:45 am]

BILLING CODE 4830-01-M

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26 CFR Part 1

[T.D. 8468]

RIN 1545-AQ67

TeleFile Voice Signature Test; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to temporary regulations.

SUMMARY: This document contains corrections to Treasury Decision 8468, which was published in the Federal Register for Wednesday, January 13, 1993 (58 FR 4079). The temporary regulations provide that an individual Federal income tax return completed as part of the TeleFile Voice Signature Test will be treated as a return that is signed, authenticated, verified and filed by the taxpayer as required by the Internal Revenue Code.

EFFECTIVE DATE: January 14, 1993.

FOR FURTHER INFORMATION CONTACT: Celia Gabrysh (202) 622-4960 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations that are the subject of this correction provide rules under sections 6012, 6061 and 6065 of the Internal Revenue Code.

Need for Correction

As published, T.D. 8468 contains an error which may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, the publication of the temporary regulations (T.D. 8468), which was the subject of FR Doc. 93-658, is corrected to read as follows:

On page 4080, column 1, in the authority citation following instructional "Paragraph 1.", lines 1 and 2, the language "Authority: 26 U.S.C. 7805 * * * Section 1.6012-7T also issued under 26 U.S.C. 6012." is corrected to read "Authority: 26 U.S.C. 7805".

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 93-5889 Filed 3-18-93; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

Storage and Handling of Liquefied Petroleum Gases

CFR Correction

In title 29 of the Code of Federal Regulations, parts 1900 to 1910 (§§ 1901.1 to 1910.999), revised as of July 1, 1992, on page 335, in the second column, in § 1910.110 (d)(11), the first sentence should be removed.

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD1 93-002]

Safety Zone Regulations: Kill Van Kull, NY and NJ

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone in the waters near Bergen Point West Reach in the Kill Van Kull of New York and New Jersey. This zone imposes requirements in addition to the Regulated Navigation Area (RNA) already in existence for these waters. This zone is divided into two sections. The first is the southern portion of the channel which contains a work area where concentrated drilling and blasting will be conducted and no vessel is permitted to transit. The second section includes the remainder of the safety zone which surrounds the work area. Vessel passage in this section is permitted under the criteria set forth in these regulations. This action is necessary to protect the maritime

community from the possible dangers and hazards to navigation associated with the extensive blasting and dredging operations which are being conducted in the work area of the channel and with the restrictions in channel width.

EFFECTIVE DATE: These regulations become effective at 8 a.m., March 8, 1993 and terminate at 8 a.m., December 1, 1993, unless terminated sooner by Captain of the Port (COTP) NY.

FOR FURTHER INFORMATION CONTACT: LTJG L.D. Johnson of Captain of the Port, New York (212) 668-7934.

SUPPLEMENTARY INFORMATION:

Drafting Information

The principal persons involved in drafting this document are LTJG L.D. Johnson, Project Manager, Captain of the Port, New York, and LCDR J. Stieb, Project Attorney, First Coast Guard District, Legal Office.

Regulatory History

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publishing an NPRM would delay this project's effective date and would be contrary to the public interest since immediate action is needed to protect the public from the dangers associated with this channel deepening project.

On April 7, 1992 a final rule was published as § 165.165 of this title, which imposed a Regulated Navigation Area (RNA) over the entire Kill Van Kull (KVK) for the duration of a three year deepening project. The Coast Guard COTP New York now deems it necessary to establish this safety zone based on daily experiences and studies compiled since the initiation of the KVK dredging operations. By so doing, the users of this waterway and the immediate waterfront communities will be safeguarded from the hazards associated with this ongoing project. This safety zone establishes additional temporary restrictions within its boundaries which require the employment of assist vessels (dependent upon the length of a vessel) and apply specific requirements under certain weather conditions as well as tidal current conditions during this most difficult phase of the dredging project.

Background and Purpose

In August 1991, the Army Corps of Engineers (ACOE) and the Port Authority of New York and New Jersey commenced an extensive channel deepening project in the Kill Van Kull and Constable Hook area. The Coast Guard published a Regulated Navigation Area on April 7, 1992 to ensure the safety of vessels in the areas of blasting and dredging. On January 13, 1993, the ACOE notified the Coast Guard that they were prepared to begin operations in the area of Bergen Point West Reach (Phase V of the RNA) on March 8, 1993.

In May 1992, after publication of the RNA, the National Marine Research Center submitted a study to the U.S. Coast Guard COTP, New York. This study used the Marine Safety International's Computer Aided Operations Research Facility (MSI/CAORF) full-mission, real-time ship-handling simulator. During the study, New York Harbor pilots conned simulated vessels of various characteristics around the southern tip of Bergen Point, New Jersey, between Newark Bay and Bergen Point West Reach of the KVK. Currents, wind conditions, bank forces, tug assistance, vessel aerodynamics and hydrodynamics and other variables were represented. Representatives of the Port of New York, the Corps of Engineers and Coast Guard Vessel Traffic System (VTS) New York participated in the design of the tests and in formulating the conclusions and recommendations. The MSI/CAORF study revealed that vessels with a smaller Length Over All (LOA) could transit this area safely under the maximum credible adverse conditions. The study recommended that any operational restrictions take into account the LOA of vessels and that restrictions be placed on vessels under certain wind conditions. The Port Authority of New York and New Jersey gathered local pilots, vessel operators, and Coast Guard VTS New York to review the results of the MSI/CAORF study. This group reached a consensus that expanded upon the study recommendations, incorporating currents, winds, vessel size and local hands-on experience.

Based on the MSI/CAORF study, lessons learned from vessel groundings and collisions, and experience gained during the previous two years of the project, the Captain of the Port believes it is necessary to impose restrictions in the area of Bergen Point West Reach in addition to the requirements of the existing RNA. The area included within this safety zone is now regulated by regulations (1) through (7) of the RNA and the additional regulations implemented in this rulemaking. These safety zone regulations, in conjunction with the existing RNA regulations, are designed to allow vessels to transit safely and to protect the port and maritime community.

Regulatory Evaluation

These regulations are not major under Executive Order 12291 and not significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11040; February 26, 1979). In light of the regulations' limited scope, the small size of the affected area, the short duration, and the advance notice available to the community, the Coast Guard expects the economic impact of this rulemaking to be so minimal that a Regulatory Evaluation is unnecessary. The channel will not be completely closed therefore allowing vessels to still make their destination with minor restrictions. Vessel operators who do not wish to comply with the safety zone restrictions in this area of the KVK have the option of choosing the south route by taking the Arthur Kill to or from Newark Bay.

Small Entities

Because it expects the impact of these regulations to be minimal, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this action in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that these regulations do not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has considered the environmental impact of these regulations and concluded that under section 2.B.2.c. of Commandant Instruction M16475.1B, it is an action under the Coast Guard's statutory authority to protect public safety, and thus is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Vessels, Waterways.

Regulations

In consideration of the foregoing, part 165 of title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5, 49 CFR 1.46.

2. A new § 165.T 01–002 is added to read as follows:

§ 165.T 01–002 Safety Zone: Kill Van Kull, Bergen Point West Reach—New York and New Jersey.

(a) *Location.* (1) The following area has been declared a Safety Zone: All waters of the Kill Van Kull Channel, bounded by the following points:

Latitude	*Longitude*
	074°08'32"W
40°38'27"N	074°08'52"W
40°38'24"N	074°09'03"W
40°38'25"N	074°09'14"W
40°38'29"N	074°09'07"W
40°38'40"N	074°08'53"W
40°38'40"N	074°08'44"W
40°38'34"N	074°08'32"W
40°38'35"N	

to buoy "G 13"

thence to the point of the beginning.

(2) Within this safety zone exists a "WORK AREA" where concentrated drilling and blasting is being conducted. The "WORK AREA" includes all waters bounded by the following points:

Latitude	*Longitude*
	074°08'32"W
40°38'27"N	074°08'52"W
40°38'24"N	074°08'55"W
40°38'31"N	074°08'43"W
40°38'29"N	074°08'33"W
40°38'31"N	

thence to the point of the beginning.

The eastern and western edges of this "WORK AREA" are marked by lighted buoys set by the Coast Guard.

(b) *Effective date.* These regulations become effective at 8 a.m., e.s.t. March 8, 1993. They terminate at 8 a.m., December 1, 1993, unless terminated sooner by COTP NY.

(c) *Regulations.*

(1) "WORK AREA": In accordance with the general regulations in § 165.23 of this part, entry into or movement within the "WORK AREA" of the safety zone is prohibited unless authorized by the Captain of the Port.

(2) For all other waters of the safety zone described in paragraph (a)(1) the COTP has included the following requirements in addition to paragraphs (d) (1) through (6) of § 165.165.

(i) Prior to entering this safety zone, the master, pilot, or operator of each vessel, 300 gross tons or greater and tugs with tows, shall notify Vessel Traffic Center (VTC) New York regarding the employment of assist vessels and intentions while transiting the safety zone.

(ii) Tug requirements: All vessels (including all tow configurations from stem to stern) over 350 feet in length require one assist vessel. All vessels over 700 feet require two assist vessels.

(iii) Tidal Current Restrictions: Vessels over 700 feet in length with a draft greater than 33 feet are restricted to movements within one hour either side of the slack water on ebb and flood tides while outbound.

(iv) Astern tows: Hawser tows are not permitted unless the tow is accompanied by an assist vessel.

(v) Wind conditions:

(A) In winds from 20 to 34 knots:

(*1*) cargo ships may not transit through the safety zone.

(*2*) tankers in ballast may not transit through the safety zone.

(*3*) tugs with tank barge tows less than 350 feet (stem of tug to stern of barge) loaded or light, require an assist vessel.

(B) In winds greater than 34 knots, no vessels 300 gross tons or greater and all tugs with tows are prohibited from transiting the safety zone.

(3) Waiver. The Captain of the Port New York may, upon request, authorize a deviation from any regulation in this section if it is found that the proposed operations can be done safely. An application for deviation must be received not less than 4 hours before the intended operation(s) and must state the need and describe the proposal.

Dated: February 26, 1993.

R.M. Larrabee,

Captain, U.S. Coast Guard, Captain of the Port, New York.

[FR Doc. 93–5737 Filed 3–18–93; 8:45 am]

BILLING CODE 4910–14–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA–7062]

Changes in Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Interim rule.

SUMMARY: This interim rule lists communities where modification of the base (100-year) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base (100-year) flood elevations for new buildings and their contents.

DATES: These modified base flood elevations are currently in effect on the dates listed in the table and revise the Flood Insurance Rate Map(s) (FIRMs) in effect prior to this determination for each listed community.

From the date of the second publication of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Administrator reconsider the changes. The modified elevations may be changed during the 90-day period.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: William R. Locke, Chief, Risk Studies Division, Federal Insurance Administration, 500 C Street, SW., Washington, DC 20472, (202) 646–2766.

SUPPLEMENTARY INFORMATION: The modified base (100-year) flood elevations are not listed for each community in this interim rule. However, the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection is provided.

Any request for reconsideration must be based upon knowledge of changed conditions, or upon new scientific or technical data.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base (100-year) flood elevations are the basis for the flooplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program.

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Federal Insurance Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the National Flood Insurance Program. No regulatory flexibility analysis has been prepared.

Regulatory Impact Analysis

This rule is not a major rule under Executive Order 12291, February 17, 1981. No regulatory impact analysis has been prepared.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 65 is amended to read as follows:

PART 65—[AMENDED]

1. The authority citation for part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and County	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Alabama:					
Tuscaloosa	City of Northport	June 19, 1992, June 26, 1992, *The Tuscaloosa News.*	The Honorable Wayne Rose, Mayor of the City of Northport, 2705 Eleventh Avenue, P.O. Box Drawer No. 309, Northport, Alabama 35476.	May 28, 1992	010202 D
California:					
Sacramento	City of Sacramento	February 19, 1993, February 26, 1993, *Sacramento Bee.*	The Honorable Joe Serna, Jr., Mayor, City of Sacramento, City Hall, Room 205, 915 I Street, Sacramento, California, 95814–2672.	Jan. 29, 1993	060266
Sacramento	Unicorporated Areas	February 17, 1993, February 24, 1993, *Sacramento Bee.*	Mr. Douglas M. Fraleigh, Director, Sacramento County Department of Public Works, 827 Seventh Street, Room 304, Sacramento, California 95814.	Jan. 29, 1993	060262
Colorado:					
Boulder	City of Longmont	March 3, 1993, March 10, 1993, *Longmont Daily Times.*	The Honorable Fred Wilson, Mayor, City of Longmont, Civic Center Complex, 408 Third Avenue, Longmont, Colorado 80501.	Feb. 19, 1993	080027
Illinois:					
Lake	Village of Lake Barrington.	February 18, 1993, February 25, 1993, *Barrington Courier-Review.*	Ms. Nancy Smith, President of the Village of Lake Barrington, Lake County, 23555N Old Barrington Road, Barrington, Illinois 60010.	To be determined	170372 D
Kansas:					
Sedgwick	City of Wichita	February 11, 1993, February 18, 1993, *The Wichita Eagle.*	The Honorable Frank Ojile, Mayor, City of Wichita, City Hall, First Floor, 455 North Main Street, Wichita, Kansas 67202.	Jan. 26, 1993	200328

State and County	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Massachusetts:					
Plymouth	Town of Scituate	February 4, 1993, February 11, 1993, *Scituate Mariner.*	Mr. Richard H. Agnew, Administrator of the Town of Scituate, Plymouth County, Town Hall, Scituate, Massachusetts 02066.	Jan. 28, 1993	250282 D
Minnesota:					
Anoka	City of Columbia Heights.	February 23, 1993, March 2, 1993, *The Focus News.*	The Honorable Donald Murzyn, Jr., Mayor of the City of Columbia Heights, Anoka County, 590 40th Avenue, NE, Columbia Heights, Minnesota 55421–3878.	Feb. 16, 1993	270010
South Carolina:					
Aiken and Edgefield.	City of North Augusta	March 19, 1993, March 26, 1993, *The Star.*	The Honorable Thomas W. Greene, Mayor of the City of North Augusta, Aiken and Edgefield Counties, P.O. Box 6400, North Augusta, South Carolina 29841.	Mar. 12, 1993	450007
Tennessee:					
Shelby	City of Memphis	February 12, 1993, February 19, 1993, *The Commercial Appeal.*	The Honorable W.W. Herenton, Mayor of the City of Memphis, Shelby County, 125 North Mid-America Mall, Memphis, Tennessee 38103.	Feb. 5, 1993	470177 C
Texas:					
Bell	Unincorporated Areas	February 18, 1993, February 25, 1993, *Temple Daily Telegram.*	The Honorable John Garth, Judge, Chairman, Bell County, Board of Commissioners, P.O. Box 768, Belton, Texas 76513–0768.	Jan. 29, 1993	480706
Brazoria	City of Pearland	February 24, 1993, March 3, 1993, *The Journal.*	The Honorable Vic Coppinger, Mayor, City of Pearland, P.O. Box 2068, Pearland, Texas 77588.	Feb. 15, 1993	480077
Tarrant	City of Benbrook	January 28, 1993, February 4, 1993, *The Benbrook News.*	The Honorable Jerry Dunn, Mayor, City of Benbrook, P.O. Box 26569, Benbrook, Texas 76126.	Jan. 15, 1993	480586

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Issued: March 9, 1993.

Francis V. Reilly,

Deputy Administrator, Federal Insurance Administration.

[FR Doc. 93–6355 Filed 3–18–93; 8:45 am]

BILLING CODE 6718–03–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018–AB65

Migratory Bird Harvest Information Program

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Fish and Wildlife Service (Service) and State wildlife agencies (States) are cooperatively establishing a national Migratory Bird Harvest Information Program (Program) in which migratory game bird hunters will be required to participate by supplying their names, addresses, and other necessary information. Hunters will be required to have evidence of current participation in the Program on their person while hunting migratory game birds. The quality and extent of information about harvests of migratory game birds must be improved in order to better manage these populations. Hunters' names and addresses will be used to provide a sampling frame for a voluntary survey which will improve harvest estimates for migratory game birds.

EFFECTIVE DATE: March 19, 1993.

