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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 94-034-2]

Pink Bollworm Regulated Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document makes final an interim rule that amended the pink bollworm regulations by removing Craighead, Cross, Greene, Monroe, Poinsett, and St. Francis Counties in Arkansas, Concordia Parish in Louisiana, and Washington County in Mississippi from the list of suppressive areas, and removing Louisiana and Mississippi from the list of States quarantined because of the pink bollworm. The interim rule was necessary to relieve restrictions on the interstate movement of regulated articles from certain previously regulated areas.

EFFECTIVE DATE: October 12, 1994.

FOR FURTHER INFORMATION CONTACT: Mr. Sidney E. Cousins, Senior Operations Officer, Plant Protection and Quarantine, APHIS, USDA, room 643, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-6365.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule effective and published in the *Federal Register* on May 31, 1994 (59 FR 27965-27966, Docket No. 94-034-1), we amended the pink bollworm regulations in 7 CFR part 301 by removing Craighead, Cross, Greene, Monroe, Poinsett, and St. Francis Counties in Arkansas; Concordia Parish in Louisiana and Washington County in Mississippi from

the list of suppressive areas in § 301.52-2a. We also stated that the interim rule would remove Louisiana and Mississippi from the list of States quarantined to prevent the spread of the pink bollworm since there would not be any areas in those States regulated because of the pink bollworm. We stated that change would affect § 301.52-2a; it should have stated it would affect § 301.52(a). However, we inadvertently left that action out of the amendatory section of the interim rule. This final rule corrects that omission.

Comments on the interim rule were required to be received on or before August 1, 1994. We did not receive any comments by that date. The facts presented in the interim rule still provide a basis for the rule.

This action also affirms the information contained in the interim rule concerning Executive Order 12866 and the Regulatory Flexibility Act, Executive Orders 12372 and 12778, and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived the review process required by Executive Order 12866.

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, the interim rule that amended 7 CFR 301.52-2a and that was published at 59 FR 27965-27966 on May 31, 1994, is adopted as a final rule with the following changes:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 150bb, 150dd, 150ee, 150ff, 161, 162, and 164-167; 7 CFR 2.17, 2.51, and 371.2(c).

2. In § 301.52, paragraph (a), the words "Louisiana, Mississippi," are removed.

Done in Washington, DC, this 6th day of September 1994.

Terry L. Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 94-22495 Filed 9-9-94; 8:45 am]

BILLING CODE 3410-34-P

Agricultural Marketing Service

7 CFR Part 945

[Docket No. FV94-945-2FR]

Irish Potatoes Grown in Certain Designated Counties in Idaho, and Malheur County, Oregon, and Imported Irish Potatoes; Modification of Minimum Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule modifies the minimum size requirements for all varieties of potatoes, except round reds, grown in certain designated counties in Idaho, and Malheur County, Oregon, and for imported long type potatoes. Currently, the minimum size requirement for all varieties, except round reds, is 2 inches in diameter, or 4 ounces in weight. This rule specifies that, in addition, at least 40 percent of the potatoes in each lot, by weight, must be 5 ounces or heavier. Requiring handlers to ship heavier potatoes should correct a marketing problem by providing the heavier potatoes demanded by the market and increase returns to producers and handlers. As provided under the Agricultural Marketing Agreement Act of 1937, the changes will also apply to imported potatoes.

EFFECTIVE DATE: September 12, 1994.

FOR FURTHER INFORMATION CONTACT: Gary D. Olson, Northwest Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 1220 SW Third Avenue, Room 369, Portland, OR 97204; telephone: (503) 326-2724 or Fax (503) 326-7440; or Valerie L. Emmer, Marketing Order Administration Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, P.O. Box 96456, Room 2523-S, Washington, DC 20090-6456; telephone: (202) 205-2829 or Fax (202) 720-5698.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement and Marketing Order No. 945 [7 CFR part 945], as amended, hereinafter referred to as the "order," regulating the handling of Irish potatoes grown in certain designated counties in Idaho, and Malheur County, Oregon. The order is effective under the Agricultural Marketing Agreement Act

of 1937, as amended [7 U.S.C. 601-674], hereinafter referred to as the "Act."

This final rule, which also affects the import requirements for long type Irish potatoes, is also issued pursuant to section 8e of the Act. The provisions of section 8e and the potato import regulation are discussed later in this final rule.

The U.S. Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This final has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is not filed later than 20 days after the date of the entry of the ruling.

There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of import regulations issued under section 8e of the Act.

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

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened.

There are approximately 60 handlers of Idaho-Eastern Oregon potatoes that are subject to regulation under the order, and approximately 2,000 producers in the production area. In addition, at least 75 importers of Irish potatoes are subject to import regulations and will be affected by this rule. Small agricultural service firms,

which include handlers of Idaho-Eastern Oregon potatoes, have been defined by the Small Business Administration [13 CFR 121.601] as those whose annual receipts are less than \$5,000,000, and small agricultural producers are defined as those whose annual receipts are less than \$500,000. A majority of these handlers and producers may be classified as small entities. The majority of the importers of potatoes may also be classified as small entities.

This rule amends paragraph (a)(2)(ii) of § 945.341 Handling regulation of the order's rules and regulations, and is based on a unanimous recommendation made by the Idaho-Eastern Oregon Potato Committee (committee), the agency responsible for local administration of the order, at its June 7, 1994, public meeting. The committee's recommended revision is authorized pursuant to §§ 945.51 and 945.52 of the order.

Quality assurance is very important to the Idaho-Eastern Oregon potato industry. Providing the public with acceptable quality produce which is appealing to the consumer on a consistent basis is necessary to maintain buyer confidence in the marketplace. The committee reports that potato size is important to buyers.

For several decades, the minimum size requirement for all varieties of Idaho-Oregon potatoes, except round reds, has been 2 inches in diameter, or 4 ounces in weight. However, the committee reports that the industry has been losing its share of the potato market, because the market in recent years has been demanding potatoes larger than this minimum size. Consumers now expect some baker size potatoes in the packages they buy. In spite of an industry campaign to encourage handlers to voluntarily ship larger potatoes, a number of handlers have continued to ship potatoes that barely meet the minimum size requirement, depressing the price for other potatoes. These potatoes are generally shipped in consumer packs (e.g., 5- or 10-pound bags) or in 100-pound sacks for later repackaging into consumer packs.

These shipments have resulted in disappointment by buyers and consumers in recent years, hurting the quality image of Idaho-Eastern Oregon potatoes, reducing repeat purchases and overall sales volume, and resulting in declines in prices, which has hurt the overall sales volume.

To better meet market demand regarding the size of potatoes, the committee recommended an additional requirement that at least 40 percent of

the potatoes in each lot must weigh at least 5 ounces. It is anticipated that requiring handlers to ship such heavier potatoes will enable the industry to regain its lost share of the market and increase returns to producers and handlers.

Section 8e of the Act requires that when certain domestically produced commodities, including Irish potatoes, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, or maturity requirements, subject to concurrence by the U.S. Trade Representative. Section 8e also provides that whenever two or more marketing orders regulating a commodity produced in different areas of the United States are concurrently in effect, the Secretary shall determine which of the areas produces the commodity in more direct competition with the imported commodity. Imports, then must meet the quality standards set for the particular area.

In the case of potatoes, the current import regulation [7 CFR 980.1] specifies that import requirements for long type potatoes be based on those in effect for potatoes grown in certain designated counties in Idaho, and Malheur County, Oregon, during each month of the marketing year. While no changes are required in the language of section 980.1, imports of long type potatoes would have to meet the increased minimum weight requirements proposed herein.

Section 945.341(i) *Applicability to imports* is being removed from the handling regulations. That paragraph states the same information that is contained in section 980.1 of the import regulations. Since the same information applicable to imported potatoes is contained in the import regulations, paragraph (i) in the domestic handling regulations is being deleted to eliminate duplication or confusion.

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

The proposed rule concerning this action was published in the *Federal Register* on August 9, 1994 [59 FR 40477]. Comments on the proposed rule were invited from interested persons until August 24, 1994. No comments were received.

After consideration of all available information, it is found that the action, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

In accordance with section 8e of the Act, the United States Trade

Representative has concurred with the issuance of this final rule.

Pursuant to 5 U.S.C. 553, it is also found and determined that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) This action was unanimously recommended by the Committee; (2) the new shipping season for the 1994-95 crop of Russet Burbanks began September 1, 1994, and this rule should be effective promptly to cover as many potatoes of the 1994-95 crop as possible; and (3) the proposed rule provided a 15-day comment period and no comments were received.

List of Subjects in 7 CFR Part 945

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 945 is amended as follows:

PART 945—IRISH POTATOES GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO, AND MALHEUR COUNTY, OREGON

1. The authority citation for 7 CFR part 945 continues to read as follows:

Authority: 7 U.S.C. 601-674.

2. Section 945.341 is amended by removing paragraph (1) and revising paragraph (a)(2)(ii) to read as follows:

§ 945.341 Handling regulation.

* * * * *

(a) * * *

(2) * * *

(ii) *All other varieties.* 2 inches minimum diameter, or 4 ounces minimum weight: *Provided, That* at least 40 percent of the potatoes in each lot shall be 5 ounces or heavier.

* * * * *

Dated: September 8, 1994.

Eric M. Forman,

Director, Fruit and Vegetable Division.

[FR Doc. 94-22612 Filed 9-9-94; 8:45 am]

BILLING CODE 3410-02-P

Rural Electrification Administration

7 CFR Part 1700

General Information; Delegation of Authority

AGENCY: Rural Electrification Administration, USDA.

ACTION: Final rule.

SUMMARY: The Rural Electrification Administration (REA) hereby amends its Delegation of Authority to add the

authority to the Regional and Power Supply Directors to cancel or endorse due to payment on borrowers' notes which have been paid in full in connection with a discounted prepayment made under the REA electric program. These delegations and other minor technical corrections are being made to clarify the delegations of authority and further delegate authority downward.

EFFECTIVE DATE: This rule is effective September 12, 1994.

FOR FURTHER INFORMATION CONTACT: F. Lamont Heppe, Jr., Program Support Staff, Rural Electrification Administration, Room 2234-S, U.S. Department of Agriculture, 14th and Independence Avenue, SW., Washington, DC 20250-1500, Telephone: (202) 720-0736.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This final rule has been determined to be not significant for purposes of Executive Order 12866 and therefore has not been reviewed by OMB.

Regulatory Flexibility Act Certification

The Administrator of REA has determined that this final rule will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

National Environmental Policy Act Certification

The Administrator of REA has determined that this final rule will not significantly affect the quality of the human environment as defined by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Therefore, this action does not require an environmental impact statement or assessment.

Catalog of Federal Domestic Assistance

The programs described by this final rule are listed in the 1991 Catalog of Federal Domestic Assistance Programs under No. 10.850, Rural Electrification Loans and Loan Guarantees; No. 10.851, Rural Telephone Loans and Loan Guarantees; No. 10.852, Rural Telephone Bank Loans; and No. 10.854, Rural Economic Development Loans and Grants. This catalog is available on a subscription basis from the Superintendent of Documents, the United States Government Printing Office, Washington, DC 20402.

Executive Order 12778

This rule has been reviewed under Executive Order 12778, Civil Justice

Reform. This rule: (1) Will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule; (2) will not have any retroactive effect; and (3) will not require administrative proceedings before parties may file suit challenging the provisions of this rule.

Executive Order 12372

This final rule is excluded from the scope of Executive Order 12372, Intergovernmental Consultant. A Notice of Final rule entitled Department Programs and Activities Excluded from Executive Order 12372 (50 FR 47034) exempts REA electric loans and loan guarantees from coverage under this Order.

Information Collection and Recordkeeping Requirements

This final rule contains no information collection or recordkeeping provisions requiring the Office of Management and Budget approval under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

This final rule revises and reflects the current organizational structure of REA and methods of by which its functions are channeled. Accordingly, since this action is a " * * * rule of the agency organization, procedure, or practice * * *" this rule is being issued as a final rule without providing the public with an opportunity to comment.

List of Subjects in 7 CFR Part 1700

Electric power, Freedom of information, Loan programs—communication, Loan programs—energy, Organization and functions (Government agencies), Rural areas, Telephone.

For the reasons set out in the preamble, REA hereby amends 7 CFR chapter XVII as follows:

PART 1700—GENERAL INFORMATION

1. The authority citation for 7 CFR part 1700 continues to read as follows:

Authority: 7 U.S.C. 901 *et seq.*; Delegation of Authority by the Secretary of Agriculture, 7 CFR 2.23; Delegation of Authority by the Under Secretary of Agriculture for Small Community and Rural Development, 7 CFR 2.72; 7 U.S.C. 1921 *et seq.*; 5 U.S.C. 301, 552; 7 CFR 1.1-1.16.

Subpart D—Delegations of Authority; General

2. The second sentence of § 1700.41 is revised to read as follows:

§ 1700.41 Presons serving in acting capacities.

* * * If an incumbent of a position to whom delegations are made in subparts

D through L of this part is absent or is unable to carry out such delegations, the person designated authority to act for the incumbent shall exercise the authority conferred by such delegations.

Subpart E—Delegations of Authority; Agency Issuances and Certain Correspondence

§ 1700.73 [Amended]

3. In § 1700.73, remove paragraph (c)(3), and redesignate paragraph (c)(4) as paragraph (c)(3).

Subpart I—Delegations of Authority; Electric Program

4. Section 1700.124 is amended by adding paragraph (b)(10) to read as follows:

§ 1700.124 Regional Directors.

(b) * * *

(10) Cancellation or endorsement due to payment on borrowers' notes which have been paid in full in connection with a prepayment made under the provisions of 7 CFR part 1786, subpart F.

5. Section 1700.127 is amended by adding paragraph (b)(10) to read as follows:

§ 1700.127 Director—Power Supply Division.

(b) * * *

(10) Cancellation or endorsement due to payment on borrower's notes which have been paid in full in connection with a prepayment made under the provisions of 7 CFR part 1786, subpart F.

Subpart J—Delegations of Authority; Telephone Program

6. Section 1700.145 is amended by removing paragraph (d)(12), and redesignating paragraphs (d)(13), (d)(14), and (d)(15) as paragraphs (d)(12), (d)(13), and (d)(14), and by adding a new paragraph (c)(8) to read as follows:

§ 1700.145 Regional Directors.

(c) * * *

(8) Complete releases of lien and satisfaction when a borrower has paid in full its indebtedness.

§ 1700.146 [Amended]

7. Section 1700.146(c) is amended by removing from the text the term

"§ 1700.148" and adding in its place "§ 1700.148 (a) and (b)".

8. Section 1700.147(c) is amended by removing from the text the term "§ 1700.148" and adding in its place "§ 1700.148(c)", by revising paragraph (b)(5), by removing the term "and" from the end of paragraph (b)(6), by removing the period from the end of paragraph (b)(7) and by adding a semicolon in its place and adding the term "and" after the semicolon, and by adding a new paragraph (b)(8) to read as follows:

§ 1700.147 Chiefs, Regional Operations Branches—Telephone.

(b) * * *

(5) Borrowers' lease agreements;

(8) Management and operating agreements. When the borrowers involved are in more than one region, both chiefs must approve.

Dated: September 1, 1994.

Bob J. Nash,
Under Secretary, Small Community and Rural Development.