FOR FURTHER INFORMATION CONTACT: Robert L. Jessen, Migratory Bird Harvest Information Program Coordinator, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, 10800 Laurel-Bowie Road, Laurel, Maryland 20708–

3600, (301) 317–6300, FAX (301) 317–6301.

SUPPLEMENTARY INFORMATION: The purpose of this rule is to facilitate the collection of needed information about the harvest of migratory game birds. This rule revises the migratory bird hunting regulations to require hunters to provide annually their names, addresses, and other necessary information as a condition for hunting migratory game birds. This information will provide a sampling frame for the national Migratory Bird Harvest Survey.

The Service and States plan to implement and study this Program, starting with a 2-year initial phase in 3 volunteer States beginning in 1992. During this initial phase, the requirement to participate in the Program will not apply on Federal Indian Reservations or to tribal members hunting on ceded lands. The States will provide the names, addresses, and other necessary information obtained from hunters, and the Service will conduct a national Migratory Bird Harvest Survey. The Program will be evaluated to determine the adequacy and timeliness of the sample and the time burden, cost, and other impacts on hunters, State license agents, States, and the Service. The approaches used in different States will be compared. Alternative survey designs will be investigated, and the U.S. Bureau of the Census will be asked to review the survey procedures. Alternate methods will be acceptable if any resulting biases in the estimates do not compromise the quality of the survey and if procedures conform to accepted statistical standards.

After evaluation in 1994 of this initial phase and consideration of proposed changes, other States will be phased into the Program, with about 1 million hunters added each year until all States participate in 1998. The suggested implementation schedule was published in the Federal Register on June 10, 1992, (57 FR 24736).

The names, addresses, and other information for an adequate sample of hunters are needed in time for hunting-record forms to be distributed to selected hunters before they forget the details of their hunts. Because of this fundamental need, States have only a short time to provide hunter names and addresses. Minimum survey standards will be developed during the next 2 years to ensure the quality of survey data. As each new State is phased into the Program, an agreement will be developed with each State in order to identify and resolve specific reporting or data-capture problems. This will ensure that each State will be providing reliable survey data and that no material biases are incorporated into the system.

A Program validation ("Migratory Bird Harvest Information Program Participant") will be printed on the annual State hunting license or supplementary permit for those hunters who participate in the Program. The State may charge these hunters a small handling fee to compensate agents and to cover the State's administrative costs associated with implementing the Program. A hunter will not be required to obtain evidence of Program participation in more than one State per year.

To reduce survey costs and to identify hunters who hunt less-commonly hunted species, migratory bird hunters will be asked the following questions:

1. Do you plan to hunt migratory game birds during [season]? [This screening question is needed only if a State asks all hunters to provide their names, addresses, and other information needed by the Program.]
2. Is this the first license you have had validated for hunting migratory game birds this hunting season? ___Yes ___No
3. Did you hunt these birds last season in the U.S.?
   ______Ducks
   ______Geese
   ______Cranes
   ______Coots
   ______Snipe
   ______Rails
   ______Mourning doves
   ______White-winged doves
   ______Band-tailed pigeons
   ______Woodcock
   ______Gallinules
4. How many did you bag last season in the U.S.?

	None	1–5	6–10	11–30	31+
Ducks	....	....	....	....	....
Geese	....	....	....	....	....
Doves	....	....	....	....	....
Woodcock	....	....	....	....	....

Question #4 will identify which success category (e.g., none, 1–5, etc.) a hunter was in during the previous year and will allow stratification of the sample. A stratified sample (multiplying the number of hunters in each category by the average seasonal bag per hunter in that category and then adding the results for each category) will provide a better estimate of total harvest and will not require as large a sample size as a standard sample (multiplying the total number of hunters by the average seasonal bag per hunter).

To protect hunters' privacy, it is the policy of the Service to use the names and addresses only for conducting hunter surveys and for no other purpose. All records of hunters' names and addresses will be deleted after the surveys, and no permanent record of names and addresses would be maintained by the Service. If States collect names and addresses under State authority, the Federal requirement will not apply to State uses of these names and addresses.

Review of Comments and the Service's Response

Comments on the Proposed Rule were received from 1 Flyway Council, 19 States, 6 organizations, and 3 individuals through September 16, 1992. Although none of the comments questioned the need for the Program or for improved migratory bird harvest estimates, almost all expressed concerns about the implementation of the Program. The Program was supported by the States of Florida, Maryland, Minnesota, Missouri, Pennsylvania and South Carolina, and by the Humane Society of the United States, the Wildlife Legislative Fund of America, and the Wildlife Management Institute.

1. Cost of and Responsibility for the Program

Comments: Concerns about the cost of the Program to States were expressed by the Atlantic Flyway Council and the States of Illinois, Louisiana, Iowa, Maryland, Michigan, Missouri, Montana, North Carolina, Pennsylvania, South Dakota, Washington, and Wisconsin. The notice of intent, published in the Federal Register on June 24, 1991, (56 FR 28812) suggested that the Service might pay for printing of the survey cards and implied that it might pay for the postage with Option 1, but the proposed rule of June 10, 1992, did not indicate who is responsible for paying for the printing and postage of these forms. State legislative action often is required to charge a fee, covering distribution and administrative costs, but legislatures are frequently reluctant to impose additional fees. Concern that the Proposed Rule was perceived to transfer administrative and fiscal responsibility to the States for a program that is primarily a Federal responsibility was expressed by the States of Louisiana, Pennsylvania, South Carolina, and South Dakota.

Service Response: The Service is sympathetic to these problems, but the Federal financial contribution to this joint endeavor will be dependent on the Service budget. The Service should not fund portions of State hunting licenses. The Service views the issuing of hunting licenses and permits to be a State responsibility. A Federal permit system would duplicate State systems and would not be in the interest of either the States or the Service. However, the Service is seeking suggestions on methods of providing States with technical assistance to help them acquire the required information and will enter into cooperative agreements to solve implementation problems as they arise.

2. Impact of Procedures on State Wildlife Agencies

Comments: Concern that the required procedures would result in major changes to State license procedures was expressed by the Atlantic Flyway Council and States of Arizona, Delaware, Maryland, North Carolina, Pennsylvania, and Washington. On the other hand, there was general agreement that the information was necessary. Problems in obtaining the cooperation of State license vendors were anticipated by the States of Illinois, Minnesota, Montana, North Carolina, and South Dakota. The requirement for license vendors to return names and addresses within 5 days was considered unrealistic by the Atlantic Flyway Council and the States of Delaware, Illinois, Iowa, Maryland, Minnesota, Montana, Nevada, North Carolina, South Dakota, and Wisconsin. The States of Delaware and Maryland said that their 30-day reporting requirement was seldom met. Illinois indicated that less than 30% of their vendors provided names and addresses for their State survey. Minnesota said that they had virtually no means to force compliance in producing hunter names. Consequently, 48% of the names and addresses for their State survey came from an area where only 29% of the licenses were sold. The use of separate name and address cards was suggested by the States of Arizona, Florida, Iowa, Maryland, Minnesota, Missouri, Montana, North Carolina, and Washington. Arizona doubted that the Service could contact hunters prior to season opening dates. The use of names and addresses from the previous year's licenses was suggested by the States of Illinois and Wisconsin. Louisiana indicated that they would not be able to provide a count of the number of migratory bird hunters by April 15, while the States of Iowa and Wisconsin felt that the count was redundant if the Service has the names.

Service Response: The Service will continue to work with States during the initial period to identify ways of minimizing the impact on State procedures. To reduce memory bias, it is important to provide hunters with record forms as soon as possible after they start hunting each year so that hunters do not forget the dates, counties, and bag for individual trips. Two alternatives are being considered: (1) Providing names and addresses weekly (postmarked within 5 working days) and (2) providing the previous year's names and addresses in time to send record forms before the season and also providing, on a monthly basis, the current year's names and addresses of hunters who did not buy a license the previous year. Paper name and address forms may be sent to the Service for data entry if acceptable machine-scannable forms are used. Separate forms have the advantage of separating the financial accounting for licenses from the collection of names and addresses but have the disadvantage of requiring duplicate forms and increasing printing and handling costs. The count of the number of migratory bird hunters is necessary because harvest is estimated by multiplying the average bag by the number of hunters. The count is needed by April 15 in order that harvest estimates can be provided prior to the June migratory bird hunting regulations meetings and associated public hearing. If license vendors promptly supplied the names and addresses of all migratory bird hunters, the count could be obtained from that source. However, some States have suggested that vendor cooperation will be a problem, and an independent count would provide a check on the cooperation of license vendors.

3. Level of Participation by all Migratory Bird Hunters

Comments: The Atlantic Flyway Council and the States of Florida, Illinois, Louisiana, Michigan, North Carolina, and Wisconsin felt that those hunters who are not required to obtain an annual State hunting license (e.g. junior hunters, senior hunters, lifetime licensees, landowners) should not be required to participate. Illinois said that about 20% of their hunters do not require annual licenses. North Carolina indicated that a large proportion of their most active hunters have lifetime licenses. They also do not have current addresses for older citizens or the disabled who do not require annual licenses, and they do not know how many are still active. Missouri strongly supported the requirement to annually provide names and addresses. North Carolina suggested that States provide the names and addresses of a random sample of their migratory bird hunters instead of all the names and addresses.

Service Response: Excluding those hunters who are not required to obtain an annual State hunting license from the Program also excludes their harvest from the estimates. The importance of their harvest depends on how many hunters are excluded and on the number of birds they bag. The comments indicated that excluding these hunters may result in serious bias. The Service is estimating the effect of excluding these hunters and would appreciate any information that may be available. Minimum survey standards are being developed. One suggestion is to allow a class of hunters to be excluded from participating in the Program if (1) it is periodically demonstrated that only minimal bias in the estimates results from their exclusion or (2) a statistically sound alternate sampling procedure is implemented. It is anticipated that essentially all migratory bird hunters would be included in the sampling frame, although annual participation would not be required if a list of names and current addresses were available from another source. For example, if lifetime licensees and senior hunters provided their driver's-license numbers and if the motor vehicles department maintained a current address list that was available to the wildlife agency, these hunters could be sampled from this list of hunters.

4. Type of Information Provided by Hunters

Comments: The license vendors would ask questions about the kinds of birds hunted the previous year and about the numbers of birds bagged. The

States of Florida, Iowa, Louisiana, and Montana suggested that the questions be simplified. Louisiana suggested allowing hunters to furnish their driver's-license number instead of their name and address.

Service Response: It is important to identify those hunters who hunt infrequently hunted species. It would be impractical to survey the harvest of these species without first identifying those who hunt them. The question about the bag of ducks, geese, doves, and woodcock is needed to reduce the cost of surveys through stratification. Identifying the few hunters who bag most of the birds will allow the survey to sample them at a higher rate, reducing the number of questionnaires without biasing the results. The Service agrees that allowing hunters to furnish driver's-license numbers instead of their names and addresses would reduce the burden on hunters and license vendors and would facilitate data entry. Driver's-license numbers will be accepted, if the State can promptly provide the names and addresses of selected hunters and if the license vendors ask the hunters to provide their addresses if the addresses on the licenses are not current.

5. Use of Names and Addresses

Comments: The Atlantic Flyway Council believed that the States should have access to the list of names and addresses. The States of Missouri and Pennsylvania stated that the States needed the option to conduct statewide surveys using names that may overlap with Federal surveys.

Service Response: If States collect names and addresses under State authority, the Federal requirement will not apply to State uses of these names and addresses. The Service discourages asking an individual hunter to participate in more than one survey and will cooperate with States to avoid overburdening individuals.

6. Scheduling of State Participation

Comments: The Atlantic Flyway Council suggested that the Service consult with the separate States prior to assigning them an entry year.

Service Response: The Service will consult with the States. To avoid operational problems in implementing the Program, it is necessary to phase-in the Program with about 1 million migratory bird hunters added each year for 5 years. The suggested implementation schedule was published in the **Federal Register** on June 10, 1992, (57 FR 24736).

7. Survey Procedures

Comments: Michigan suggested that if hunters were sampled separately in each State they hunted, the questions could be limited to those applicable to the species hunted in the State. They also suggested allowing the restructuring of the questions to facilitate the use of point-of-sale terminals. South Dakota suggested that a standardized validation should be adopted. The need to improve the survey procedures was noted by the States of Illinois and Missouri, and the Humane Society of the United States. The Humane Society of the United States urged the Service to estimate the illegal take of migratory birds. Pennsylvania was concerned that the lack of data-collection standards would compromise data quality. The North American Wildlife Foundation suggested a national bird-tagging program.

Service Response: The Service seriously considered the suggestion to sample hunters separately in each State they hunt because it would simplify the questions and avoid the necessity of asking about the hunting of species that do not occur in the State. It would also eliminate the need to ask if the hunter had previously participated in the Program in another State. That question would be difficult because the hunter may not know the answer if participation is included with a State license. However, sampling hunters separately would require them to pay a separate fee in each State that requires a fee. Consequently, hunters will be sampled once to avoid requiring individuals to pay more than one fee for the Program per year. The questions were designed for paper forms and could be simplified for point-of-sale terminals if equivalent information was provided. The Service is implementing improved survey procedures with both the current Waterfowl Harvest Survey and the proposed Migratory Bird Harvest Survey (details are available on request). The Service shares the concern about data quality and will cooperate with the States in developing quality-control procedures. Tagging programs are useful for limiting harvest, but it is not clear how such a program could be used to estimate harvest without a costly and burdensome check-station program.

8. Extending Comment Period

Comments: South Carolina suggested that the final rule be postponed until mid-August to allow time for States to discuss the Program during the upcoming Flyway meetings.

Service Response: Comments have been accepted through September 16, 1992.

9. Public Information Needs

Comments: The need to inform hunters and license vendors about the Program was identified by Washington and the Wildlife Legislative Fund of America.

Service Response: The Service concurs with the need for a public-information effort and is providing a video and a draft of a popular article explaining the Program.

10. Indian Tribes

Comments: The Hoopa Valley Tribe noted that Federally-recognized Indian tribes and their members are free to exercise reserved fishing and hunting rights, including the right to hold managed hunts for nonmembers within their reservations unencumbered by State regulation. Consequently, the Tribe requested that the rulemaking be changed to indicate that the State of California lacks authority to administer the Program on tribal lands.

Service Response: The Service recognizes the sovereignty of Indian tribal governments and supports their right of self-determination and self-government. Nothing in this or earlier **Federal Register** documents was meant to imply that the Program can or should be administered by States for the Tribes. Many Tribes have their own fish and wildlife programs.

Many Indian Tribes have strong cooperative relationships in game management with the State in which the tribal lands are located. The Service enthusiastically supports these cooperative management efforts because they better serve the long-term interests of migratory game bird conservation and hunting. In the interests of migratory bird resource protection, the Service would like to have the Tribes participate in this expanded Harvest Information Program. The Service will explore inclusion of tribal governments in the Program and may then propose such action in a future **Federal Register** document.

11. Inclusion of Crows

Comments: Arizona suggested that crow hunting should be included in the survey. Missouri suggested excluding crows from the Program until it is fully operational, primarily because season dates unduly complicate distribution and collection of materials from vendors. Unified Sportsmen of Pennsylvania strongly opposed inclusion of crows and grackles because crows cause damage to crops and communities and because crow hunting encourages youth to take up sport hunting. Kelly McPhillips, South Dakota Game, Fish, and Parks Department, thinks it is important to monitor the harvest of crows.

Service Response: The Service decided to limit the Program to migratory game birds, because there does not appear to be a critical need for harvest information on crows and because the long season would make it difficult to gather information on other migratory birds.

12. Release of Names and Addresses

Comments: The South Carolina Waterfowl Association and the International Crane Foundation suggested that the Service keep an updated list of names and addresses of all migratory bird hunters and make the list available to conservation organizations working to enhance our migratory bird populations.

Service Response: In the interest of protecting individuals' privacy and encouraging participation, lists of the names and addresses of migratory game bird hunters will not be released to non-governmental organizations.

13. Comments From Individuals

Comments: Steven Anderson was concerned that the Service is becoming anti-hunting, especially on wildlife refuges. Steven Sheriff supported the Program and stressed the importance of annually including all migratory bird hunters and the importance of reducing memory bias.