[FR Doc. 94-22317 Filed 9-9-94; 8:45 am]
BILLING CODE 3410-15-P

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 93-110-2]

Importation of Horses; Quarantine Requirements

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: We are adopting as a final rule, without change, an interim rule that amended the regulations concerning the importation of horses by adding Bosnia and Herzegovina, Croatia, Finland, Guinea-Bissau, the Member States of the European Union, Slovenia, The Former Yugoslav Republic of Macedonia, and the nonrecognized areas of the former Yugoslavia (Montenegro and Serbia) to the list of countries where contagious equine metritis (CEM) exists, and by adding Oman, Qatar, and the United Arab Emirates to the list of countries considered to be affected with African horse sickness (AHS). Outbreaks of CEM, a highly transmissible venereal disease, have been reported in Bosnia and Herzegovina, Croatia, Finland, Guinea-Bissau, Slovenia, The Former Yugoslav Republic of Macedonia, and

the nonrecognized areas of the former Yugoslavia (Montenegro and Serbia). The Member States of the European Union either are affected with CEM or trade horses freely with other Member States that are affected with CEM, without testing the horses for the disease. Oman, Qatar, and the United Arab Emirates trade horses freely with other countries where AHS, a fatal viral disease, exists. The interim rule imposed prohibitions or restrictions on the importation of horses that have been in these countries to protect horses in the United States from CEM and AHS. Neither disease is known to exist in the United States.

EFFECTIVE DATE: October 12, 1994.

FOR FURTHER INFORMATION CONTACT: Dr. Joyce Bowling, Staff Veterinarian, Import-Export Animals Staff, National Center for Import-Export, Veterinary Services, APHIS, USDA, room 766, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-8170.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule effective and published in the *Federal Register* on May 13, 1994 (59 FR 24886-24889, Docket No. 93-110-1), we amended the regulations in 9 CFR part 92 concerning the importation of horses by adding Bosnia and Herzegovina, Croatia, Finland, Guinea-Bissau, the Member States of the European Union, Slovenia, The Former Yugoslav Republic of Macedonia, and the nonrecognized areas of the former Yugoslavia (Montenegro and Serbia) to the list of countries where contagious equine metritis exists. The interim rule also added Oman, Qatar, and the United Arab Emirates to the list of countries considered to be affected with African horse sickness.

Comments on the interim rule were required to be received on or before July 12, 1994. We did not receive any comments. The facts presented in the interim rule still provide a basis for the rule.

This action also affirms the information contained in the interim rule concerning Executive Order 12866 and the Regulatory Flexibility Act, Executive Order 12778, and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived the review process required by Executive Order 12866.

List of Subjects in 9 CFR Part 92

Animal disease, Imports, Livestock, Poultry and poultry products,

Quarantine, Reporting and recordkeeping requirements.

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 9 CFR 92.301 and 92.308 and that was published at 59 FR 24886-24889 on May 13, 1994.

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102-105, 111, 114a, 134a, 134b, 134c, 134d, 134f, 135, 136, and 136a; 31 U.S.C. 9701; 7 CFR 2.17, 2.51, and 371.2(d).

Done in Washington, DC, this 6th day of September 1994.

Terry E. Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 94-22496 Filed 9-9-94; 8:45 am]

BILLING CODE 3410-34-P

FARM CREDIT ADMINISTRATION

12 CFR Parts 614 and 618

RIN 3052-AB51

Loan Policies and Operations; General Provisions; Collateral Evaluation Requirements, Actions on Applications, Review of Credit Decisions, and Releasing Information

AGENCY: Farm Credit Administration.

ACTION: Interim rule with request for comments.

SUMMARY: The Farm Credit Administration (FCA), by the Farm Credit Administration Board (Board), adopts interim regulations that amend FCA regulations relating to collateral evaluation requirements for Farm Credit System (FCS or System) institutions engaged in lending or leasing. The FCA Board also requests comments on these regulations. The amendments respond to issues raised by regulatory revisions recently adopted by the other Federal financial institutions' regulatory agencies (Federal regulatory agencies),¹ comments received in response to the FCA's published request for "regulatory burden" comments (58 FR 34003, June 23, 1993), and amendments made to regulations of the Board of Governors of the Federal Reserve (Regulation B)

interpreting the Equal Credit Opportunity Act (ECOA).²

DATES: The regulations shall become effective October 31, 1994, or upon the expiration of 30 days after publication during which either or both Houses of Congress are in session, whichever is later. Written comments must be submitted on or before October 10, 1994. Notice of the effective date will be published in the *Federal Register*.

ADDRESSES: Comments should be submitted in writing, in triplicate, to Patricia W. DiMuzio, Associate Director, Regulation Development, 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 Office of Examination, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT:

Dennis K. Carpenter, Senior Policy Analyst, Office of Examination, Farm Credit Administration, McLean, VA 22102-5090, (703) 883-4498, TDD (703) 883-4444,

or

James M. Morris, Senior Attorney, Office of General Counsel, Farm Credit Administration, McLean, VA 22102-5090, (703) 883-4020, TDD (703) 883-4444.

SUPPLEMENTARY INFORMATION:

I. General

The FCA Board adopted final collateral evaluation regulations on November 12, 1992. The regulations were published in the *Federal Register* on November 20, 1992 (57 FR 54683), and became effective March 1, 1993. The regulations addressed the System's collateral evaluation practices and procedures, including the need for: (1) Consistent methodology; (2) independence and controls; and (3) consistent educational and qualification requirements. The regulations set basic requirements for real property appraisals, including the use of State licensed and/or certified appraisers, functional independence, and compliance with Uniform Standards of Professional Appraisal Practices (USPAP). The real property appraisal requirements adopted were similar to the requirements of the other Federal regulatory agencies.

The objective of the present amendments is to provide additional

flexibility in appraisal and independence requirements, without jeopardizing the overall integrity or enforceability of the FCA's collateral evaluation regulations. By providing additional flexibility in the use of State-sanctioned appraisers and relief from the more stringent real estate appraisal requirements, the FCA addresses regulatory burden concerns.

The amendments are being adopted as interim regulations with a delayed effective date and request for comments in order to provide interested parties an opportunity to comment on the regulations. However, the FCA believes adopting the regulations in final is required to provide System institutions with the necessary guidance to address revisions to their collateral evaluation requirements and necessary staffing needs. The regulatory revisions also establish requirements that are similar to the requirements recently adopted by the Federal regulatory agencies.

The FCA adopted, on May 5, 1994, a "no action" position relative to the System institutions' compliance with certain real estate appraisal requirements in response to the then-pending regulatory revisions by the Federal regulatory agencies. The FCA's "no action" position was intended to serve as a temporary means of eliminating any competitive disadvantage suffered by System institutions. However, the "no action" position provides more flexibility than the FCA would consider a prudent long-term regulatory position. Therefore, these regulatory revisions are intended to eliminate any competitive disadvantage for the System institutions and establish the necessary guidance and parameters for the System's collateral evaluation practices and procedures.

These revisions to the FCA's collateral evaluation regulations only address the issues associated with the real estate appraisal requirements and do not lessen the overall requirements that have been established for the basic collateral evaluation requirements or the collateral valuation process. The FCA Board is aware of the System's concern about informational requirements for small loans. The FCA has received comments requesting consideration of guidance for "minimum information" loan programs (including financial reporting and collateral evaluation information) and related underwriting standards. The FCA believes these regulations provide flexibility to accommodate minimum information loan programs. However, the FCA will consider these issues at a later date in response to the "regulatory burden"

¹ The Office of the Comptroller of the Currency (OCC), Federal Deposit Insurance Corporation (FDIC), Federal Reserve Board (FRB), and the Office of Thrift Supervision (OTS).

² The FRB published final regulations on December 16, 1993 (58 FR 65657) implementing the Equal Credit Opportunity Act, 15 U.S.C. 1691-1691f, as amended by the FDIC Improvement Act of 1991, Pub. L. 102-242, 105 Stat. 2236.

notice published in the *Federal Register* on June 23, 1993 (58 FR 34003).

The regulations also make technical revisions to part 614, subpart L, concerning credit denials and independent appraisal requirements. Finally, the regulations reconcile FCA regulations pertaining to the release of collateral evaluation information (part 618, subpart G), with the requirements of the Equal Credit Opportunity Act as interpreted by Regulation B.³

II. Background

A. Bank and Thrift Federal Regulatory Agencies' Positions

On March 10, 1993, the four Federal regulatory agencies responsible for regulating banks and thrifts issued a joint interagency statement that eased certain regulatory constraints on the availability of credit for small business loans (including farm loans). The "Interagency Policy Statement on Credit Availability" ("Policy Statement") identified five areas of concern for possible regulatory and operational revisions. The five areas are: (1) Lending to small- and medium-sized businesses; (2) real estate lending and appraisals; (3) appeals of examination decisions and complaint handling; (4) examination processes and procedures; and (5) paperwork and regulatory burdens.

While FCA was not a party to the Policy Statement released on March 10, 1993, it does have real property appraisal regulations in place that are similar to those of the Federal regulatory agencies. In addition, the Policy Statement includes farming operations as a segment of the small- and medium-sized businesses to be covered by any revisions arising from the Policy Statement. Therefore, any change in the Federal regulatory agencies' real property appraisal requirements⁴ will impact the FCA and the System in terms of the consistency and application of the collateral evaluation requirements.

In discussing the real estate lending and appraisal concerns, the Policy Statement asserted that "in some cases currently required real estate appraisals may not add to the safety and soundness of the credit decision. Indeed, in some cases, appraisals may prove so

expensive that they make a sound small- or medium-sized business loan uneconomical."⁵ President Clinton directed the Federal regulatory agencies to review the existing real property appraisal regulations and address changes as appropriate. The policy position implemented by the Federal regulatory agencies is considered to be "one aspect of an overall effort by the agencies to evaluate carefully and react appropriately to risk in the United States financial services industry. That overall effort envisions substantial oversight; in some cases, more than we have now, in areas that pose greater risk to the system. By the same token, regulatory burden will be reduced where risk is low, especially for strong, well-managed banks and thrifts * * *."⁶

The recent amendments to the other Federal regulatory agencies' real estate appraisal requirements relate to: (1) Appraisals of real estate offered as collateral for small- and medium-sized business loans; (2) appropriate appraisal threshold levels (*de minimis*); and (3) exemptions from requirements for the use of State-sanctioned appraisers. In addition, the agencies have eliminated the regulatory prohibition on the use of the Uniform Standards of Professional Appraisal Practices (USPAP) "departure provision"⁷ for real property appraisals.

On June 4, 1993, the bank and thrift Federal regulatory agencies published proposed regulations (58 FR 31878) to amend the existing real property appraisal regulations. On November 10, 1993, the Federal regulatory agencies solicited additional comments on the database supporting the *de minimis* level proposal (58 FR 59688). The OCC, FDIC, FRB, and OTS subsequently adopted final regulations, which were published on June 7, 1994 (59 FR 29482). The major changes made by the final regulations are:

1. Increasing the *de minimis* level to \$250,000 above which real estate appraisals using State licensed and/or certified appraisers are required.

³ Issue No. 2 as addressed in the "Interagency Policy Statement on Credit Availability," jointly released on March 10, 1993, by the OCC, FDIC, FRB, and the OTS.

⁶ *Ibid.*

⁷ As established by the Appraisal Standards Board of the Appraisal Foundation, the *Departure Provision* of USPAP (revised March 22, 1994, effective July 1, 1994) "permits limited departures from specific guidelines provided that the scope of the assignment is not so limited as to confuse or mislead the client or the intended users of the report; and provided that the appraiser advises the client of the limitations and that the limitations will be disclosed in the report; and the client has agreed that the limited appraisal or consulting services would be appropriate."

2. Providing an exception for small- and medium-sized "business loans," including loans to entities and individuals engaged in farming enterprises, with a transaction value of \$1.0 million or less.

3. Clarifying the "abundance of caution" exception.

4. Providing additional exceptions to the use of State licensed and/or certified real estate appraisers.

5. Clarifying appraisal standards and appraiser independence requirements.

B. FCA's Consideration

On June 10, 1993, the FCA Board adopted a policy position requesting public comment on possible regulatory burden issues addressing a variety of subjects. This "Regulatory Burden" statement was published on June 23, 1993 (58 FR 34003). On July 15, 1993, the FCA Board directed staff to begin considering appropriate revisions of the FCA's regulations and to monitor the progress of the regulatory revisions proposed by the Federal regulatory agencies.

The FCA received 15 comment letters in response to its regulatory burden statement from various System institutions and related parties addressing collateral evaluation related issues. The commenters, in general, supported the positions that had previously been proposed by the Federal regulatory agencies. The commenters also expressed concerns with the inclusion of specific standards of the collateral evaluation regulations (i.e., general valuation and personal property requirements) as well as specific requirements of part 614, subpart L, as they pertain to the appraisal requirements for reconsideration of loan denials. In addition, the FCA has received two additional sets of comments requesting that the FCA consider the positions proposed by the Federal regulatory agencies. The FCA responds to the comments received in Section IV, *Regulatory Revisions*, of this document.

III. Historical Analysis

The FCA has not identified any System institution that has failed solely because of poor or fraudulent appraisal activities. However, there have been institutions that have failed where poor collateral evaluation practices have been a contributing factor. A review of several of the institutions that failed during the 1980s has indicated that when such institutions failed, they exhibited characteristics such as: (1) Poor credit administration practices; (2) poor internal controls; (3) poor collateral evaluation practices; and (4)

³ The ECOA requires creditors to provide copies of real estate appraisals to applicants/borrowers when the appraisal covers residential collateral. The Federal Reserve Board, on December 16, 1993, published final regulation revisions (58 FR 65657) (Regulation B) implementing this requirement. Institutional compliance was required by June 14, 1994.

⁴ The OCC, FDIC, FRB, and OTS jointly published revised real estate appraisal regulations on June 7, 1994 (59 FR 29482), which were effective on that date.

lack of credit expertise to handle increased debt levels and loan volume. The majority of the institutions that failed or required some form of assistance did so because of losses experienced in a few large, complex, and/or specialized loans. Poor collateral evaluation practices coupled with one or more of the other characteristics described above contributed to the problems faced by the institutions.

With the implementation of the FCA's collateral evaluation regulations, the institutions have been required to establish and implement appropriate collateral evaluation policies and procedures. Such policies and procedures are needed to address collateral evaluation independence requirements and basic evaluation and appraisal standards, as well as educational and qualification requirements. The development of such policies and procedures coupled with appropriate internal controls, credit controls, and underwriting standards (i.e., lending limits, financial and repayment analysis, loan inspections, etc.) will help ensure that past problems are not repeated.

The FCA's collateral evaluation regulations require that all System institutions will perform a collateral evaluation on all secured loans and leases. Such collateral evaluations will take the form of a basic valuation or a more detailed real estate appraisal, depending on the loan collateral and the specifics of the loan decision. The basic requirements concerning individuals responsible for collateral evaluations address minimum education, qualification, independence, and methodology standards that are either established by the regulation or must be established by the institution's policies and procedures consistent with the requirements of the regulations.

The additional requirements for completion of real estate appraisals, including the use of State-sanctioned appraisers, require a higher degree of independence and higher education and methodology standards. While higher standards are desirable, it has been argued by the System, as well as by the banking and thrift industries, that universal application of these higher standards and the additional cost involved do not add to the safety and soundness of these institutions. They argue that such higher standards add unnecessary costs and delays to the credit process without providing a corresponding reduction in loan defaults and losses in the institutions' smaller loans. The System and commercial banking institutions further argue that collateral valuations

completed by qualified and experienced persons, other than State licensed or certified appraisers, are more appropriate and cost-effective for the majority of their loans and the associated risk.

The FCA believes that it is the responsibility of the institution to establish adequate policies and procedures for collateral evaluations, taking into consideration the basic requirements of the FCA's regulations. The institutions are responsible for determining the level of documentation required, depending on the size, complexity, and specialization of the loan transaction. As an example, a \$50,000 loan that qualifies for an institution's minimum information program could require considerably less support, information, and documentation than a \$500,000 loan to finance a large, complex dairy operation not typical of the operations within an institution's territory. Under these revised regulations, both loan transactions could qualify as collateral valuations rather than as real estate appraisals; but the complexity, size, and specialization of the loan for the dairy operation would call for a higher degree of support information development and documentation. The FCA notes that such flexibility already exists in the current regulations.