Service Response: The Service views hunting as a legitimate recreational activity where and when wildlife populations are sufficiently healthy to support that activity. In order to determine the "health" of the populations and appropriateness of seasons and bag limits, the Service and States must have reliable harvest information. Further, the Service views hunting as a viable wildlife-management tool, under the appropriate circumstances. In addition, the Service takes pride in the fact that it has the lead for the hunting portion of the Secretary of the Interior's "Enjoy Outdoors America" initiative, which is a program to promote and enhance the responsible use of Federal lands for recreational purposes.

14. Use of "Harvest Indices"

Comments: Vernon L. Wright, Louisiana State University, suggested that an index which is repeatable from year to year is adequate, and that a defendable harvest estimate is not needed. He believed that there will be a problem requiring the participation of junior and senior hunters, as well as certain other groups of hunters. With an index, these groups could be omitted as long as the harvest is consistent among groups.

Service Response: The Service does not agree that a "harvest index" that excludes certain groups of hunters would be adequate unless it can be shown the harvests of these groups is negligible. The use of an index assumes that the success of omitted hunters is the same as (or proportional to) the success of the included groups. That assumption is questionable because different groups of hunters may be influenced differently by changing hunting conditions. Even if the assumption is valid, it would be difficult to defend the harvest index and to demonstrate that the success of hunters excluded from the survey was proportional to those who were included.

NEPA Consideration

The establishment of this Harvest Information Program and options have been considered in the "Environmental Assessment: Migratory Bird Harvest Information Program." Copies of this document are available from the Service at the address indicated under the caption **FOR FURTHER INFORMATION CONTACT.**

Regulatory Flexibility Act, Executive Order 12291, and the Paperwork Reduction Act

A Determination of Effects, approved by the Assistant Secretary for Fish and Wildlife and Parks on June 14, 1991, concluded that the establishment of a Migratory Bird Harvest Information Program was not a "major" rule and, as such, was not subject to Regulatory Analysis under Executive Order 12291. It was also concluded that the rule would not have a significant effect on a substantial number of small entities under the Regulatory Flexibility Act 5 U.S.C. 601 *et seq.*

This rule will eventually affect about 5 million migratory game bird hunters when it is fully implemented. It will require migratory game bird hunters to supply their names, addresses, and other necessary information in order that they can be sampled for a voluntary national harvest survey. Hunters will be required to have evidence of current participation in the Program on their person while hunting migratory game birds.

The States may require a small handling fee to compensate their hunting-license vendors and to cover their administrative costs. Many of the State hunting-license vendors are small entities, but this rule should not economically impact those vendors. Only migratory game bird hunters, individuals, would be required to provide this information, so this rule should not adversely affect small entities.

The collection of information contained in this rule has been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1018–0015. The information is required from hunters to obtain the benefit of hunting migratory game birds.

The public reporting burden for this collection of information is estimated to average 0.015 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Comments regarding the burden estimate or any other aspect of these reporting requirements should be directed to the Service Information Collection Clearance Officer, MS–24 ARLSQ, Fish and Wildlife Service, Washington, DC 20240, or the Office of Management and Budget, Paperwork Reduction Project 1018–015, Washington, DC 20503.

Executive Order (EO) 12612—Federalism

The regulations do not have significant federalism effects as provided in EO 12612. Due to the migratory nature of certain species of birds, the Federal Government has been given responsibility over these species by the Migratory Bird Treaty Act of 1918. State harvest surveys presently cannot provide adequate national estimates of migratory game bird harvests for the following reasons: Some States do not now conduct annual harvest surveys or maintain accessible lists of hunter names and addresses. Comparable information is not available from all States because States have different licensing laws regulating who must buy a hunting license and different survey procedures. The harvest of those hunters who can legally hunt without an annual State license is excluded from State estimates. Hunters might buy more than one type of license in a single State and might buy licenses from more than one State, introducing duplication problems. Currently, many State license lists are not available in time to permit distribution of hunter records early in the hunting season. Budget constraints often prevent States from conducting harvest surveys during certain years or could cause some States to eliminate them completely.

These rules do not have a substantial direct effect on fiscal capacity, change the roles or responsibilities of Federal or State Governments, or intrude on State policy or administration. Therefore, these regulations do not have significant federalism effects and do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. In fact, the Service would cooperate with States in providing surveys to meet special management needs, and increased cooperation between Federal and State Agencies would reduce duplication of survey efforts.

Executive Order 12360—Taking of Individual Property Rights

Executive Order 12360 discussed guidelines for the taking of individual property rights. These rules, authorized by the Migratory Bird Treaty Act, do not affect any constitutionally-protected property rights. These rules would not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property.

Authorship

The primary author of this proposed rule is Paul H. Geissler, Chief, Branch of Surveys, working under the direction of Thomas J. Dwyer, Chief, Office of Migratory Bird Management.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

For the reasons set out in the preamble, 50 CFR part 20 is amended as set forth below.

PART 20—MIGRATORY BIRD HUNTING

1. The authority citation for part 20 is revised to read as follows:

Authority: 16 U.S.C. 703–711, 712, and 742 a–d and e–j.

2. Section 20.20 is added to subpart C to read as follows:

§ 20.20 Migratory Bird Harvest Information Program.

(a) The collections of information contained in § 20.20 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1018–0015. The information will be used to provide a sampling frame for the national Migratory Bird Harvest Survey. Response is required from hunters to obtain the benefit of hunting migratory game birds. Public reporting burden for this information is estimated to average 0.015 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Service Information Collection Clearance Officer, MS–224 ARLSQ, Fish and Wildlife Service, Washington, DC 20240, or the Office of Management and Budget, Paperwork Reduction Project 1018–0015, Washington, DC 20503.

(b) Each person hunting migratory game birds in California, Missouri, and South Dakota shall have given his or her name, address, and date of birth to the respective State hunting licensing authority and shall have on his or her person evidence, provided by that State, of compliance with this requirement.

(c) Nothing in paragraph (b) of this section shall apply to hunters on Federal Indian Reservations or to tribal members hunting on ceded lands.

Dated: December 23, 1992.

Mike Hayden,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 93–6372 Filed 3–18–93; 8:45 am]

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Proposed Rules

Federal Register
Vol. 58, No. 52
Friday, March 19, 1993

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FARM CREDIT ADMINISTRATION

12 CFR Part 611

RIN 3052-AB22

Organization; Reorganization Authorities for System Institutions

AGENCY: Farm Credit Administration.

ACTION: Proposed rule.

SUMMARY: The Farm Credit Administration (FCA), by the Farm Credit Administration Board (Board), proposes for public comment amendments to the regulations governing the procedure by which certain Farm Credit System (Farm Credit or System) institutions may terminate their Farm Credit status. The amendments would expand the application of the regulations to all System associations, add provisions that would apply to the termination of one or more associations whose assets and direct loan from the district bank constitute a significant proportion of the assets and direct loans in the district, and make technical and conforming revisions. The FCA also proposes for public comment regulations governing the procedure by which Farm Credit banks may terminate their Farm Credit status. The Agricultural Credit Act of 1987 (1987 Act), enacted on January 6, 1988, amended provisions of the Farm Credit Act of 1971 (1971 Act) by establishing a procedure under which a Farm Credit institution may terminate its Farm Credit status by becoming chartered as a financial institution under other Federal or State authority. The Food, Agriculture, Conservation and Trade Act Amendments of 1991 (1991 Act), enacted on December 13, 1991, amended the 1971 Act by extending the length of the FCA's review period for the approval of disclosure information relating to terminations and other corporate restructuring. The Farm Credit Banks and Associations Safety and Soundness Act of 1992 (1992 Act), enacted on October 28, 1992, further amended the 1971 Act by adding clarifying provisions for repayment of certain types of debt obligations. The 1971 Act, as amended, imposes certain requirements on an institution seeking to terminate its status as a Farm Credit institution; authorizes the FCA to impose by regulation such other conditions as the FCA considers appropriate; and requires the FCA to promulgate regulations providing for the repayment of certain System assistance.

DATES: Comments must be received by April 19, 1993.

ADDRESSES: Comments should be submitted in writing, in triplicate, to Patricia W. DiMuzio, Division Director, Regulation Development Division, Office of Examination, Farm Credit Administration, McLean, Virginia 22102–5090. Copies of all communications received will be available for examination by interested parties in the Regulation Development Division, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT:
Robert S. Child, Policy Analyst, Office of Examination, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4498, TDD (703) 883–4444,

or

Rebecca S. Orlich, Senior Attorney, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TDD (703) 883–4444.

SUPPLEMENTARY INFORMATION:

I. Introduction

On December 18, 1989, the FCA published an Advance Notice of Proposed Rulemaking (ANPRM) (54 FR 51763) requesting comments on the manner and process for implementing the new termination procedures under the 1971 Act. Based on a consideration of comments received in response to the ANPRM and other relevant factors, the FCA decided to promulgate one set of regulations for associations whose investment in the bank and whose direct loan from the bank constitute 25 percent or less of the investment and direct loan (referred to herein as "Small Associations") and another set of regulations for banks and for other associations, or any combination of associations seeking to terminate together, whose aggregate investments and loans exceed the 25-percent level (which associations are referred to herein as "Large Associations"). On July 12, 1990, the FCA published for public comment (55 FR 28639) proposed amendments to 12 CFR part 611 relating to the termination of Farm Credit status of Small Associations. Final regulations were adopted by the Board on January 23, 1991, were published in the Federal Register on January 30, 1991 (56 FR 3397), and became effective on March 11, 1991. The Board now proposes amendments to those regulations that would extend their application to Large Associations, impose additional requirements on Large Association terminations, and make technical and conforming revisions. The Board also proposes new regulations applicable to the termination of Farm Credit Banks (FCBs) and banks for cooperatives (BCs).

The proposed regulations would implement sections 7.10, 7.11, 6.9(e)(3)(C)(ii), 6.26(d)(1)(C) (iv) and (v), and 6.26(c)(5) (E) and (F) of the 1971 Act. Section 7.10 provides that a Farm Credit institution may terminate its Farm Credit status if it satisfies the following requirements:

(1) A 90-day advance notice to the FCA;

(2) Approval by the FCA Board;

(3) Approval by a Federal or State authority of a charter for a commercial bank, savings and loan, or other financial institution;

(4) The payment by the institution of the amount by which total capital of the institution exceeds 6 percent of its assets, such payments to be made to the Farm Credit System Insurance Fund if termination occurs after 1991;

(5) The payment or adequate provision for the payment of all outstanding debt obligations of the institution;

(6) Approval of the termination by a majority of the stockholders of the institution voting, in person or by written proxy, at a duly authorized stockholders' meeting, held prior to giving notice to the FCA Board; and

(7) The fulfillment of such other conditions as the Board, by regulation, considers appropriate.

Section 7.11 requires that any plan of termination, together with all information that will be distributed to the stockholders, must be submitted to the FCA Board for approval prior to the stockholder vote. If the plan is disapproved by the Board, the letter of disapproval must specify the reasons for such disapproval. The 1991 Act amended this section to increase the time period for the FCA's review of the plan from 30 days to 60 days.

In addition, the 1992 Act amended sections 6.9(e)(3)(C)(ii), 6.26(d)(1)(C)(iv) and 6.26(c)(5)(E) of the Act to require any terminating bank to pay to the Farm Credit System Financial Assistance Corporation (FAC) the estimated present value of the bank's proportionate share of the Systemwide repayment obligations for FAC payments of: (1) Certain Capital Preservation Agreements; (2) merger assistance, eligible borrower stock retirement, and expenses of the Farm Credit System Assistance Board and the FAC; and (3) reimbursements to the Department of the Treasury for interest payments made to the FAC. Furthermore, under amended sections 6.26(d)(1)(C)(v) and 6.26(c)(5)(F), terminating associations must pay to their affiliated FCB a proportionate share of the present value of all of the bank's estimated future FAC repayments, excluding the assistance associated with the Capital Preservation Agreements.

The proposed regulations would add new subparts Q and R to part 611. Subpart Q would contain the termination requirements for FCBs terminating alone and FCBs terminating together with one or more associations. The subpart would incorporate by reference many of the provisions of subpart P and would have additional provisions relating to the calculation of the exit fee; divestment of Systemwide obligations on which the terminating bank is the primary obligor; and provision for satisfaction of joint and several liability on consolidated and Systemwide obligations. New subpart R, containing provisions applicable to terminations of BCs, would incorporate by reference many of the provisions of subpart P, as well as provisions of subpart Q relating to Systemwide obligations and FAC repayments.

The existing regulations in subpart P would be revised to be applicable to all associations and to reflect the amendments to section 6.26 of the 1971 Act for FAC repayments by associations and the amendment to section 7.11 of the 1971 Act increasing the time period for the FCA's review of disclosure documents to 60 days. Provisions applicable when a Large Association proposes to terminate would be added. The term "terminating association" has been revised to read "terminating institution" throughout the subpart because many of the provisions in subpart P would be incorporated by reference in proposed subparts Q and R. Technical and clarifying revisions have also been made to the existing regulations.

In drafting these proposed regulations, the FCA has taken into consideration the comments received in response to the ANPRM that relate to the termination of banks and the effect of the termination of Large Associations on the districts in which they are located. Comments on these issues were received from the then existing Federal Farm Credit Corporation of America (FCCA) on behalf of its member System banks and the Farm Credit Banks Funding Corporation (Funding Corporation), two law firms on behalf of several System associations, one FCB, and one trade association representing community banks.

Below is a section-by-section explanation of the proposed regulations, together with a discussion of relevant comments received in response to the ANPRM.

II. Section-by-Section Analysis

A. Subpart P—Termination of Farm Credit Status—Associations

1. Section 611.1200—General—Applicability

Paragraph (c) of this section and references thereto would be deleted, so that this subpart would be applicable to all Farm Credit associations.

2. Section 611.1205—Definitions

Section 611.1205 would be amended to add definitions for "Large Association" and "viability." A Large Association would be defined as an association whose investment in the FCB in its district is in excess of 25 percent of the bank's capital as computed according to generally accepted accounting principles (GAAP) or whose direct loan from the district FCB is in excess of 25 percent of the total loans of the bank. The definition would also include any two or more associations with the same affiliated FCB that seek to terminate together (or within 6 months of each other) and whose aggregate investments in the FCB or direct loan from the FCB exceeds the 25-percent level. "Viability" would be defined as the ability to sustain or commence profitable operations.

The proposed definition of GAAP is different from the definition in the current regulations in that the provision regarding the FCA's authority to interpret how GAAP should be applied has been deleted. In proposed § 611.1240, language has been added providing that the FCA may prescribe an accounting principle that is no less stringent than GAAP if the application is consistent with the objective of ensuring that the exit fee be calculated on a fair and reasonable basis.

3. Section 611.1210—Advanced Notification

Proposed § 611.1210(b)(1) would require the terminating institution to send a certified copy of the commencement resolution to both the FCA and the Farm Credit System Insurance Corporation (FCSIC). Section 611.1210(b)(2) has been revised to clarify that the brief announcement to all holders of equity must specify the effect of termination on the borrower's stock and on any borrower rights.

4. Section 611.1212—Filing Date of Termination Application

The Board proposes to revise § 611.1212(c) to provide that the FCA shall disapprove a termination application if the filing date that would otherwise be assigned pursuant to § 611.1212(a) would be less than 60 days after the FCA was notified by the terminating institution that it was contemplating the termination of its Farm Credit status. The current regulation provides for the filing date to be no earlier than 60 days after the FCA was notified, even if the filing date would otherwise be earlier. The change is proposed in order to eliminate any uncertainties about when the review period begins.

5. Section 611.1215—Farm Credit Administration Review and Approval and Section 611.1220—Voting Record Date and Stockholder Approval

Pursuant to the change in section 7.11(a)(2) of the 1971 Act made by the 1992 Act, the FCA review period for the termination application would be changed from 30 days to 60 days in paragraph (b) of § 611.1215 and in paragraph (a) of § 611.1220. In addition, paragraphs (e) and (f) of § 611.1215 have been revised to remove redundancies and to clarify that if a reconsideration vote is held, termination may occur no earlier than 15 days after the vote.