The lending institution, not the collateral evaluator, is ultimately responsible for its credit decisions. The collateral evaluation is only one of several factors that must be considered when making a credit decision. While the collateral evaluation report must be completed by a qualified individual, institutions should not assume that the acceptance of the collateral evaluation report substitutes for or completes the credit decision process. The FCA expects the institutions to consider all relevant credit factors (including the collateral evaluation) as part of the credit decision. If an institution is not comfortable with the reported value of the collateral, the institution can request another evaluation, decrease the loan amount accordingly, or, provided other statutory and regulatory requirements are satisfied, change the terms of the loan consideration in recognition of the perceived collateral risk.

An institution need not lend 85 percent of the value shown by an evaluation. Rather it should limit the credit to the amount that can be supported by consideration of the risk associated with all credit factors, including the collateral evaluation. It is important to note that as the complexity or specialization of the subject property increases, the degree of support

documentation should also increase and should take into account the unique characteristics of the property that make it complex or specialized.

IV. Regulatory Revisions

Taking into account the comments received in response to the FCA's "regulatory burden" notice, the FCA staff studied FCA's current collateral evaluation regulations, compared current regulations with those of the other Federal regulatory agencies, and completed a study of data submitted to the FCA by the System. Based on its study, the FCA has adopted the following positions.

A. Increased Appraisal Thresholds

The regulations amend § 614.4260(b) to increase the existing *de minimis* levels on the appraisal requirements of the System institutions to \$250,000. In addition, the threshold for the functional independence requirements would also be increased in connection with the appraisal *de minimis* level.

In 1992, the FCA completed an analysis to determine the segregation by size of the collateral securing the System's loan portfolio. The database for the analysis included a summary of the number and volume of loans within the FCS banks and associations as of December 31, 1991, that were unsecured, secured by personal property, secured by real property, or secured by a combination of security types.

The data were further segregated by loan-size categories. The FCA study has subsequently been updated to reflect the December 31, 1992, and December 31, 1993, loan-size and collateralization information.

The FCA has also recently received the results of a study it commissioned through the University of Illinois to perform independently of the development of these regulations (University of Illinois study). This study examined the loan origination volume, associated defaults, and loan losses for a specific Farm Credit district for a period between 1973 and 1992 to determine, among other things, whether large loans have a higher default rate than small loans.

In addition, the Farm Credit Council, on behalf of the System institutions, has provided additional loan-size and loan-loss data to the FCA for further consideration of the *de minimis* level. Finally, the American Bankers Association (ABA) has also completed a

survey,⁸ which included a sample of 246 commercial banks of various sizes and portfolio structures. The survey stratified the loan portfolios by loan size and by loan type (construction, farmland, multifamily, and nonfarm).⁹

Upon review of the available data, the University of Illinois' study data, the System's data, and the ABA's commercial bank data, several conclusions can be drawn. Each of the studies attempted to study the correlation between loan losses and loan size. There appears to be very little difference in the average size of the ABA reported farmland loans and the System institutions' loans. The establishment of a consistent threshold level would encompass similar percentages of the farmland-based loan portfolio of System institutions and commercial banks. However, the System institutions will have a greater percentage of farmland-based loan volume that would be in excess of a \$250,000 *de minimis* level. An increase in the *de minimis* level would result in the System institutions being afforded the same flexibility as the commercial lenders to perform collateral valuations rather than USPAP-based, State-sanctioned appraisals. This will result in a significant reduction in the number of loans that would require the use of a State-sanctioned appraiser¹⁰ and thus result in cost savings to the borrowers/consumers. The System data indicate that the difference in the cost of an appraisal versus a valuation averages approximately \$300 per evaluation. Such reported cost differences are consistent with cost data that have been reported by the commercial banking industry.

The FCA recognizes that increasing the *de minimis* level will reduce the number of transactions requiring a USPAP appraisal completed by a State-sanctioned appraiser. The FCA's analysis of the available data suggested that for loans in excess of \$250,000, the rate of loss justifies the cost of the USPAP appraisal requirement, while for loans of less than \$100,000, the cost of

requiring USPAP appraisals may exceed the volume of losses. For loans in the \$100,000 to \$250,000 range, the data do not clearly establish that the rate of loss justifies the cost of requiring USPAP appraisals. Therefore, the FCA believes that a *de minimis* level of \$250,000 is a reasonable point above which the additional appraisal requirements are justified. In addition, the FCA is comfortable that safety and soundness concerns at or below \$250,000 can be adequately addressed by the collateral valuation requirements of the regulations.

B. Business Loans

The regulations amend § 614.4260(b) to provide the System institutions with a \$1.0 million threshold for requiring appraisals for small- and medium-sized "business loans" where the loan repayment is not derived from the sale or cash rental of real estate.

The purpose of this exemption is to provide greater flexibility for institutions to provide credit to small- and medium-sized businesses where the owners are subject to the risk of operational losses. The exemption is not intended to ease credit requirements for real estate investors or passive landowners. A \$1.0 million exemption would be consistent with the positions taken by the Federal regulatory agencies and will afford the System institutions a "level playing field" with respect to the required use of State-sanctioned appraisers. Based on FCA's analysis of the data studies, it should be noted that, in addition to the additional 15 percent (by number) of System loans exempted by the new \$250,000 *de minimis* level exception, approximately an additional 5 percent of the number of loans will be exempted by the \$1.0 million "business loan" exemption.

However, within this \$250,000 to the \$1.0 million category, an additional 25 percent of loan volume will be exempted by the new business loan exemption. These additional loans represent a significant proportion of System loan volume and arguably pose significant additional risk for System institutions. Because of this concentration, the FCA has provided additional criteria for the completion of collateral evaluations for such small- and medium-sized business loans by requiring all real estate collateral evaluations in excess of \$250,000, not otherwise exempted by § 614.4260(c), to be completed in conformance with the USPAP. Such collateral evaluations of "business loans," while conforming with USPAP, will not necessitate the use of a State-sanctioned appraiser or

compliance with the functional independence requirements.

While the regulations allow institutions to use either a State licensed or State certified appraiser for loan transactions under the \$1.0 million level, the regulations require appraisals of real estate transactions over \$1.0 million to be completed by State certified appraisers. The FCA notes that this requirement is consistent with the requirements of the Financial Institutions Recovery, Reform, and Enforcement Act of 1989 (FIRREA),¹¹ which requires the use of a State certified appraiser for a real estate transaction appraisal of \$1.0 million or more.

C. Additional Collateral

The regulations expand the exceptions for the use of State licensed and certified appraisers to include those instances where the real estate is taken as additional collateral or where the loan is supported through conclusive documentation of earnings capacity and repayment ability evidencing that the real estate is not necessary to support the loan decision.

Adoption of the additional collateral exception and clarifying the "abundance of caution" exception gives System institutions more flexibility in relying on collateral valuations of real property rather than USPAP-based State-sanctioned appraisals. However, the FCA believes that the basic collateral valuation requirements and the institutions' policies and procedures will provide sufficient analysis and detail to address any safety and soundness concerns.

D. Limit Periodic Appraisals

The regulations amend § 614.4260(c) to permit the use of collateral valuations of real estate when a subsequent transaction is related to the advancement of additional funds, a servicing action, loan reamortization, etc., provided there has been no obvious and material change in the market conditions or physical aspects of the real estate that would threaten the adequacy of the institution's real estate collateral protection after the transaction. The regulations continue to require the institutions to develop appropriate policies and procedures addressing the circumstances and frequency for the completion of real property appraisals versus collateral valuations, subject to the specific requirements of the regulation.

¹¹ See Pub. L. 101-73, § 1113, 103 Stat. 183 (1989).

⁸ "Commercial Real Estate Appraisal Survey"; Surveys and Statistics Division, American Bankers Association; Report of Results, June 4, 1992.

⁹ The total sample of the ABA survey consisted of 9,329 banks of various sizes with 51,931 loans reported for a total sample volume of \$22 billion (average size loan is \$424,000, average size farmland loan is \$83,900, and average commercial loan is \$820,000).

¹⁰ Under the current FCA *de minimis* level of \$100,000 approximately 80 percent of the number (38 percent of the volume) of FCBs' and associations' real estate loans would be exempted. With an increase of the *de minimis* level to \$250,000, 95 percent of the number of loans and 66 percent of the loan volume would be exempted from the appraisal requirements.

This revision would provide greater flexibility to the System institutions in determining the appropriate collateral evaluation method to employ (valuation vs. appraisal) and the appropriate level of evaluator expertise required in relation to the associated credit risk. This revision would allow institutions to use collateral valuations instead of appraisals when a loan servicing action is required, a loan is being reamortized, or even when additional funds are advanced as long as the collateral risk has not materially increased. This revision would also eliminate the requirement that a new appraisal be completed if additional funds are advanced and an appraisal has not been completed within 2 years, as was previously required by the regulations.

These exemptions only address the use of real estate appraisals and are not intended to eliminate the need for a review and update of the value of the collateral through the use of a collateral valuation. The FCA's regulation (§ 614.4260(c)(5)) would require a new evaluation for reamortizations of loans if there has been a material increase in the associated risk in concert with the advancement of new funds. This position is consistent with the requirements of the Federal regulatory agencies for transactions where new funds are advanced and there has been a material increase in the associated risk. However, in addition, the FCA, based on safety and soundness concerns identified in previous System practices, has taken the position that any loan servicing action (including reamortizations, collateral releases, etc.) should be accompanied, at a minimum, by a collateral valuation that is consistent with the requirements of these regulations.

E. USPAP "Departure Provision"

The regulations amend § 614.4265(h) to remove the prohibition on the use of the USPAP "Departure Provision." The removal of the restriction will allow institutions to determine the best evaluation method to support the credit decision consistent with safe and sound lending practices that also best serves the borrower. The elimination of this restriction will also provide more flexibility for the institutions in the use of their appraiser resources by allowing State licensed and certified appraisers to complete updated appraisals and collateral valuations that would not otherwise meet the USPAP standards requirements.

The FCA and the Federal regulatory agencies originally included the restriction on the use of the "departure provision" because they were concerned

that the use of the provision would result in an evaluation that is less than reliable. However, upon further discussion and clarification from the Appraisal Foundation,¹² the Federal regulatory agencies now recognize that a "departure provision" appraisal provides the basic information and valuation criteria required to ensure a reliable valuation process.¹³ Therefore, the prohibition on the use of the "departure provision" has been removed.

F. Technical Amendments

The regulations make technical amendments to subpart F pertaining to issues such as an institution's review requirements for appraisals completed by other financial institutions or government agencies. The FCA has eliminated the review procedures from § 614.4255(d), because it is recognized that other U.S. Government agencies, Government-Sponsored Enterprises and/or Federally regulated financial institutions are all guided in their appraisal requirements by USPAP and FIRREA requirements, which are at least as encompassing as FCA's regulatory requirements.

In addition, the regulations make technical amendments to part 614, subpart L, concerning an institution's responsibilities for accepting an independent appraisal completed in response to a credit denial action. In addition, the regulations make changes to part 618, subpart G, concerning an institution's obligation to provide applicants with copies of collateral evaluations on residential properties as required by amended provisions of regulations implementing the Equal Credit Opportunity Act.

Commenters, responding to the FCA's "Regulatory Burden" notice, requested clarification as to the appropriateness of providing time limits on how long an applicant can delay a credit reconsideration while waiting for the completion of an independent appraisal. The FCA believes that this is a valid concern, which should be addressed by a revision to the regulation to require

the completion of the evaluation within a reasonable timeframe, depending on the nature and complexity of the appraisal assignment.

The FCA has also noted that the Federal Reserve Board's amendment of Regulation B, the regulations that implement the ECOA, requires that System institutions provide copies of collateral evaluation reports, containing all pertinent information, to unsuccessful applicants for credit that would have been secured by residential real property. Therefore, the FCA's current regulations pertaining to the release of information must be revised to expressly permit the release of collateral evaluation information when required by the provisions of the ECOA and related regulations. The ECOA regulations generally require the institution, in the case of residential properties, to provide the applicant a copy of the complete evaluation report including any third-party information if it is used as part of the institution's evaluation process.

System institutions should note that, in those cases where disclosure of such collateral evaluations is required by the ECOA, there is no protection for confidential third-party information. Therefore, System institutions should avoid the use of such confidential information where disclosure is likely under the ECOA (i.e., loans secured by residential properties, including farmland loans where a dwelling is taken as part of the security). Confidential third-party information does not include information that would otherwise be publicly available (e.g., contained in the public land records).

G. Other Comments

Several commenters have expressed concerns with the level of requirements and standards for collateral valuations on real estate and, in particular, the requirements for personal property valuations and the use of the income approach for evaluations. The commenters objected to requirements they felt were not consistent with the requirements imposed by the other regulators on their regulated banking institutions.

However, the General Accounting Office (GAO) has recently recommended that the bank and thrift Federal regulatory agencies establish a set of minimum standards for real estate evaluations where the use of State-sanctioned appraisers and compliance with USPAP are not required.¹⁴ The

¹² The Appraisal Foundation was established on November 30, 1987, by professional appraisal organizations, as a not-for-profit corporation under the laws of Illinois, in order to enhance the quality of professional appraisal practices. The USPAP standards were developed and published under the direction of the Appraisal Standards Board of the Foundation. The Foundation also consists of the Appraisal Qualifications Board, which establishes the education and qualification standards for appraisers.

¹³ Appraisal Standards Board's (ASB) statement on Appraisal Standards No. 7, *Permitted Departure from Specific Guidelines for Real Property Appraisals*, was adopted by the ASB on March 22, 1994, and became effective July 1, 1994.

¹⁴ GAO Report (GAO/GGD-94-144), May 25, 1994, *Better Guidance Is Needed For Real Estate Evaluations*.

FCA, by previously adopting and publishing the requirements of § 614.4250 of the regulations, has addressed similar concerns for the System institutions' valuation of real, personal, and intangible property in general.

In addition, the OCC has recently published proposed revisions to its lending limit regulations that would require appraisals/evaluations of collateral used to secure loans where the lender requires collateral (including personal property) to support lending in excess of the 15-percent lending limit. This position is also consistent with the regulatory standards and guidance previously established by the FCA in the collateral evaluation regulations. The FCA's willingness to adopt a 25-percent lending limit for FCBs and direct lender associations is supported by the recognition that collateral evaluation requirements serve as an essential control (58 FR 40311, July 28, 1993).

The FCA has also reviewed concerns previously expressed by the System, which pertain to the required use of the income approach for real estate evaluations in excess of the *de minimis* level (whether an appraisal is required or not). The FCA has clarified in the regulations that the income approach is one of the three prescribed methods of valuing collateral under USPAP. Therefore, whenever USPAP standards are employed the income approach must be considered. If it is not used as a valuation method, there must be an explanation of why it was not used, accompanied by the development of the initial income-producing information to support its lack of relevance as a valuation method.

In § 614.4265(d) the FCA requires the institution to develop and document, as part of the supporting information for the credit analysis, the income-producing capacity of the subject real estate as well as the operations of the business. This information may or may not be derived directly from the real estate evaluation process, but is required as part of the credit analysis to support the debt repayment analysis. Such information is intended to assist in identifying debt coverage shortages that must be addressed by other sources of income. However, the FCA strongly suggests that the income approach be used on agricultural properties where the loan transaction exceeds the \$250,000 *de minimis* level.

The income analysis requirement contained in the regulation does not apply to loan transactions at the \$250,000 *de minimis* level and below. However, prudent business practices

may dictate the development and use of such information in a much wider range of loan transactions. The institutions have the responsibility to identify those instances where the credit risk and the associated credit decision would require the support of the income and debt coverage analysis.

V. Summary

The present revisions of the FCA collateral evaluation requirements will benefit the System institutions by allowing them to enjoy a competitive playing field with the commercial banking industry and relieving some requirements that have been identified as burdensome and unnecessary. The FCA Board believes that these revisions can be made without undermining the basic collateral evaluation requirements or jeopardizing safety and soundness. Therefore, the FCA Board is able to increase the flexibility of the regulations in order to ensure the effectiveness and efficiency of the System's collateral evaluation practices.