6. Section 611.1240—Exit Fee

Paragraph (b) of this section would be revised to delete the reference to the Farm Credit Assistance Fund, since payment of the exit fee was to be made to the Assistance Fund only until 1992. In the future, exit fee payments will be made only to the Farm Credit System Insurance Fund.

Paragraph (e) includes the authority of FCA to prescribe an accounting principle as explained in number 2 above. Paragraph (e)(2), was amended by adding "or subtractions from liabilities" in order to clarify that the

FCA may review any type of transaction outside of the ordinary course of business that may affect the exit fee.

Paragraph (i) is proposed to be added to allow certain tax liabilities and payments to the FAC to be deducted from the exit fee. These liabilities would not be booked as of the computation date, but would become liabilities at the time of termination due to the decision to terminate. This change was made in part because of the 1992 Act amendments to the 1971 Act providing for the payment of certain FAC obligations prior to termination. In addition, effective for the fiscal year beginning after December 15, 1992, a new accounting treatment (Statement of Financial Accounting Standards No. 109) requires institutions to recognize a tax liability on any patronage distribution from an FCB to taxable associations regardless of whether it is received in cash. Prior accounting rules generally did not require the recognition of any tax liability until the patronage was received in cash by the taxable association. Accordingly, no tax liability has been provided for the cumulative amount of allocated equities received by a taxable institution that have not been "redeemed" by the institution, prior to the date of implementation of the new accounting rules. The Board concluded that the net value of such patronage should be the same, whenever received, and has therefore determined that it would be appropriate in these termination regulations to calculate capital based on the after-tax impact of all patronage distributions.

7. Section 611.1250—Repayment of Debts

New paragraph (e) would be added to § 611.1250 to provide for the payment of a portion of the present value of the FCB's share of certain System FAC debt repayment obligations as of the quarter ended prior to the submission of the application. Pursuant to section 6.26 (c)(5)(F) and (d)(1)(C)(v) of the 1971 Act, as amended by the 1992 Act, the terminating association's share is based on the association's retail loan volume relative to the retail loan volume of the bank and its affiliated associations had the association remained in the System, and payment is made to the affiliated bank. The proposed regulation would also provide that the terminating association would pay a portion of the FCB's estimated future share of non-Treasury-paid interest. The present value calculations would be made by the FAC.

8. Section 611.1260—Dissenters' Rights

Paragraph (c) of existing § 611.1260 requires a terminating institution to issue subordinated debt in the successor institution for the excess above par or stated value of a dissenting stockholder's stock or participation certificates. This paragraph is proposed to be amended to permit the successor institution to pay cash or a combination of cash and subordinated debt for the amount in excess of par or stated value. The terminating institution would continue to be required to pay cash in an amount up to the par or stated value. This change is intended to give the institution more flexibility in how it retires the interests of dissenting stockholders. In addition, the Board proposes to add new paragraph (g) to require that the interests of dissenting stockholders be retired on or before the termination date.

9. Section 611.1275—Termination of Large Associations

Proposed § 611.1275 contains additional requirements that would apply when a Large Association, as defined, proposes to terminate. Commenters were divided about whether there should be special provisions when association terminations would have a major impact on the remaining district institutions. Two commenters representing associations stated that there should be no special provisions because the borrowers would have voted to terminate and because the free market and competition should enable institutions to thrive and prosper. An FCB commented that a bank termination need not be delayed pending replacement of the bank; rather, interim financing should be arranged until a permanent replacement bank is selected. The FCCA commented that it is clearly appropriate to consider the effect of a termination on the remaining institutions, and stated that interim arrangements should be made to ensure continuing service to the affected territory.

The FCA, in its role as safety and soundness regulator of the System, is concerned about the effect of the termination of a Large Association on the financial health of the FCB and non-terminating associations in the Large Association's district and believes that an analysis of the viability of such remaining institutions must be undertaken as soon as possible in the termination process. The FCA would, therefore, in consultation with the FCSIC, prepare an analysis of the effect of the Large Association's termination on the viability of the district. Such analysis would take into account various factors, including how the cost of funds would be affected if a new institution were chartered to take over the territory of the terminating association rather than expanding the territory of an existing association, and the potential for achieving a reasonable market share in the territory. The FCA may contact other institutions in the same district and request additional information to be used in the analysis. This information would be required to be submitted to the FCA within 10 business days of the FCA's request in order to be considered in the FCA analysis, unless a longer period is permitted by the FCA.

B. Subpart Q—Termination of Farm Credit Status—Farm Credit Banks

1. Section 611.1300—Applicability and Definitions

Proposed § 611.1300 would provide that subpart Q is applicable to the termination of Farm Credit Banks. It would also incorporate by reference the definitions in proposed § 611.1205 of subpart P except for the definition of "terminating institution."

2. Section 611.1310—Advance Notification

The advance notification procedures in proposed § 611.1310 are similar to the procedures for associations in proposed § 611.1210. An FCB seeking to terminate would be required to notify the FCA, the FCSIC, other System banks, the Funding Corporation, the FAC, and the bank's stockholders within 5 days of the adoption of a commencement resolution by the bank's board of directors. Affiliated associations are required to notify borrowers and prospective borrowers of the effect that the bank's termination may have on their loans, including whether the borrower would continue to have any of the borrower rights provided by the 1971 Act and FCA regulations. The FCB would be required to submit an estimate of its exit fee to the FCA within 15 days after submission of the commencement resolution, and would also be required to commence negotiations with other Farm Credit banks on the satisfaction of obligations on which the bank is jointly and severally liable under section 4.4 of the 1971 Act.

3. Section 611.1311—Filing of Termination Application

This section would incorporate by reference § 611.1211 of subpart P of these proposed regulations.

4. Section 611.1312—Filing Date of Termination Application

This section would incorporate by reference paragraphs (a) and (b) of § 611.1212 of the proposed regulations. In addition, proposed paragraph (b) of this section would provide that, if the advance notification required in § 611.1310 is less than 90 days prior to the filing date that would otherwise be assigned to the termination application, the FCA would disapprove the application. During the 90-day period, the FCA will make arrangements for another bank to provide interim or permanent service in the territory of the terminating bank. Should such arrangements be made in less than 90 days, the FCA would have the discretion to reduce the 90-day period.

The FCA Board is proposing this 90-day period because it believes a sufficient time period to find a replacement bank for the district of the terminating bank is necessary to be able to assure the adequate flow of agricultural credit to the district. The FCA does not believe that this 90-day requirement would materially delay the termination process, because a corporate restructuring such as the kind of restructuring that would be proposed by a terminating bank is ordinarily a lengthy process.

5. Section 611.1313—Selection of Farm Credit Bank to Serve Territory

This section sets forth factors for the FCA to consider in deciding which remaining FCB or FCBs should be reassigned the territory of the terminating bank. The factors would include but not be limited to prospective efficiencies; the preferences of the associations in the district that do not seek to terminate; bank management; willingness of the bank to purchase all the loans to the associations; compatibility of organization and operations; potential market diversification; and geographical proximity.

6. Section 611.1315—Farm Credit Administration Review and Approval

This section would incorporate by reference § 611.1215 of the proposed regulations, which sets forth the time periods for FCA review and preliminary approval of the disclosure information in the termination application, as well as the conditions for final approval.

7. Section 611.1320—Voting Record Date and Stockholder Approval

This section would incorporate by reference the provisions of proposed § 611.1220, except that paragraph (c)(3) and the provisions regarding dissenting stockholders in paragraph (e) would not be applicable in a vote for bank termination.

8. Section 611.1325—Requirements for Information Statement

This section would incorporate by reference the provisions of § 611.1225 of the proposed regulations, except that paragraphs (h) and (s) would not be applicable. In addition, the section provides that other financing institutions (OFIs) have the right to have their FCB stock retired if they do not wish to become stockholders in the successor institution.

9. Section 611.1326—Prohibited Acts

This section would incorporate by reference § 611.1226 of the proposed regulations, which prohibits a terminating institution or persons affiliated with it from making false statements about the proposed plan of termination.

10. Section 611.1330—Plan of Termination

Proposed § 611.1330 would incorporate by reference the provisions of § 611.1230 of the proposed regulations.

11. Section 611.1335—Stockholder Reconsideration

This section would incorporate by reference § 611.1235 of the proposed regulations and would clarify that the reference to 15 percent of the eligible voting stockholders means, for a bank termination, associations holding 15 percent of the voting shares of the district.

12. Section 611.1340—Exit Fee

Paragraph (a) of this section would provide that, for an FCB terminating alone, the assets and capital that are expected to be paid out or distributed to the institutions remaining in the System would be deducted from the assets and capital of the bank before the exit fee is computed. If, in connection with the termination, loans or other assets with reserves are paid back to the terminating bank at above the net book value, the amount of the excess will be added to the surplus of the FCB. This would include direct loans to non-terminating associations that repay such loans on or prior to termination. Once such amounts are deducted, the computation set forth in proposed § 611.1240 would be utilized.

Paragraph (b) of this section would provide that, when one or more associations in a district are terminating along with the FCB, the computation would be made as follows. First, the exit fee of each terminating association would be computed in accordance with proposed § 611.1240. Then the balance sheet of the FCB, less the assets and capital of the non-terminating institutions, and the balance sheets of the terminating associations would be combined under GAAP, using cross-elimination methods, and the exit fee of the combined entity would be computed in accordance with proposed § 611.1240. The exit fees of the terminating associations would be deducted from the exit fee of the combined entity, and the FCB would be responsible for paying the remainder.

Paragraph (c) would provide that an OFI would have the same right as an association to have its investment in the FCB retired before the bank terminates, and the investment of any OFIs choosing to have their stock retired would be deducted from the capital and assets of the bank before the exit fee is computed. If an OFI chooses instead to become a stockholder in the successor institution, the OFI's investment in the FCB would be considered part of the FCB's capital in computing the exit fee.

13. Section 611.1350—Repayment of Obligations

Proposed § 611.1350 would contain provisions for treatment of obligations of the FCB. Paragraph (a) would provide that certain obligations must be repaid, or provisions for repayment must be made, prior to termination; other obligations would be assumed by the successor institution. Paragraph (b) would require the terminating bank to provide for satisfaction of the portion of issues of consolidated or Systemwide obligations on which it is primarily liable prior to termination. It is the Board's view that the 1971 Act does not authorize the successor institution to use Systemwide obligations as a source of funding. However, most of the outstanding Systemwide obligations are not callable. Therefore, the proposed regulation sets forth three methods by which a terminating bank may satisfy the obligations. First, the bank may enter into an agreement with one or more remaining System banks under which such banks would assume primary liability. Second, the terminating bank may purchase, in the open market, obligations in the amount of the portion of an issue for which the bank is primarily liable. Such obligations would be canceled by the Funding Corporation. Third, the terminating bank may deposit funds into a trust account that will be sufficient to pay the interest and principal on the obligations when payment is due.

An issue that arises only in the context of a bank termination is how the terminating bank can provide for satisfaction of its off-balance-sheet joint and several liability to investors in Systemwide bonds and consolidated notes and bonds outstanding on the termination date, and its liability for interest payments on the individual obligations issued by banks operating under the same title of the 1971 Act and outstanding on the termination date. Comments on this issue were sought in the ANPRM, and the FCA received comments from four respondents, including the FCCA. Although one commenter stated that it was unclear what more could be required after a bank had paid the debt on which it was primarily liable, the other commenters offered a number of thoughtful suggestions regarding how to provide for continuing contingent obligations to bondholders in an orderly way. The suggestions included: (1) Requiring the terminating bank to enter into an indemnification contract with remaining banks that would be in effect until obligations outstanding at the termination date are retired, or the decrease in the System's spreading of risk has been regained, or such other time as the FCA may fix; (2) requiring no specific arrangement at the time of termination, but refunding any exit fee payment to the extent that contingent or unexpected liabilities occur or the successor is otherwise required to make unforeseen payments; and (3) leaving the matter to the banks to resolve, subject to FCA approval.

The Board believes that it is important to have an arrangement in place prior to the termination date specifying the procedure by which the joint and several liabilities of the terminating bank will be addressed by the successor institution. Although the existence of the Insurance Fund significantly decreases the likelihood that any bank would ever in the future be called upon to satisfy another bank's primary obligations, there continues to be a possibility that a call would be made. It is the Board's view that flexibility should be given to the banks to work out an acceptable procedure, provided that such flexibility does not result in the remaining banks' being able to impede the termination.

Therefore, paragraphs (c) and (d) of the proposed regulations would require that, immediately following the notification to the remaining banks of the terminating bank's intention to terminate, the banks must enter into negotiations over the satisfaction of the terminating bank's joint and several liability on the outstanding consolidated and Systemwide obligations. However, should the banks be unable to reach an agreement or the agreement is not acceptable to the FCA, the FCA would specify the terms of the agreement according to a formula set forth in the proposed regulations. The formula would provide for the release of the terminating institution from the joint and several liability over time as notes and bonds mature and are paid. The terminating institution would commit itself to payments if a default occurred and the Insurance Fund were exhausted. The FCA would review such an arrangement as part of the overall review and approval process.

The formula for determining future payments would be based on the following:

(1) Calculations would be made to determine the percentage of the total consolidated and Systemwide debt of the System banks held by the terminating bank. This percentage would be used to determine the liability of the successor institution on the termination date.

(2) The computation date for this formula would be chosen by the FCA, but would be on or before the computation date set forth in proposed § 611.1240(c). The date would be chosen to reflect the typical debt relationship of the terminating bank to the System as a whole prior to the retirement of any bonds made in connection with or in anticipation of termination.

(3) This percentage would remain constant but would be applied only to debt outstanding on the termination date. Therefore, the total debt amount would decrease as issues mature and are paid off.

(4) On the termination date, the debt issued and outstanding for which the terminating bank is jointly and severally liable would be identified.

Paragraph (e) of the proposed regulations would clarify that, notwithstanding any agreement among the banks to establish how calls would be made by the FCA on defaulted obligations, the terminating bank would remain liable under section 4.4 of the 1971 Act for all of the issues outstanding on the termination date until such issues have been repaid.

As discussed above, the 1992 Act requires a terminating FCB to pay to the FAC the estimated present value of its share of certain future repayments to the FAC for obligations undertaken by the FAC in connection with the Capital Preservation Agreements, operating expenses of the FAC and the Assistance Board, and the Treasury-paid interest. These requirements are set forth in proposed paragraph (f). The Board also proposes that the terminating bank pay the estimated present value of its share of future payments of interest on the Capital Preservation Agreements and the interest on FAC debt not paid by the Treasury. The Board believes that such provisions are needed to meet the objectives of the 1992 Act to ensure that terminating institutions do not escape their liability for repayment of assistance to the System. The proposed regulation would provide that, as soon as the FAC is notified that an FCB is seeking to terminate pursuant to proposed § 611.1310, it must prepare an estimate of the present value of the terminating bank's share of the FAC repayment.

14. Section 611.1355—Retirement of Equities

System institutions are not authorized under the 1971 Act to hold equity investments in entities that are not part of the System. Therefore, paragraph (a) of proposed § 611.1355 would require an FCB to retire equities held by System institutions that do not seek to terminate along with the FCB.

The proposed regulation further provides that, if an FCB has an allowance for loan losses against a direct loan or loans serviced by an FLBA and such loans will be refinanced at above net book value by another Farm Credit institution, the amount of the allowance would be considered as part of the unallocated surplus of the FCB for purposes of computing the value of the FCB stock. The Board notes that it may be appropriate to include the amount of the allowance in the value of the stock because, if the direct loan or loans through the FLBA are refinanced, the allowance would be eliminated. The Board specifically seeks comment on this part of the computation.

Paragraph (b) would require the retirement of any preferred stock issued by the terminating bank. Paragraph (c) would provide an option to OFIs to have their stock retired if the OFIs choose not to be equity holders in the successor institution. The stock of the OFIs would be retired on the same basis as the stock held by Farm Credit associations.

15. Section 611.1366—Loan Refinancing by Borrowers

This section would be applicable to borrowers from the FCB other than System institutions and would incorporate by reference § 611.1266 of the proposed regulations. Non-System institution borrowers would include OFIs and eligible borrowers whose loans were made through FLBAs acting as agents for the FCB.