List of Subjects

12 CFR Part 614

Agriculture, Banks, banking, Foreign trade, Reporting and recordkeeping requirements, Rural areas.

12 CFR Part 618

Agriculture, Archives and records, Banks, banking, Insurance, Reporting and recordkeeping requirements, Rural areas, Technical assistance.

For reasons stated in the preamble, parts 614 and 618 of chapter VI, title 12 of the Code of Federal Regulations are amended to read as follows:

PART 614—LOAN POLICIES AND OPERATIONS

1. The authority citation for part 614 continues to read as follows:

Authority: Secs. 1.3, 1.5, 1.6, 1.7, 1.9, 1.10, 2.0, 2.2, 2.3, 2.4, 2.10, 2.12, 2.13, 2.15, 3.0, 3.1, 3.3, 3.7, 3.8, 3.10, 3.20, 3.28, 4.12, 4.12A, 4.13, 4.13B, 4.14, 4.14A, 4.14C, 4.14D, 4.14E, 4.18, 4.19, 4.36, 4.37, 5.9, 5.10, 5.17, 7.0, 7.2, 7.6, 7.7, 7.8, 7.12, 7.13, 8.0, 8.5 of the Farm Credit Act (12 U.S.C. 2011, 2013, 2014, 2015, 2017, 2018, 2071, 2073, 2074, 2075, 2091, 2093, 2094, 2096, 2121, 2122, 2124, 2128, 2129, 2131, 2141, 2149, 2183, 2184, 2199, 2201, 2202, 2202a, 2202c, 2202d, 2202e, 2206, 2207, 2219a, 2219b, 2243, 2244, 2252, 2279a, 2279a-2, 2279b, 2279b-1, 2279b-2, 2279f, 2279f-1, 2279aa, 2279aa-5); sec. 413 of Pub. L. 100-233, 101 Stat. 1568, 1639.

2. Part 614 is amended by revising subpart F to read as follows:

Subpart F—Collateral Evaluation Requirements

Sec.

- 614.4240 Collateral definitions.
- 614.4245 Collateral evaluation policies.
- 614.4250 Collateral evaluation standards.
- 614.4255 Independence requirements.
- 614.4260 Evaluation requirements.
- 614.4265 Real property evaluations.
- 614.4266 Personal and intangible property evaluations.
- 614.4267 Professional association membership; competency.

Subpart F—Collateral Evaluation Requirements

§ 614.4240 Collateral definitions.

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

(a) *Abundance of caution*, when used to describe decisions to require collateral, means that the collateral is taken in circumstances in which:

(1) It is not required by statute, regulation, or the institution's policies; and

(2) A prudent lender would extend credit based on a borrower's income and/or other collateral, absent the real estate, and the decision to extend credit was, in fact, based on other sources of revenue or collateral.

(b) *Appraisal* means a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion as to the market value of an adequately described property as of a specific date(s), supported by the presentation and analysis of relevant market information.

(c) *Appraisal Foundation* means the Appraisal Foundation established on November 30, 1987, by professional appraisal organizations, as a not-for-profit corporation under the laws of Illinois, in order to enhance the quality of professional appraisals.

(d) *Appraisal Subcommittee* means the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

(e) *Business loan* means a loan or other extension of credit to any corporation, general or limited partnership, business trust, joint venture, sole proprietorship, or other business entity (including entities and individuals engaged in farming enterprises).

(f) *Cost approach* means the process by which an evaluator establishes an indicated value by measuring the current market cost to construct a reproduction of or replacement for the improvements, minus the amount of depreciation (physical deterioration, or functional and/or external obsolescence) evident in the structure from all causes, plus the market value of the land.

(g) *Evaluation* means a study of the nature, quality, or utility of, interest in, or aspects of, an asset. An evaluation may take the form of a valuation or an appraisal.

(h) *Fee appraiser* means a qualified evaluator who is not an employee of the party contracting for the completion of the evaluation and who performs an evaluation on a fee basis. For purposes of this subpart, a fee appraiser may include a staff evaluator from another Farm Credit System institution only if the employing institution is not operating under joint management with the contracting institution. In addition, for purposes of personal and intangible collateral evaluations, the term "fee appraiser" includes, but is not limited to, certified public accountants, equipment dealers, grain buyers, livestock buyers, and auctioneers.

(i) *FIRREA* means the Financial Institutions Recovery, Reform, and Enforcement Act of 1989.

(j) *Highest and best use* means the reasonable and most probable use of the property that would result in the highest market value of vacant land or improved property, as of the date of valuation; or that use, from among reasonably probable and legally alternative uses, found to be physically possible, appropriately supported, financially feasible, and which results in the highest land value.

(k) *Income capitalization approach* means the procedure that values property by measuring the present value of the expected future benefits of property ownership. This value is derived from either:

(1) Capitalizing a single year's income expectancy or an annual average of several years' income expectancies at a market-derived capitalization rate that reflects a specific income pattern, return on investment, and change in the value of the investment; or

(2) Discounting the annual cashflows for the holding period and the reversion at a specified yield rate or specified yield rates which reflect market behavior.

(l) *Market value* means the most probable price that a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently, knowledgeably, and assuming neither is under duress. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

(1) Buyer and seller are typically motivated;

(2) Both parties are well informed or well advised, and acting in what they consider their best interests;

(3) A reasonable time is allowed for exposure in the open market;

(4) Payment is made in terms of cash in United States dollars or in terms of financial arrangements comparable thereto; and

(5) The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

(m) *Personal property*, for purposes of this subpart, means all tangible and movable property not considered real property or fixtures.

(n) *Qualified evaluator* means an individual who is competent, reputable, impartial, and has demonstrated sufficient training and experience to properly evaluate property of the type that is the subject of the evaluation. For the purposes of this definition, the term "qualified evaluator" includes an appraiser or valuator.

(o) *Real estate* means an identified parcel or tract of land, including improvements, if any.

(p) *Real estate-related financial transactions* means any transaction involving:

(1) The sale, lease, purchase, investment in, or exchange of real property, including interests in property or the financing thereof; or

(2) The refinancing of real property or interests in real property; or

(3) The use of real property or interests in real property as security for a loan or investment, including mortgage-backed securities.

(q) *Real property* means all interests, benefits, and rights inherent in the ownership of real estate.

(r) *Sales comparison approach* means the procedure that values property by comparing the subject property to similar properties located in relatively close proximity, having similar size and utility, and having been recently sold in arm's-length transactions (comparable sales). The sales comparison approach requires the evaluator to estimate the degree of similarity and difference between the subject property and comparable sales. Such comparison shall be made on the basis of conditions of sale, financing terms, market conditions, location, physical characteristics, and income characteristics. Appropriate adjustments shall be made to the sales price of the comparable property based on the identified deficiencies or superiorities of the subject property to arrive at a probable price for which the subject

property could be sold on the date of the collateral evaluation.

(s) *State certified appraiser* means any individual who has satisfied the requirements for and has been certified as a real estate appraiser by a State or territory whose requirements for certification currently meet or exceed the minimum criteria for certification issued by the Appraiser Qualification Board of the Appraisal Foundation. No individual shall be a State certified appraiser unless such individual has achieved a passing grade on a suitable examination administered by a State or territory that is consistent with and equivalent to the Uniform State Certification Examination issued or endorsed by the Appraiser Qualification Board of the Appraisal Foundation. In addition, the Appraisal Subcommittee must not have issued a finding that the policies, practices, or procedures of the State or territory are inconsistent with title XI of FIRREA.

(t) *State licensed appraiser* means any individual who has satisfied the requirements for licensing and has been licensed as a real estate appraiser by a State or territory in which the licensing procedures comply with title XI of FIRREA and in which the Appraisal Subcommittee has not issued a finding that the policies, practices, or procedures of the State or territory are inconsistent with title XI of FIRREA.

(u) *Transaction value* means:

(1) For loans or other extensions of credit, the amount of the loan, loan commitment, or other extensions of credit;

(2) For sales, leases, purchases, investments in, or exchanges of real property, the market value of the property interest involved; and

(3) For the pools of loans or interests in real property, the transaction value of the individual loans or the market value of the real property interests comprising the pool.