16. Section 611.1375—Farm Credit Administration Evaluation

This section would require the FCA to evaluate the effect of termination on the viability of the remaining institutions in the System whenever assets of the terminating applicant(s) exceed 10 percent of the assets of the Farm Credit System. Farm Credit banks and other institutions remaining in the System would be permitted, at their option, to submit their own evaluation of the effect of termination of another bank or banks.

C. Subpart R—Termination of Farm Credit Status—Banks for Cooperatives

1. Section 611.1400—Scope of Subpart

This section would provide that proposed subpart R applies to the termination of BCs.

2. Section 611.1405—Provisions Applicable to Terminating Banks for Cooperatives

Equity holders in a BC, in contrast to equity holders in an FCB, are primarily borrowers that are not other Farm Credit institutions. This means that the concerns that arise are similar or, in many cases, identical to those that arise when an association seeks to terminate. Consequently, most of the provisions of subpart P are applicable to the termination of a BC. Therefore, proposed § 611.1400 would incorporate by reference the provisions in proposed subpart P with certain exceptions. Those exceptions would be provisions pertaining to the search for a replacement bank (§ 611.1212(c)); the retirement of FCB stock (§ 611.1255); borrower rights (§ 611.1270); and viability issues in the context of a Large Association termination (§ 611.1275). Borrower rights provisions in the 1971 Act and regulations do not apply to loans made by a BC because BCs do not fall within the definition of "qualified lender" in section 4.14A(a)(6) of the 1971 Act.

In addition, this section would incorporate by reference certain provisions from proposed subpart Q of part 611 pertaining to notification of the Funding Corporation and other banks of a BC's intention to terminate (§ 611.1310); the requirement that the terminating bank agree with the other banks on a procedure for the successor institution to provide for satisfaction of joint and several liability (§ 611.1350); provisions for Systemwide repayment of FAC assistance (§ 611.1350); retirement of stock, if any, held by other Farm Credit institutions (§ 611.1355); and evaluation of the effect of the termination of one or more institutions whose assets exceed 10 percent of the assets of the System (§ 611.1375).

List of Subjects in 12 CFR Part 611

Agriculture, Banks, banking, Organization and functions (Government agencies), Rural areas.

For the reasons stated in the preamble, part 611 of chapter VI, title 12 of the Code of Federal Regulations is proposed to be amended to read as follows:

PART 611—ORGANIZATION

1. The authority citation for part 611 continues to read as follows:

Authority: Secs. 1.3, 1.13, 2.0, 2.10, 3.0, 3.21, 4.12, 4.15, 5.9, 5.10, 5.17, 7.0–7.13, 8.5(e)of the Farm Credit Act; 12 U.S.C. 2011, 2021, 2071, 2091, 2121, 2142, 2183, 2203, 2243, 2244, 2252, 2279a-2279f-1, 2279aa-5(e); secs. 411 and 412 of Pub. L. 100–233; 101 Stat. 1568, 1638; secs. 409 and 414 of Pub. L. 100–399, 102 Stat. 989, 1003 and 1004.

2. Part 611 is amended by revising subpart P to read as follows:

Subpart P—Termination of Farm Credit Status—Associations

Subpart P—Termination of Farm Credit Status—Associations

§ 611.1200 General—Applicability.

(a) Each institution is authorized, in accordance with sections 7.10 and 7.11 of the Act, to terminate its status as a Farm Credit institution. The regulations in this subpart set forth the procedural, disclosure, voting and approval requirements applicable to such termination. The Farm Credit Administration may in its sole discretion grant a waiver in writing from any requirement of this subpart for good cause shown.

(b) These regulations are applicable to an association that seeks to terminate its status as a Farm Credit institution and to become chartered as a bank, savings and loan association, or other type of financial institution under other Federal or State law. In the event that a receiver or conservator is appointed by the Farm Credit Administration in the case of a voluntary or involuntary liquidation of the institution the provisions of subpart L of this part apply, and the provisions of this subpart shall not apply.

§ 611.1205 Definitions.

For the purposes of this subpart, the following definitions shall apply:

(a) *Commencement resolution* means the resolution adopted pursuant to § 611.1210(a) to indicate the commencement of the termination process.

(b) *GAAP* means generally accepted accounting principles, which is that body of conventions, rules and procedures necessary to define accepted accounting practice at a particular time, as promulgated by the Financial Accounting Standards Board and other authoritative sources recognized as setting standards for the accounting profession in the United States. GAAP shall include not only broad guidelines of general application but also detailed practices and procedures that constitute standards against which financial presentations are evaluated.

(c) *Large Association* means:

(1) An association whose investment in its affiliated Farm Credit Bank is in excess of 25 percent of the Farm Credit Bank's capital as computed according to GAAP or whose direct loan from the Farm Credit Bank is in excess of 25 percent of the total amount of direct loans of the bank; or

(2) Two or more associations with the same affiliated Farm Credit Bank that seek to terminate within the same 6-month period and whose aggregate investments in the Farm Credit Bank or direct loans from the Farm Credit Bank are in excess of 25 percent of the total capital or direct loans of the Farm Credit Bank.

(d) *Viability* means the ability to sustain or commence profitable operations exclusive of non-recurring items.

(e) *OFI* means other financing institution, as that term is defined in § 614.4540(e) of this chapter.

(f) *Reconsideration vote* means the vote at which the voting stockholders reconsider whether to terminate the terminating institution's Farm Credit status.

(g) *Successor institution* means the institution to which the terminating institution will convert when its Farm Credit charter is revoked.

(h) *Terminating institution* means an association seeking to terminate its status as a Farm Credit institution and to become chartered as a bank, savings and loan association, or other type of financial institution.

(i) *Termination resolution* means the resolution adopted pursuant to § 611.1211(a) approving the applications for termination and a new charter and providing for submission of the termination proposal to a stockholder vote.

(j) *Termination vote* means the stockholder vote at which the termination proposal is first submitted to the voting stockholders for their approval or disapproval.

§ 611.1210 Advance notification.

(a) An institution's board of directors shall commence the process of termination by adopting a commencement resolution indicating the institution's intention to terminate its Farm Credit status.

(b) Within 5 days of the adoption of the commencement resolution by the board of directors, the terminating institution shall:

(1) Submit a certified copy of the commencement resolution to the Farm Credit Administration and the Farm Credit System Insurance Corporation; and

(2) Mail a brief announcement to all holders of equity in the institution which states that the board is taking steps to terminate its Farm Credit status and which describes the process of termination, the anticipated effect of termination on current holders of equity, including the effect on specific borrower rights, and the type of institution the successor institution will be. If bylaws are adopted in accordance with paragraph (e) of this section, the announcement shall also state that, during the time period from the passage of the commencement resolution until the effective date of termination, new common stock and participation certificates either purchased from the association in connection with a loan or retired by the association prior to the termination will not entitle the holder to receive a share in the adjusted book value in excess of par of the institution.

(c)(1) Within 15 days after submission of the commencement resolution pursuant to paragraph (b)(1) of this section, the terminating institution shall submit to the Farm Credit Administration a statement of its estimate of the exit fee together with an explanation of the computation of the exit fee pursuant to the requirements of § 611.1240. For purposes of this estimation of the exit fee, the computation date set forth in § 611.1240(c) shall be the quarter end preceding the date of the commencement resolution.

(2) Within 45 days of its receipt of the terminating institution's estimated exit fee, the Farm Credit Administration shall either confirm the institution's estimate of the exit fee or notify the institution of any required revisions to the computation.

(3) In the event that the Farm Credit Administration requires adjustments to the estimated exit fee pursuant to paragraph (c)(2) of this section, the terminating institution may request reconsideration of any revisions. Such request shall be in writing and shall set forth specific reasons why the revisions should not be made. The Farm Credit Administration shall reconsider the revisions and shall inform the terminating institution of its determination within 15 days of the receipt of the reconsideration request.

(d) During the time period after the board of directors' adoption of the commencement resolution pursuant to paragraph (a) of this section and prior to the effective date of termination, the following conditions shall apply to the terminating institution's conduct of business:

(1) Each prospective new borrower shall be informed of the effect of the proposed termination upon the borrower's loan and stock and shall be specifically informed whether the borrower will continue to have any of the borrower rights provided under the Act and regulations promulgated thereunder;

(2) Any common stockholders or participation certificate holders who seek to have such equity interest retired before termination shall be informed that the retirement would extinguish the holder's right to an interest in the successor institution if the termination is completed or to dissent from the termination and receive an amount equal to the adjusted book value, as determined pursuant to § 611.1260 of this subpart, of the holder's equity in the terminating institution.

(e) Notwithstanding any provisions of § 615.5230(b) of this chapter to the contrary, an institution may adopt bylaws which provide for the issuance of a special class of common stock and participation certificates in connection with loans granted during the time period subsequent to the adoption of the commencement resolution and prior to the termination. Such common stock or participation certificates, which shall be issued in accordance with section 4.3A of the Act, shall have characteristics identical to shares of the existing classes of common stock or participation certificates issued as a condition of the extension of a loan, except for the following:

(1) In the event of termination, the holder shall be entitled to receive the following:

(i) If the holder is eligible to vote and does not vote against the termination, an interest in the successor institution in an amount equal to the adjusted book value, as determined pursuant to § 611.1260 of this subpart, or the purchase price of the stock, whichever is less;

(ii) If the holder is not eligible to vote or is eligible to vote and votes against the termination, either an interest in the successor institution as set forth in paragraph (e)(1)(i) of this section, or, if such holder dissents pursuant to § 611.1260, cash in the amount of the purchase price or the adjusted book value of the stock or participation certificate, whichever is less.

(2) In the event that the termination does not occur, the special classes of stock or participation certificates shall automatically convert into shares of the otherwise identical classes of stock or participation certificates issued prior to the adoption of the commencement resolution.

§ 611.1211 Filing of termination application.

(a) The board of directors of an institution that seeks to terminate its Farm Credit status shall adopt an appropriate termination resolution approving an application for such termination, approving an application for a new charter for the successor institution, and providing for the submission of such termination proposal to its stockholders for a vote.

(b) An original and three copies of a termination application consisting of the following materials shall be submitted by the terminating institution to the Farm Credit Administration for review and preliminary approval:

(1) A certified copy of the termination resolution adopted pursuant to paragraph (a) of this section;

(2) A copy of the plan of termination as required under § 611.1230;

(3) An information statement that complies with the requirements of § 611.1225;

(4) All other information that is to be submitted to the stockholders and other equity holders in connection with the contemplated action; and

(5) Any additional information the board of directors wishes to submit to the Farm Credit Administration in support of the request or that the Farm Credit Administration requires.

(c) The terminating institution shall provide the Farm Credit Administration with any material revisions to information in the plan of termination, including updated financial information, that becomes available during the pendency of the termination application and prior to termination.

§ 611.1212 Filing date of termination application.

(a) Except as provided in paragraph (c) of this section, the termination application shall be given a filing date which shall be the date on which it is determined to be technically complete. Within 10 business days after the Farm Credit Administration receives the termination application, the Farm Credit Administration shall determine that the application is technically complete and give it a filing date, or return the application to the terminating institution if it is incomplete. If the Farm Credit Administration fails to make a determination or fails to return the application before the end of the 10-day review period, the application shall be deemed to be technically complete and shall receive a filing date which shall be the last day of the 10-day review period.

(b) A termination application is considered to be technically complete when it is determined upon preliminary review to contain responses to all items required to be submitted to the Farm Credit Administration under § 611.1211.

(c) In the event that the filing date that would otherwise be assigned to the termination application in accordance with paragraph (a) of this section is less than 60 days following the date on which the Farm Credit Administration received the advance notification required in § 611.1210, the application shall be disapproved by the Farm Credit Administration. However, the Farm Credit Administration may in its sole discretion reduce the required 60-day period in the event that a new Farm Credit service provider to serve the territory is determined. This paragraph shall not apply if the entire territory of the institution is already included in the charter of one or more associations that are chartered to offer credit services of the same type as the terminating institution.

(d) After the Farm Credit Administration has received the advance notification pursuant to § 611.1210, it shall contact other Farm Credit institutions to determine their willingness to provide service to the territory of the terminating institution or to determine if there are persons who wish to charter a new institution to serve the territory. The inability of the Farm Credit Administration to arrange for a new service provider for the territory during the 60 days after receipt of the advance notification shall not be a ground for disapproving the termination application.

§ 611.1215 Farm Credit Administration review and approval.

(a) When the termination application has received a filing date, the Farm Credit Administration shall review the application and either disapprove or give its preliminary approval pursuant to section 7.11(a)(2) of the Act.

(b) The Farm Credit Administration Board shall have 60 days from the filing date, as defined in § 611.1212, to approve or disapprove the termination application. If the Farm Credit Administration Board does not act within such 60-day period, the plan of termination may be submitted to the stockholders pursuant to section 7.11(a)(2) of the Act.

(c) If the application is disapproved, written notice specifying the reasons for disapproval shall be transmitted to the chief executive officer of the institution, who shall promptly notify the institution's board of directors. If the application is disapproved, it shall not be submitted to the stockholders for a vote.

(d) Upon stockholder approval of the proposed termination as provided in § 611.1220, the secretary of the terminating institution shall forward to the Farm Credit Administration a certified record of the results of the stockholder vote and shall notify its stockholders and other equity holders of the results of the vote as provided in § 611.1220(e).

(e) Final approval by the Farm Credit Administration Board pursuant to section 7.10(a)(2) shall be conditioned upon the following:

(1) A termination vote in favor of termination and, if a reconsideration vote is held, a reconsideration vote in favor of termination;

(2) Receipt by the Farm Credit Administration of conformed executed copies of all contracts and agreements submitted pursuant to § 611.1230;

(3) Satisfactory evidence of the terminating institution's adequate provision for payment of debts and retirement of equities;

(4) Evidence of the grant of a new charter for the successor institution by the appropriate Federal or State chartering authority;

(5) Receipt by the Farm Credit Insurance Fund of the exit fee; and

(6) The fulfillment of any other condition of termination imposed by the Farm Credit Administration Board that is necessary and appropriate to provide for the equitable treatment of the parties affected by the termination.

(f) If the Farm Credit Administration grants final approval, the terminating institution's charter shall be revoked, and the termination shall be effective on the last to occur of—

(1) Satisfaction of all conditions listed in paragraph (e) of this section;

(2) The proposed termination date of the terminating institution;

(3) Ninety (90) days after receipt by the Farm Credit Administration of the notice required to be submitted pursuant to paragraph (d) of this section; and

(4) Fifteen (15) days after a reconsideration vote, if such vote is held.

§ 611.1220 Voting record date and stockholder approval.

(a) Upon receipt of preliminary approval of the termination application by the Farm Credit Administration Board, or if the Board takes no action prior to the end of the 60-day period set forth in § 611.1215(b), the terminating institution shall call a meeting of its voting stockholders. The stockholder meeting shall be held within 60 days of receipt of the preliminary approval or, if the Board takes no action, within 60 days of the last day of the 60-day period. All holders of equity in the terminating institution shall be permitted to attend the meeting. The stockholders eligible to vote shall be the stockholders who are eligible to vote on the voting record date as determined by the institution's bylaws if such date is not more than 70 days prior to the stockholder vote, or on a date fixed by the board of directors which shall be not more than 70 days prior to the date of the stockholder vote.

(b) The notice of meeting to consider and act upon the board of directors' resolutions shall be accompanied by an information statement that complies with the requirements of § 611.1225.

(c)(1) The terminating institution shall establish voting security procedures that comply with the procedures for the election of directors in § 611.330, as applicable. Specifically, the terminating institution shall ensure that all information regarding how or whether individual stockholders have voted and all materials such as ballots, proxy ballots, election records, and other relevant documentation related to the votes of stockholders is held in strict confidence.

(2) The terminating institution may adopt procedures that require the stockholders to sign or otherwise verify their eligibility to vote on an envelope which contains a marked ballot in a

sealed envelope. The terminating institution may also use signed proxies or eligibility certificates that will accompany a ballot or instructions on how to vote the proxy in a separate sealed envelope.

(3) The terminating institution shall use a form of identity code on the ballot enabling it to determine which stockholders are eligible to exercise dissenters' rights and shall require that the votes be tabulated by an independent party who is not a stockholder, director, or officer of the terminating institution or the successor institution. When the terminating institution receives notification pursuant to § 611.1260 that a stockholder intends to exercise dissenters' rights, the institution shall verify with the independent party that the stockholder voted against the termination. The terminating institution shall be informed of the vote of a stockholder only in the event that the stockholder exercises the right to retire stock in the institution in accordance with § 611.1260.

(d) The proposal shall be approved by the stockholders if agreed to by a majority of the eligible voting stockholders of the institution voting in person or by proxy at the stockholders' meeting.

(e) Upon approval of a proposed termination by the stockholders of the terminating institution, a certified statement showing the results of the stockholder vote shall be forwarded to the Farm Credit Administration within 10 days following the stockholders' meeting. The terminating institution shall notify its stockholders and other holders of equity interests of the results of the vote not later than 30 days after the final vote. If the stockholder vote is in favor of termination, stockholders who voted against the termination and other equity holders shall be informed of their right to dissent as provided in § 611.1260(f). In addition, the terminating institution shall further notify stockholders of their right to file a petition for reconsideration in accordance with § 611.1235 and that any petition for reconsideration must be filed on or before a date certain, which shall be 35 days after the date the terminating institution mails notice to the stockholders of the results of the stockholder vote.

§ 611.1225 Requirements for information statement.

Notice of the meeting to consider and act upon a proposed termination shall be sent to all stockholders and other holders of equity interests and shall be accompanied by an information statement that contains the information and materials set forth in this regulation as follows:

(a) A statement on either the first page of the material or the notice of the stockholders' meeting, in capital letters and boldface type that:

THE FARM CREDIT ADMINISTRATION HAS NEITHER APPROVED NOR PASSED UPON THE ACCURACY OR ADEQUACY OF THE INFORMATION ACCOMPANYING THE NOTICE OF MEETING OR PRESENTED AT THE MEETING AND NO REPRESENTATION TO THE CONTRARY SHALL BE MADE OR RELIED UPON

(b) A paragraph on the first page of the material entitled "Executive Summary" and containing a concise description of the material changes in rights of the borrowers, stockholders, and holders of other equity interests to occur as a result of the termination, the effect of such changes, and the potential benefits and disadvantages to them of the termination.

(c) A description of the plan of termination as required in § 611.1230.

(d) A discussion by the board of directors of the terminating institution of the potential benefits and disadvantages of the termination together with the basis for the board's recommendation for termination.

(e) A list of the initial board of directors and senior officers of the successor institution, together with a brief description of the business experience of each such person, including principal occupation and employment, during the past 5 years.

(f) A summary of the provisions of the organizational documents of the successor institution, including the articles of incorporation and bylaws, that differ materially from the charter and bylaws of the terminating institution. The summary shall indicate both whether the maintenance of a borrowing relationship with the successor institution will be required as a condition for maintaining a stockholder's interest, and whether the maintenance of a stockholder's interest will be required as a condition for maintaining a borrowing relationship.

(g) An explanation of any changes in the nature of the stockholders' and other equity holders' investment in the institution, including but not limited to any changes in dividends, patronage refunds, voting rights, preferences, retirement of equities, and priority upon liquidation. If any eligible borrower stock is outstanding, such explanation shall include a statement that the protection afforded to eligible borrower stock by section 4.9A of the Act shall be extinguished at termination and that any stock of the successor institution received in exchange for eligible borrower stock shall not be protected under section 4.9A of the Act.

(h) An explanation of the effect of termination on the rights that borrowers are granted under the Act; the expiration date of those rights, if applicable, under the provisions of the plan of termination; a statement that borrowers may seek to have their loans sold to or refinanced with another lending institution, including the Farm Credit institution(s) that will be chartered to serve the terminating institution's territory or any other institutions that already serve the territory, provided that any such Farm Credit institution is authorized to make such a loan in accordance with part 614 of this chapter; and an explanation of the procedure for a borrower to apply for the sale or refinancing of his loan to the institution(s) that will be chartered to serve the terminating institution's territory, if such designations have been made. The disclosure shall include the name, address and telephone number of such institution(s), together with a statement that any such institution is not obligated to accept any loans of the terminating institution.

(i) An explanation of the formula and process by which equity of the terminating institution will be exchanged for equity in the successor institution or other consideration.

(j) A description of any agreement or arrangement with any person, including any officers or directors of the terminating institution, relating to employment or termination of employment with the terminating institution or employment with the successor institution.

(k) An explanation of the computation of the exit fee and the estimated amount of the exit fee.

(l) A statement identifying the State or Federal authority that will charter the successor institution and detailing the nature and type of financial institution that the successor institution will become after termination, as well as the conditions of approval, if any, placed on the successor institution by such State or Federal authority.

(m) A summary of the differences, if any, between the terminating institution and the successor institution with respect to interest rates, interest rate policies, collection policies, services provided, service fees, and any other item of interest that would affect a borrower's lending relationship with the successor institution, including any restrictions on stockholders in their ability to borrow from the successor institution.

(n) A discussion of the expected capital requirements of the successor institution, and the amount and method of capitalization for the successor institution.

(o) An explanation of the sources and manner of funding the operations of the successor institution.

(p) An explanation of the existence of any continuing contingent liability and the manner in which this liability will be addressed by the successor institution.

(q) A summary of the differences in tax status of the terminating institution and the successor institution, and an explanation of the effect of such changes on both the successor institution and the stockholders.

(r) A brief description of the regulatory environment for the successor institution and a summary of the differences from the current regulatory environment that affect the cost of doing business or the value of equity and that are not addressed elsewhere in the information statement.

(s) A statement describing those stockholders and other holders of equity that are entitled to dissenters' rights and an explanation of those rights as set forth in § 611.1260, including the estimated value of the stock upon distribution, procedures for the exercise of dissenters' rights and the time period during which such rights may be exercised, and a statement that eligible voting stockholders who do not vote against the termination will not receive dissenters' rights.

(t)(1) A presentation of the following financial data:

(i) A balance sheet and income statement for the terminating institution for each of the 2 preceding fiscal years;

(ii) A balance sheet for the terminating institution as of a date within 90 days of the date the termination application is forwarded to the Farm Credit Administration, presented on a comparative basis with the corresponding period of the prior fiscal year;

(iii) An income statement for the interim period between the end of the last fiscal year and the date of the required balance sheet presented on a comparative basis with the corresponding period of the prior fiscal year;

(iv) A pro forma balance sheet of the successor institution presented as if termination had occurred as of the date of the most current balance sheet presented in the statement; and

(v) A pro forma summary of earnings for the successor institution presented as if the termination had been effective at the beginning of the interim period between the end of the last fiscal year and the date of the balance sheet presented pursuant to paragraph (t)(1)(iv) of this section.

(2) The format for the balance sheet and income statement shall be the same as is contained in the institution's annual report to stockholders and shall contain appropriate footnote disclosures, including data relating to nonperforming loans and related assets and allowance for losses.

(3) The financial statements shall include either of the following:

(i) A statement signed by the chief executive officer and each member of the board of directors of the terminating institution that the various financial statements are unaudited, but have been prepared in all material respects in accordance with GAAP (except as otherwise disclosed therein) and are, to the best of each signer's knowledge, a fair and accurate presentation of the financial condition of the institution; or

(ii) A signed opinion by an independent certified public accountant that the various financial statements have been examined in accordance with generally accepted auditing standards and, accordingly, included such tests of the accounting records and other such auditing procedures as were considered necessary in the circumstances, and, as of the date of the statements, present fairly the financial position of the terminating institution in accordance with GAAP applied on a consistent basis, except as otherwise disclosed therein.

(u) A description of any event subsequent to the date of the financial statements, but prior to the date upon which the termination application is submitted to the Farm Credit Administration, that would have a material impact on the financial condition of the terminating institution or the successor institution.

(v) A description of any event subsequent to the submission of the termination application to the Farm Credit Administration that would have a material impact on any information in the termination application.

(w) A statement of any other material fact or circumstance that a stockholder would need in order to make an informed decision on the proposed plan of termination, or that is necessary to make the required disclosures not misleading.

(x) A proxy, together with instructions on the purpose and authority for its use, and the proper method for signature by the stockholder.

(y) A certification signed by each member of the board of directors of the terminating institution stating that the director has reviewed the entire information statement and that, to the best of his or her knowledge, the information contained therein is truthful, accurate and complete. If any director refuses to sign the certification, the director shall inform the Farm Credit Administration of the reasons for such refusal.

§ 611.1226 Prohibited acts.

(a) No terminating institution or director, officer, employee or agent thereof, shall make any untrue or misleading statement of a material fact, or fail to disclose any material fact concerning the proposed plan of termination to a stockholder of the institution.

(b) No director, officer, employee, or agent of a terminating institution shall make an oral or written representation to any person that a preliminary or final approval by the Farm Credit Administration of an institution's plan of termination constitutes, directly or indirectly, either a recommendation on the merits of the proposal or an assurance concerning the adequacy or accuracy of any information provided to the institution's stockholders and other equity holders in connection therewith.

§ 611.1230 Plan of termination.

The plan of termination shall include the following information:

(a) Copies of all contracts, agreements and other documents pertaining to the proposed termination and organization of the successor institution.

(b) A statement of the means by which the assets of the terminating institution will be transferred to, and its liabilities assumed by, the successor institution.

(c) The terminating institution's plan to retire, and the successor institution's plan to issue, equities held by holders of stock, participation certificates, and allocated equities, if any.

(d) A copy of the charter application filed with the appropriate Federal or State chartering authority, together with any exhibits or other supporting information that is submitted to such authority.

(e) A statement whether the successor institution will continue to have a credit relationship with a Farm Credit bank or other Farm Credit institution and the effect such status will have on the provision for payment of the terminating institution's debts. The plan of termination shall include evidence of the agreement and plan for satisfaction of outstanding debts, whether contained in a general financing agreement or otherwise.

(f) The proposed effective date of the termination.

§ 611.1235 Stockholder reconsideration.

(a) Eligible voting stockholders have the right to reconsider the approval of the termination provided that—

(1) A petition signed by at least 15 percent of the eligible voting stockholders of the institution is filed with the institution, and a copy of such petition is filed with the Farm Credit Administration, within 35 days after the date of mailing of the notification of the final results of the stockholder vote required under § 611.1215; and

(2) Such petition is certified by the terminating institution as provided in paragraph (b) of this section.

(b) Each petition shall include the signature, printed name and full address of each voting stockholder signing the petition. Within 5 days of its receipt of a timely filed stockholder petition, the institution shall certify whether the signatures on the petition are the signatures of persons who were eligible voting stockholders of the terminating institution on the voting record date, and the institution shall notify the Farm Credit Administration of such certification.

(c) The petition shall include the name and address of a person who shall serve as petitioners' representative and who shall represent the interests of the petitioners in the reconsideration vote process.

(d) If the terminating institution certifies that at least 15 percent of eligible voting stockholders have signed the petition, a special stockholders' meeting shall be called by the institution to vote on the reconsideration. Such meeting shall be held within 60 days after the date on which the stockholders were notified of the final result of the termination vote. If a majority of stockholders of the institution voting in person or by written proxy vote against the termination, the termination is not approved. If a majority of stockholders of the institution voting in person or by written proxy vote in favor of the termination, the termination shall be effective pursuant to the provisions of § 611.1215(f), but not earlier than 15 days after the reconsideration vote.

(e) The petitioners, through the petitioners' representative, and board of directors of the terminating institution shall each have the opportunity to present to the stockholders and other equity holders a written statement of their views regarding the reasons for calling a reconsideration vote. Such statements shall be reasonable in length and shall be mailed to stockholders and other equity holders along with the notice of stockholders' meeting for the reconsideration vote.

(f) The terminating institution shall, at its expense, immediately provide the stockholders initiating the petition with a list of the names and addresses of all of the eligible voting stockholders of the institution. All other expenses for the petition shall be borne by the petitioners. Reasonable expenses for the reconsideration vote shall be borne by the terminating institution.

§ 611.1240 Exit fee.

(a) For the purposes of this section, the following definitions apply:

(1) *Assets* means all assets less appropriate valuation reserves as determined in accordance with GAAP except where otherwise noted in this section.

(2) *Contingent liabilities* means those liabilities that, in accordance with GAAP, will materialize if certain events occur.

(3) *Total capital* means all capital stock, surplus and undivided profits accounts as determined in accordance with GAAP, except where otherwise noted, and as adjusted pursuant to the requirements of this section.

(b) A terminating institution shall pay an exit fee equal to the amount by which the total capital of the institution exceeds 6 percent of its assets. The exit fee shall be paid to the Farm Credit Insurance Fund.

(c) The computation date for the exit fee shall be the quarter end preceding the filing date. A certified audit of the terminating institution shall be performed by a qualified public accountant, as defined in § 621.2(a)(21) of this chapter, as of the computation date. The Farm Credit Administration may, in its discretion, waive this requirement if such an audit was performed as of a date within the 6 months preceding the computation date.

(d) The method of computation shall be as follows:

(1) The average daily balance of assets and total capital for the 12 months preceding the computation date will be computed as a basis for determining the exit fee; and

(2) Account balances shall be computed in accordance with GAAP and adjusted in accordance with paragraph (e) of this section.

(e) For purposes of determining the amount of the exit fee, the Farm Credit Administration shall review the terminating institution's transactions over a 3-year period prior to the date of the adoption of the termination resolution. If this review indicates that the terminating institution's account balances do not accurately reflect the terminating institution's value of its assets and liabilities, the Farm Credit Administration may prescribe an accounting principle that is no less stringent than GAAP if the application of GAAP results in financial statements that are not consistent with the Farm Credit Administration's objective of ensuring that the exit fee is calculated on a fair and reasonable basis. In addition, if the review indicates a difference in value from the stated values, or if the institution has retired capital outside the ordinary course of business, or that the institution has taken any other actions unrelated to its core business that have the effect of increasing or decreasing the amount of the exit fee, the Farm Credit Administration may make adjustments to the institution's assets, liabilities, or capital and recompute the exit fee based on these adjustments. The review by the Farm Credit Administration shall include, but not be limited to:

(1) Additions to or subtractions from the allowance for loan losses;

(2) Additions to assets or subtractions from liabilities from transactions that are outside the terminating institution's ordinary course of business;

(3) Dividends or patronage refunds exceeding the terminating institution's usual dividends or patronage refunds;

(4) Changes in the terminating institution's capitalization plan or implementation of that plan that increased or decreased the level of borrower investment;

(5) Contingent liabilities, such as loss-sharing obligations, that can be reasonably quantified; and

(6) Assets that may be overvalued, undervalued or not recorded on the books of the institution.

(f) Capital of the terminating institution owned by another Farm Credit institution or by the Financial Assistance Corporation shall not be included in capital for the purpose of determining the exit fee.

(g) In the event that GAAP requires that a liability be recorded on the balance sheet that will be offset by an unrecorded asset, the transaction recording the liability shall be reversed.

(h) In the event that the terminating institution has recorded expenses, other than tax expenses and expenses due to satisfaction of obligations issued by the Financial Assistance Corporation, that would not have been recorded but for the termination, such transactions shall be reversed.

(i) If, subsequent to the computation date and prior to the termination date, the terminating institution records income tax expenses due to the decision to terminate and expenses due to satisfaction of obligations issued by the Financial Assistance Corporation, the amount of these expenses shall be deducted from the exit fee.

(j) The exit fee shall be paid by certified check or other means agreed upon by the Farm Credit Administration and the terminating institution.

§ 611.1250 Repayment of debts.

(a) The terminating institution shall provide for the payment or assumption by the successor institution of all outstanding debt obligations.

(b) The terminating institution may establish and maintain an OFI relationship with the Farm Credit Bank, subject to all applicable requirements of part 614, subpart P, of this chapter. The general financing agreement establishing the OFI relationship shall provide for the assumption by the successor institution of any direct loan or other obligation that a production credit association is authorized to incur and that is not repaid at the time of termination. Any part of the direct loan or other obligation that is not linked to a loan covered by the general financing agreement shall be repaid as provided in paragraph (c) of this section.

(c) A terminating institution that will not become an OFI shall either repay its direct loan and any other obligations to the Farm Credit Bank upon termination or shall arrange with the Farm Credit Bank to repay the loan or obligation. The terminating institution may, with the concurrence of the Farm Credit Bank, repay the loan or obligation over a period not to exceed 3 years following termination.

(d) The terminating institution shall pay or make satisfactory provision for payment of obligations to any other Farm Credit institutions under any loss-sharing agreement or other agreement.

(e)(1) The terminating institution shall pay to its district Farm Credit Bank a share, based on the association's retail loan volume relative to the retail loan volume of the bank and its affiliated associations had the terminating institution remained in the System, of the estimated present value of:

(i) All future assessments against the bank as required by paragraphs (c)(2)(C), (c)(4), and (c)(5)(F) of section 6.24 of the Act; and

(ii) The future payment obligation of its district bank as required by section 6.26(d)(1)(C)(v) of the Act.

(2) Calculations required by paragraph (e)(1) of this section shall be made by the Financial Assistance Corporation and shall be based on the retail loan volume as of the quarter end preceding the submission of the termination application.

§ 611.1255 Retirement of equities owned.

(a) The Farm Credit Bank may retire all equities of the Farm Credit Bank that are owned by the terminating institution on the termination date or may enter into an agreement with the terminating institution that would provide for a phased retirement of the equities. Any such plan for phased retirement shall provide for such retirement to be completed by the earlier to occur of the date which is 3 years from the termination date or the date on which the terminating institution repays all indebtedness to the bank, provided that no retirement shall occur during that period if any such retirement would result in the Farm Credit Bank's failure to meet minimum capital requirements.

(b) If the Farm Credit Bank and the terminating institution are unable to reach agreement regarding the retirement of Farm Credit Bank equities, either institution may send the most recent proposals to the Farm Credit Administration along with an explanation of the points of disagreement. The Farm Credit Administration may require the bank to retire terminating institution equities under such conditions as the Farm Credit Administration may require.

(c) No retirement shall occur if the Farm Credit Administration determines that the retirement of equities of the Farm Credit Bank would threaten the viability of the Farm Credit Bank.

(d) The amount to be paid to a terminating institution in the retirement of equities owned in the Farm Credit Bank shall be equal to the amount of the stock and allocated equities owned by the terminating institution in the Farm Credit Bank, less any impairment, at the date the request for retirement is made by the terminating institution. If the Financial Assistance Corporation owns any preferred stock in the Farm Credit Bank, any impairment of bank capital shall be applied first against the value of institution-owned equities for the purpose of determining the value of stock to be retired.

(e) If the terminating institution has outstanding stock issued to another Farm Credit institution, the institution shall retire all such equity investment prior to termination.

(f) A Farm Credit Bank's equities obligated to be retired under any agreement between the terminating institution and the Farm Credit Bank shall not be considered as part of the permanent capital of the Farm Credit Bank for purposes of § 615.5240 of this chapter.

§ 611.1260 Dissenters' rights.

(a) Dissenting stockholders, at their discretion, may, but are not required to, have their stock or participation certificates in the terminating institution retired as provided in paragraph (b) of this section. To be eligible to be a dissenting stockholder a person must be the owner, other than a Farm Credit institution, of voting or non-voting stock or other equities of the terminating institution who was either—

(1) Not eligible to vote on the termination resolution; or

(2) Eligible to vote on the termination resolution and voted, in person or by proxy, against such resolution.

(b) The terminating institution shall pay dissenting stockholders in accordance with the priorities in liquidation set forth in the bylaws of the terminating institution. Notwithstanding any provision of paragraph (c) to the contrary, dissenting stockholders who hold eligible borrower stock shall receive not less than par value for their stock.

(c)(1) Except as provided in paragraph (d) of this section, the price paid to dissenting stockholders who own common stock or participation certificates shall be the adjusted book value, which is the book value on the computation date adjusted to reflect—

(i) Any increase or decrease in asset value resulting from the appraisals required in § 611.1240; and

(ii) Deduction of the amount of the exit fee.

(2) Payments made to dissenting stockholders who own common stock or participation certificates referred to in paragraph (c)(1) of this section shall be made on the following basis:

(i) If the adjusted book value of the common stock is less than or equal to the par or stated value of such stock, the full amount of the payment shall be in cash.

(ii) If the adjusted book value of the common stock or participation certificate is greater than its par or stated value, the institution shall pay in cash an amount equal to the par or stated value of the stock or participation certificate. For the amount in excess of par or stated value, the institution may:

(A) Pay cash;

(B) Cause or otherwise provide for the successor institution to issue on the date of termination subordinated debt to the stockholder in an amount equal to the amount by which the adjusted book value exceeds the par or stated value of the stock or participation certificate. Such subordinated notes shall have a maturity date not in excess of 7 years after the date of issuance, shall have a priority on liquidation ahead of all equity shares but shall be subordinated to the claims of all other creditors, and shall carry a rate of interest that shall be not less than the rate for debt of comparable maturity issued by the Treasury of the United States plus 1 percent; or

(C) Provide for any combination of paragraph (c)(2)(ii)(A) and (c)(2)(ii)(B) of this section.

(d) If the institution has adopted bylaws in accordance with § 611.1210(e), dissenting stockholders who own common stock or participation certificates issued in accordance with such bylaws shall be paid in cash an amount equal to the lesser of the par or adjusted book value of such stock or certificates.

(e) For the purposes of this section, common stock consists of voting stock, non-voting stock that was formerly voting stock, and stock that has no priority of payment over any other class upon liquidation.

(f) The notice to stockholders and other holders of equity interests required in § 611.1220(e) shall include the following information:

(1) A statement of the rights of dissenting stockholders as specified in paragraph (a) of this section;

(2) The current book and par value per share, and the expected book and market value of the stockholder's pro rata interest in the successor institution;

(3) An explanation of the procedure by which stockholders may exercise dissenters' rights and the form they shall return to the terminating institution informing it of their intent to exercise such rights. The notification form by which stockholders may exercise dissenters' rights shall include the date by which the form must be returned to the terminating institution, as specified in paragraph (b) of this section, and a place for stockholders to mark or indicate that they intend to exercise dissenters' rights. The notification form shall be a convenient method for the stockholders to notify the institution and may consist of, but is not limited to, a postcard or pre-printed return envelope;

(4) An explanation that dissenting stockholders shall have until 30 days following notification of their dissenters' rights to request retirement of their stock or participation certificates. The stockholders' election to retire stock shall be rescinded if a petition for reconsideration is successful; and

(5) An explanation that maintenance of a borrowing relationship with the successor institution shall not be required as a condition for owning stock in the successor institution, unless otherwise directed by the bylaws of the successor institution.

(g) The terminating institution shall retire the shares of the dissenting stockholders on or before the termination date.

§ 611.1266 Loan refinancing by borrowers.

(a) All loans and loan assets of the terminating institution shall become assets of the successor institution unless they have been sold by the terminating institution or refinanced by the borrower.

(b) If an institution has been designated to serve the territory of the terminating institution prior to the mailing of the information statement, or if an institution that offers credit services of the same type as the terminating institution is already chartered to serve the territory, such institution shall be identified in the information statement. In addition, such institution shall provide the terminating institution with the following information:

(1) The name and address of the institution office that the borrower may contact;

(2) An explanation of the procedures to apply for financing with the institution and the procedures by which the loan may be transferred to the institution;

(3) An explanation of the stock purchase requirements of the new institution; and

(4) Any other information the institution wishes to include or routinely provides to new borrowers.

(c) If the terminating institution receives the information required in paragraph (b) of this section prior to the mailing of the information statement to borrowers, the terminating institution shall include such information in the information statement. If an institution has not been designated to serve the territory or if the terminating institution does not receive the information required in paragraph (b) of this section prior to the mailing of the information statement, the terminating institution shall furnish each borrower with the address and telephone number of the district Farm Credit Bank or other appropriate Farm Credit institution with an explanation that such institution may be contacted for information about the Farm Credit institution(s) that will serve the territory in the future.

(d) The terminating institution shall provide credit and loan information to the institution designated to serve the territory upon the borrower's request, in accordance with §§ 618.8300 through 618.8325 of this chapter, and take such other steps as are necessary to facilitate the transfer of the loan to the institution.

§ 611.1270 Continuation of borrower rights.

A terminating institution may not require a waiver of applicable borrower rights provisions as a condition of ownership interest in and continued financing by the successor institution. Terminating institutions which maintain an OFI relationship with the Farm Credit Bank shall comply with borrower rights provisions contained in subparts K, L, M and N of part 614 of these regulations.

§ 611.1275 Termination of Large Associations.

(a) When a Large Association proposes to terminate, the Farm Credit Administration shall evaluate in consultation with the Farm Credit System Insurance Corporation, the effect of the proposed termination of the Large Association on the viability of remaining System institutions in its district. The evaluation shall include a 2-year projection of earnings of those institutions.

(b) The Farm Credit Administration may request information from any non-terminating institutions in the Large Association's district in order to complete its evaluation of viability. Such institutions shall reply to any Farm Credit Administration request within 10 business days in order to have their information included in the evaluation unless a longer period is specified by the Farm Credit Administration.

(c) The criteria on which the Farm Credit Administration Board shall base its decision to approve or disapprove the termination shall include the effect of such termination on the viability of institutions that remain in the Farm Credit System.

3. New subparts Q and R are added to read as follows:

Subpart Q—Termination of Farm Credit Status—Farm Credit Banks

Sec.

Subpart Q—Termination of Farm Credit Status—Farm Credit Banks

§ 611.1300 Applicability and definitions.

(a) Each Farm Credit Bank is authorized, in accordance with sections 7.10 and 7.11 of the Act, to terminate the status of the bank as a Farm Credit institution. The regulations in this subpart, including such regulations as are incorporated by reference, set forth the procedural, disclosure, voting and approval requirements applicable to such termination. The Farm Credit Administration may in its sole discretion grant a waiver in writing from any requirement of this subpart for good cause shown.

(b) The definitions set forth in § 611.1205 of subpart P of this part shall apply to this subpart Q, except that paragraph (h) shall not apply.

§ 611.1310 Advance notification.

(a) A terminating bank's board of directors shall commence the process of termination by adopting a commencement resolution indicating the bank's intention to terminate its Farm Credit status.

(b) Within 5 days of the adoption of the commencement resolution by the board of directors, the terminating bank shall:

(1) Submit a certified copy of the commencement resolution to the Farm Credit Administration and the Farm Credit System Insurance Corporation; and

(2) Mail a brief announcement to all holders of equity in the bank, the Federal Farm Credit Banks Funding Corporation, and the Farm Credit System Financial Assistance Corporation, stating that the board is taking steps to terminate the bank's Farm Credit status and describing the process of termination, the anticipated effect of termination on current holders of equity and on borrowers from the bank or from the associations that are stockholders in the bank, and the type of institution the successor institution will be.

(c) Within 5 days of its receipt of the announcement described in paragraph (b) of this section, each association in the district of the terminating bank shall mail a copy of the announcement to all holders of equity in the association along with an explanation of the effect that the bank's termination may have on their loans, including whether the borrower would continue to have any of the borrower rights provided by the Act and regulations.

(d) Within 10 days of the adoption of the commencement resolution, the terminating bank and the remaining Farm Credit Banks and banks for cooperatives shall enter into negotiations to provide for the terminating bank's satisfaction of joint and several liability on consolidated and Systemwide obligations as set forth in section 4.4 of the Act. Such agreement shall comply with the requirements set forth in § 611.1350(c) of this subpart.

(e)(1) Within 15 days after submission of the commencement resolution pursuant to paragraph (b)(1) of this section, the terminating bank shall submit to the Farm Credit Administration a statement of its estimation of the exit fee together with an explanation of the computation of the exit fee pursuant to the requirements of § 611.1340. For purposes of this estimation of the exit fee, the computation date set forth in § 611.1240(c) shall be the quarter end preceding the date of the commencement resolution.

(2) Within 45 days of its receipt of the terminating bank's estimated exit fee, the Farm Credit Administration shall either confirm the bank's estimate of the exit fee or notify the bank of any required revisions to the computation.

(3) In the event that the Farm Credit Administration requires adjustments to the estimated exit fee pursuant to paragraph (e)(2) of this section, the terminating bank may request reconsideration of any such adjustments. Such request shall be in writing and shall set forth specific reasons why the adjustments should not be made. The Farm Credit Administration shall reconsider the adjustments and shall inform the terminating bank of its determination within 15 days of the receipt of the reconsideration request.

(f) During the time period after the board of directors' adoption of the commencement resolution pursuant to paragraph (a) of this section and prior to the effective date of termination, the following conditions shall apply to the conduct of business of the terminating bank and its affiliated associations:

(1) Each prospective new borrower, other than a Farm Credit institution, shall be informed of the effect of the proposed termination upon the borrower's loan and shall be specifically informed whether the borrower will continue to have any of the borrower rights provided under the Act and regulations promulgated thereunder;

(2) Any existing common stockholders, other than Farm Credit institutions, who seek to have their equity interests retired before termination shall be informed that the retirement would extinguish the holder's right to an interest in the successor institution or to receive an amount equal to the adjusted book value of the holder's equity in the bank if the termination is completed.

§ 611.1311 Filing of termination application.

A terminating bank shall comply with the provisions in § 611.1211 of this part.

§ 611.1312 Filing date of termination application.

(a) A terminating bank shall comply with the provisions in paragraphs (a) and (b) of § 611.1212, except that the reference on paragraph (a) to § 611.1212(c) shall be construed to be a reference to paragraph (b) of this section.

(b) In the event that the advance notification required in § 611.1310 is not received by the Farm Credit Administration at least 90 days prior to the filing date that would otherwise be assigned to the termination application in accordance with paragraph (a) of this section, the application will be disapproved. During this 90-day period, the Farm Credit Administration shall contact other Farm Credit Banks to ascertain their willingness to provide service to the territory of the terminating bank. An inability of the Farm Credit Administration to arrange for a new bank for the territory shall not be grounds for an extension of the 90-day period. However, the Farm Credit Administration may in its sole discretion reduce the required 90-day period in the event that a new bank to serve the territory is selected prior to the expiration of the 90-day period.

§ 611.1313 Selection of Farm Credit Bank to serve territory.

(a) In selecting a Farm Credit Bank for the district of the terminating bank, the Farm Credit Administration shall consider, among other things, the following:

(1) The prospective efficiencies and economies;

(2) The stated preferences of the associations in the district that are not terminating their Farm Credit status;

(3) Compatibility of organization and operations of the district of the

terminating bank and the district of the proposed replacement bank;

(4) Management of the bank;

(5) Capacity of the bank to service the additional territory;

(6) Willingness of the bank to purchase all the loans to the associations in the district;

(7) Market diversities between the bank's district and the district of the terminating bank; and

(8) Geographical proximity.

(b) The Farm Credit Administration may, in its discretion, apportion the district of the terminating bank among two or more Farm Credit Banks.

§611.1315 Farm Credit Administration review and approval.

A terminating bank shall comply with the provisions in § 611.1215 of this part, except that the reference in §611.1215(e) to § 611.1220(e) shall be construed to be a reference to §611.1320.

§611.1320 Voting record date and stockholder approval.

A terminating bank shall comply with the provisions in § 611.1220 of this part, except that paragraph (c)(3) and (d) and the provisions in paragraph (e) pertaining to dissenting stockholders shall not apply. The reference in §611.1220(b) to § 611.1225 shall be construed to be a reference to §611.1325.'

§611.1325 Requirements for information statement.

(a) A terminating bank shall comply with all the provisions in § 611.1225 of this part except paragraphs (h) and (s).

(b) If an OFI owns any shares of the terminating bank, the information statement shall also include a statement that OFIs shall have the right to have their stock retired together with an explanation of the procedures for doing so.

§611.1326 Prohibited acts.

A terminating bank and affiliated persons shall comply with the provisions in § 611.1226 of this part.

§611.1330 Plan of termination.

A terminating bank shall comply with the provisions in § 611.1230 of this part.

§611.1335 Stockholder reconsideration.

A terminating bank shall comply with the provisions in § 611.1235 of this part. For purposes of this section, the references to "15 percent of the eligible voting stockholders" in paragraphs (a) and (d) of § 611.1235 shall mean stockholder associations representing 15 percent of the eligible voting shares in the district.

§611.1340 Exit fee.

(a) If a Farm Credit Bank terminates alone, the exit fee shall be computed as follows:

(1) The assets and capital of the associations affiliated with the terminating bank, including unallocated surplus and earnings computed pursuant to § 611.1355(a), shall be deducted from the assets and capital of the terminating bank.

(2) After deduction of the assets and capital of the associations, any allowance for losses on assets that will be repaid at a value above net book value as a result of the termination shall be added to the assets and unallocated surplus of the bank, and the terminating bank shall comply with the provisions in § 611.1240 of this part.

(b) If a Farm Credit Bank terminates its Farm Credit status in conjunction with one or more affiliated associations, the exit fee shall be computed as follows:

(1) The exit fee for each terminating association shall be computed in accordance with § 611.1240.

(2) The balance sheets of the Farm Credit Bank as computed under paragraph (a) of this section, and of the terminating association(s) shall be combined, and the exit fee of the combined entity shall be computed in accordance with § 611.1240.

(3) The exit fee for the terminating bank shall be the amount by which the exit fee for the combined entity exceeds the total of the exit fees of the individual terminating associations.

(c) The equity of any OFI that chooses to receive cash from the transaction pursuant to § 611.1355(c) shall be deducted from the assets and capital of the terminating Farm Credit Bank in the computation of the exit fee.

§611.1350 Repayment of obligations.

(a) The terminating bank shall provide for the payment or assumption by the successor institution of all outstanding System debt obligations.

(b) Satisfaction of consolidated or Systemwide obligations on which a terminating bank is primarily liable shall be provided for in one or more of the following ways:

(1) Assumption of primary liability by one or more remaining System banks;

(2) Open market purchase and cancellation of obligations representing issues on which the terminating bank is a primary obligor; or

(3) Deposit of funds into a trust account in an amount sufficient to retire principal and interest on the Systemwide obligations on which the terminating bank is primarily liable.

(c) The terminating bank shall enter into an agreement with the remaining System banks, subject to the approval of the Farm Credit Administration, which agreement shall specify how the successor institution shall satisfy its joint and several liability under section 4.4 of the Act, to holders of obligations issued pursuant to section 4.2 of the Act and outstanding on the termination date. Any payments that may be made pursuant to such agreement, whether prior to or subsequent to termination, shall not exceed the amount that would have been payable by the terminating bank if a call by the Farm Credit Administration pursuant to section 4.4(a)(2)(B) of the Act had been made on the day prior to the termination date for the entire amount of Systemwide debt outstanding.

(d) In the event that the terminating bank and the remaining banks are unable to reach agreement within 90 days prior to the proposed termination date, the Farm Credit Administration shall require the banks to enter into an agreement that shall establish the terminating bank's proportionate share of any subsequent calls to be made as follows:

(1) The Farm Credit Administration shall determine a date to compute the percent of the total of the liability for which the terminating bank is responsible. Such liability computation date shall be on or before the computation date.

(2) The total amount of bonds on which the terminating bank is primarily liable as a percentage of total bonds issued and outstanding on the liability computation date shall be determined.

(3) This percentage shall be applied to only those obligations issued and outstanding on the bank's termination date.

(e) The terminating bank shall remain jointly and severally liable for all consolidated and Systemwide debt outstanding on the terminating date. The terminating bank shall sign a statement acknowledging the joint and several liability and liability for interest on obligations issued by other banks operating under the same title of the Act as part of the termination application.

(f)(1) The terminating bank shall pay to the Financial Assistance Corporation a share of the estimated present value of:

(i) All future assessments against the bank as required under section 6.9(e)(B) and paragraphs (c)(2)(C), (c)(4), and (c)(5)(A) and (B) of section 6.26 of the Act based on the average accruing retail loan volume of the bank and its affiliated associations for the preceding year, had the bank remained in the System;

(ii) The payment required under section 6.26(d)(1)(C) of the Act based on the average accruing retail loan volume of the bank and its affiliated associations during the time period from the year that the obligations were issued to the year prior to the computation date, had the bank remained in the System; and

(iii) The payment required under section 6.9(e)(2)(C) of the Act based on the average accruing loan volume of the bank during the time period from the year that the obligations were issued to the year prior to the computation date, had the bank remained in the System.

(2) The present value estimate shall be made by the Financial Assistance Corporation.

§ 611.1355 Retirement of equities.

(a) The terminating bank must retire all equities owned by another Farm Credit institution prior to termination, unless such institution is an association that is terminating its Farm Credit status in conjunction with the bank's termination. The value of the equities shall include both allocated and unallocated equities and shall be calculated in accordance with § 611.1340, except that the amount of the exit fee shall not be deducted from the assets of the bank for purposes of the calculation. In addition, the amount of the unallocated surplus shall be distributed based on the average direct loan for the 36 months preceding the computation date.

(b) The terminating bank must retire all preferred stock owned by the Financial Assistance Corporation by a method acceptable to the Financial Assistance Corporation and the Farm Credit Administration.

(c) A holder of equities in the terminating bank, other than the Financial Assistance Corporation or another Farm Credit institution, may, but is not required to, have its equities retired on the same basis as provided in paragraph (a) of this section. Such holder shall inform the terminating bank of its preference within 90 days of the terminating bank's distribution of an information statement unless the bank permits an extension of time.

§ 611.1366 Loan refinancing by borrowers.

A terminating bank shall comply with the provisions in § 611.1266 of this part.

§ 611.1375 Farm Credit Administration evaluation.

(a) Within 30 days of the adoption of a commencement resolution by an institution, or group of institutions, whose assets on a combined basis constitute 10 percent or more of the assets of the Farm Credit System, the remaining Farm Credit Banks, banks for cooperatives and other System institutions may submit an analysis of projected financial condition and earnings for a 2-year period following the proposed termination date to the Farm Credit Administration. Any such analysis shall include a discussion of:

(1) The effect of the termination(s) on the viability of the remaining System institution(s) and/or any affiliated institutions;

(2) Any projected change in the cost of funds to the institutions remaining in the System due to increased expenses or higher interest rates, including the assumptions on which the projection is based; and

(3) Other relevant information.

(b) The Farm Credit Administration shall make a separate analysis and shall review any analysis provided by non-terminating System institutions and make a final determination as to the probable effect of such termination on the viability of institutions remaining in the Farm Credit System.

(c) Banks that do not terminate shall provide necessary information to the Farm Credit Administration as may be requested by the agency to enable the Farm Credit Administration to make accurate financial projections.

(d) The criteria on which the Farm Credit Administration Board shall base its decision whether to approve or disapprove a proposed termination shall include the effect of such termination on the viability of institutions that remain in the Farm Credit System.

Subpart R—Termination of Farm Credit Status—Banks for Cooperatives

§ 611.1400 Scope of subpart.

Each bank for cooperatives is authorized, in accordance with sections 7.10 and 7.11 of the Act, to terminate its status as a Farm Credit institution. The regulations in this subpart, including such regulations as are incorporated by reference, set forth the procedural, disclosure, voting and approval requirements applicable to such termination. The Farm Credit Administration may, in its sole discretion, grant a waiver in writing from any requirement of this subpart for good cause shown.

§ 611.1405 Provisions applicable to terminating banks for cooperatives.

(a) A terminating bank for cooperatives shall comply with all the provisions applicable to terminating associations in subpart P of this part, except that the following provisions shall not apply: § 611.1205(h), § 611.1212(c), § 611.1255, § 611.1270, and § 611.1275.

(b) A terminating bank for cooperatives shall comply with the following provisions in subpart Q of this part: § 611.1310, § 611.1350, § 611.1355, and § 611.1375.

Dated: March 15, 1993.

Nan P. Mitchem,

Acting Secretary, Farm Credit Administration Board.

[FR Doc. 93-6351 Filed 3-18-93; 8:45 am]

BILLING CODE 6705-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 93-NM-03-AD]

Airworthiness Directives; British Aerospace Model ATP Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain British Aerospace Model ATP series airplanes. This proposal would require placing a life limit on certain bolts that attach the left- and right-hand aft isolator brackets to the engine subframe aft mounting beams. This proposal is prompted by results of fatigue tests and service experience, which indicate that these bolts are subject to fatigue failure prior to the fatigue lives specified in the Airplane Maintenance Manual for these airplanes. The actions specified by the proposed AD are intended to prevent structural failure of the engine support structure.

DATES: Comments must be received by May 14, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 93-NM-03-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041-0414. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. William Schroeder, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2148; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 93-NM-03-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 93-NM-03-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Discussion

The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, recently notified the FAA that an unsafe condition may exist on certain British Aerospace Model ATP series airplanes. The CAA advises that fatigue tests and service experience for the bolts that attach the left- and right-hand aft isolator brackets to the engine subframe aft mounting beams indicate that these bolts are subject to fatigue failure prior to the fatigue lives of 7,200 and 10,800 landings, as specified in the Airplane Maintenance Manual for Model ATP series airplanes. This condition, if not corrected, could result in structural failure of the engine support structure.

British Aerospace has issued Service Bulletin ATP-54-9, dated December 9, 1992, which describes procedures for establishing a life limit of 5,000 landings for aft isolator bracket attachment bolts, part numbers A102-4E and A102-5E, on the left- and right-hand engine subframes. The service bulletin also describes procedures for repetitive inspections of those bolts that have exceeded 5,000 landings to detect missing, failed, or cracked bolts; and installation or replacement of bolts, if necessary. The CAA classified this service bulletin as mandatory.

This airplane model is manufactured in the United Kingdom and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require placing a life limit of 5,000 landings for aft isolator bracket attachment bolts, part numbers A102-4E and A102-5E, on the left- and right-hand engine subframes. The proposed AD would also require repetitive inspections of those bolts that have exceeded 5,000 landings to detect missing, failed, or cracked bolts; and installation or replacement of bolts, if necessary. The actions would be required to be accomplished in accordance with the service bulletin described previously.

The FAA estimates that 10 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed replacement, and that the average labor rate is $55 per work hour. The cost for required parts would be minimal. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $550, or $55 per airplane. This total cost figure assumes that no operator has yet accomplished the proposed requirements of this AD action.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES.**"

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

British Aerospace: Docket 93–NM–03–AD.

Applicability: Model ATP series airplanes having aft isolator bracket attachment bolts, part number A102–4E or A102–5E; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent structural failure of the engine support structure, accomplish the following:

(a) For airplanes on which the aft isolator bracket attachment bolts have accumulated less than 5,000 total landings as of the effective date of this AD: Prior to the accumulation of 5,000 total landings on the bolts, or within 1,250 hours time-in-service after the effective date of this AD, whichever occurs later, remove the bolts and replace them with new or serviceable parts, in accordance with British Aerospace Service Bulletin ATP-54-9, dated December 9, 1992. Thereafter, prior to the accumulation of 5,000 total landings on any bolt, replace it with a new or serviceable bolt, in accordance with the service bulletin.

(b) For airplanes on which the aft isolator bracket attachment bolts will have accumulated 5,000 or more total landings before it is replaced in accordance with paragraph (a) of this AD: Prior to the accumulation of 5,000 total landings or within 150 hours time-in-service after the effective date of this AD, whichever occurs later, perform a visual inspection of the aft isolator bracket attachment bolts to determine if each bolt is in position, and to detect failed or cracked bolts, in accordance with British Aerospace Service Bulletin ATP–54–9, dated December 9, 1992.

(1) If any bolt is missing, failed, or cracked, prior to further flight, replace all four bolts in the assembly with new or serviceable parts, in accordance with the service bulletin. Thereafter, prior to the accumulation of 5,000 total landings on any bolt, replace it with a new or serviceable bolt, in accordance with the service bulletin.

(2) If no bolt is missing, failed, or cracked, repeat the visual inspection thereafter at intervals not to exceed 150 hours time-in-service. Within 1,250 hours time-in-service after the effective date of this AD, replace each bolt with a new or serviceable part, in accordance with the service bulletin. Thereafter, prior to the accumulation of 5,000 total landings on any bolt, replace it with a new or serviceable bolt, in accordance with the service bulletin.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on March 15, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–6339 Filed 3–18–93; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 39

[Docket No. 93–NM–02–AD]

Airworthiness Directives; SAAB-SCANIA Model SF340A and SAAB 340B Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain SAAB-SCANIA Model SF340A and SAAB 340B series airplanes. This proposal would require the installation of an additional protective shield between the existing heat protection and the air cycle machine in the environmental control system (ECS) compartment of the fuselage. This proposal is prompted by two in-flight incidents in which leakage of hot air from the air cycle machine in the ECS occurred and was not detected. The actions specified by the proposed AD are intended to prevent reduced structural integrity of the fuselage, possible rupture, and subsequent decompression of the airplane.

DATES: Comments must be received by May 14, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 93–NM–02–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from SAAB–SCANIA AB, SAAB Aircraft Product Support, S–581.88, Linköping, Sweden. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Quam, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2145; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 93–NM–02–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 93–NM–02–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Luftfartsverket (LFV), which is the airworthiness authority for Sweden, recently notified the FAA that an unsafe condition may exist on certain SAAB-SCANIA Model SF340A and SAAB 340B series airplanes. The LFV advises that two in-flight incidents have occurred in which the flight crew detected that the environmental control system (ECS) was malfunctioning. The leakage of hot air from the air cycle machine in the ECS was not detected. Results of a subsequent inspection indicated that leakage had probably occurred numerous times. The LFV indicates that leakage of this type may cause damage to the fuselage structure of these airplanes. This condition, if not corrected, could result in reduced structural integrity of the fuselage, possible rupture, and subsequent decompression of the airplane.

SAAB-SCANIA has issued SAAB 340 Service Bulletin SAAB 340–53–028, dated August 20, 1992, which describes procedures for the installation of an additional protective shield between the existing heat protection and the air cycle machine in the ECS compartment of the fuselage.

Installation of this shield will improve the heat protection of the structure. The LFV classified this service bulletin as mandatory and issued Swedish Airworthiness Directive SAD No. 1-055, dated September 4, 1992, in order to assure the continued airworthiness of these airplanes in Sweden.

This airplane model is manufactured in Sweden and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the LFV has kept the FAA informed of the situation described above. The FAA has examined the findings of the LFV, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require the installation of an additional protective shield between the existing heat protection and the air cycle machine in the ECS compartment of the fuselage. The actions would be required to be accomplished in accordance with the service bulletin described previously.

The FAA estimates that 188 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 20 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Required parts would be supplied by the manufacturer to operators at no cost. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $206,800, or $1,100 per airplane. This total cost figure assumes that no operator has yet accomplished the proposed requirements of this AD action.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES."

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

SAAB-SCANIA: Docket 93-NM-02-AD.

Applicability: Model SAAB SF340A series airplanes, serial numbers 004 through 159, inclusive; Model SAAB 340B series airplanes, serial numbers 160 through 252, inclusive, and 254 through 258, inclusive; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent reduced structural integrity of the fuselage, accomplish the following:

(a) Within 3,000 hours time-in-service after the effective date of this AD, install an additional protective shield between the existing heat protection and the air cycle machine, in accordance with SAAB 340 Service Bulletin SAAB 340-53-028, dated August 20, 1992.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on March 15, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93-6338 Filed 3-18-93; 8:45 am]

BILLING CODE 4910-13-P

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14 CFR Part 71

[Airspace Docket No. 92-ASW-36]

Proposed Establishment of Jet Route J-184

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish Jet Route J-184 between Buckeye, AZ, and Newman, TX. Currently, Jet Route J-4 is the only route between these points and aircraft are routinely vectored between Buckeye and Newman to expedite the movement of traffic in the area and to reduce the congestion on that jet route. The new J-184 would provide an alternate route to the north of J-4 and segregate en route traffic from traffic transitioning between Buckeye and Newman. This action would improve the traffic flow and reduce controller workload.

DATES: Comments must be received on or before April 28, 1993.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Air Traffic Division, ASW-500, Docket No. 92-ASW-36, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX 76193-0500.

The official docket may be examined in the Rules Docket, Office of the Chief Counsel, room 916, 800 Independence Avenue, SW., Washington, DC, weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Obstruction Evaluation Branch (ATP-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9250.