(v) *USPAP* means the Uniform Standards of Professional Appraisal Practice adopted by the Appraisal Foundation.

(w) *Valuation* means the process of estimating a defined value of an identified interest or interests in a specific asset or assets as of a given date. A valuation results from the completion of a collateral evaluation that does not require an appraisal.

§ 614.4245 Collateral evaluation policies.

(a) The board of directors of each Farm Credit System institution that engages in lending or leasing secured by collateral shall adopt well-defined and effective collateral evaluation policies and standards, that comply with the

regulations in this subpart, to ensure that collateral evaluations are:

(1) Sufficiently descriptive and detailed to provide ample support to the institution's related credit decisions;

(2) Performed based on criteria established for the purpose of determining the circumstances under which collateral evaluations will be required and when they will be required. Such criteria must, at a minimum:

(i) Establish when an institution will require a collateral appraisal completed under the USPAP rather than a collateral valuation; and

(ii) Take into account such factors as market trends, market volatility, and various types of credit, loan servicing, collection, and liquidation actions; and

(3) Completed by a qualified evaluator in an unbiased manner.

(b) The policies and standards required by this section shall, at a minimum, address the criteria outlined in §§ 614.4250 through 614.4267 of this subpart.

§ 614.4250 Collateral evaluation standards.

(a) When real, personal, or intangible property is taken as security for a loan or is the subject of a lease, an evaluation of such property shall be performed in accordance with § 614.4260 and the institutions' policies and procedures. Such a collateral evaluation shall be identified as either a collateral valuation or a collateral appraisal. Specifically, all collateral evaluations must:

(1) Value the subject property based upon market value as defined in § 614.4240(l);

(2) Be presented in a written format;

(3) Consider the purpose for which the property will be used and the property's highest and best use, if different from the intended use;

(4) Be sufficiently descriptive to enable the reader to ascertain the reasonableness of the estimated market value and the rationale for the estimate;

(5) Provide sufficient detail (including an identification and description of the property) and depth of analysis to reflect the relevant characteristics and complexity of the subject property;

(6) Analyze and report, as appropriate, for real, intangible, and/or personal property, on:

(i) The current income producing capacity of the property;

(ii) A reasonable marketing period for the property;

(iii) The current market conditions and trends that will affect projected

income, to the extent such conditions will affect the value of the property;

(iv) The appropriate deductions and discounts as they would apply to the property, including but not limited to, those based on the condition of the property, as well as the specialization of the operation and property; and

(v) Potential liabilities, including those associated with any hazardous waste or other environmental concerns; and

(7) Include in the evaluation report a certification that the evaluation was not based on a requested minimum valuation or specific valuation or approval of a loan.

(b) For purposes of determining appraisal value as required in section 1.10(a) of the Act, the definition of market value and the requirements of this subpart shall apply.

§ 614.4255 Independence requirements.

(a) *Prohibitions.* For all personal and intangible property, and for all real property exempted under § 614.4260(c) of this subpart, no person may:

(1) Perform evaluations in connection with transactions in which such person has a direct or indirect interest, financial or otherwise, in the loan or subject property;

(2) As a director, vote on or approve a loan decision on which such person performed a collateral evaluation; or

(3) As a director, perform a collateral evaluation in connection with any transaction on which such person made or will be required to make a credit decision.

(b) *Officers and employees.* If the institution's internal control procedures required by § 618.8430 of this chapter include requirements for either a prior approval or post-review of credit decisions, officers and employees may:

(1) Participate in a vote or approval involving assets on which they performed a collateral evaluation; or

(2) Perform a collateral evaluation in connection with a transaction on which they have made or will be required to make a credit decision.

(c) *Real estate appraiser.* Except as provided in § 614.4260(c) of this subpart, all evaluations of real property that serve as the primary security for a loan shall be performed by a qualified real estate appraiser who has no direct or indirect interest, financial or otherwise, in the loan or subject property and is not engaged in the marketing, lending, collection, or credit decision processes of any of the following:

(1) A Farm Credit System institution making or originating the loan;

(2) A Farm Credit System institution operating under common management

with the institution making or originating the loan; or

(3) A Farm Credit System institution purchasing an interest in the loan.

(d) *Fee appraisers.* Fee appraisers shall be engaged directly by the Farm Credit System institution or its agent, and shall have no direct or indirect interest, financial or otherwise, in the property or transaction. A Farm Credit System institution may accept a real estate appraisal that was prepared by an appraiser engaged directly by another Farm Credit System institution, by a United States Government agency, a Government-Sponsored Enterprise or by a financial institution subject to title XI of FIRREA.

(e) *Loan purchases.* No employee who, acting as a State licensed or State certified appraiser, performed a real estate appraisal on any collateral supporting a loan shall subsequently participate in any decision related to the loan purchase.

§ 614.4260 Evaluation requirements.

(a) *Valuation.* Valuations of personal and intangible property, as well as real property exempted under paragraph (c) of this section, shall be performed by qualified individuals who meet the established standards of this subpart and the Farm Credit System institution obtaining the collateral valuation.

(b) Appraisal.

(1) Appraisals for real estate-related financial transactions with transaction values of more than \$250,000 shall be performed by a qualified appraiser who is a State licensed or a State certified real estate appraiser.

(2) Appraisals for real estate-related financial transactions with transaction values of more than \$1,000,000 shall be performed by a qualified appraiser who is a State certified real estate appraiser.

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

(1) The transaction value is \$250,000 or less;

(2) The transaction is a "business loan" as defined in § 614.4240(e) that:

(i) Has a transaction value of \$1,000,000 or less; and

(ii) Is not dependent on income derived from the sale or cash rental of real estate as the primary source of repayment;

(3) A lien on real property has been taken as collateral in an abundance of caution, and the application, when evaluated on the five basic credit factors, without considering the subject real estate, would support the credit

decision that was based on other sources of repayment or collateral;

(4) A lien on real estate is not statutorily required and has been taken for purposes other than the real estate's value;

(5) Subsequent loan transactions involving an existing extension of credit, provided that either:

(i) The transaction does not involve the advancement of new loan funds other than funds necessary to cover reasonable closing costs; or

(ii) There has been no obvious and material change in market conditions or physical aspects of the property that threatens the adequacy of the Farm Credit System institution's real estate collateral protection, even with the advancement of new loan funds;

(6) A Farm Credit System institution purchases a loan or an interest in a loan, pool of loans, or interests in real property, including mortgage-backed securities, provided that:

(i) The appraisal prepared for each loan, pooled loan, or real property interest, when originated, met the standards of this subpart, other Federal regulations adopted pursuant to FIRREA, or the requirements of the government-sponsored secondary market intermediaries under whose auspices the interest is sold; and

(ii) There has been no obvious and material change in market conditions or physical aspects of the property that would threaten the Farm Credit System institution's collateral position; or

(7) A Farm Credit System institution makes or purchases a loan secured by real estate, which loan is guaranteed by an agency of the United States Government and is supported by an appraisal that conforms to the requirements of the guaranteeing agency.

To qualify for exceptions in paragraphs (c)(1) through (c)(7) of this section from the requirements of this subpart, the institution must have documentation justifying the use of such exceptions in the applicable loan file(s). In addition, the institution must document that the repayment of a "business loan" is not dependent on income derived from the sale or cash rental of real estate.

(d) *FCA-required appraisals.* The FCA reserves the right to require an appraisal under this subpart whenever it believes it is necessary to address safety and soundness issues.

(e) *Reciprocity.* The requirements of this subpart are satisfied by the use of State certified or State licensed appraisers from any State provided that:

(1) The appraiser is qualified to perform such appraisals;

(2) The applicable Farm Credit System institution has established policies providing for such interstate appraisals; and

(3) The applicable State appraiser licensing and certification agency recognizes the certification or license of the appraiser's State of permanent certification or licensure.

§ 614.4265 Real property evaluations.

(a) Real estate shall be valued on the basis of market value.

(b) Market value shall be determined by a reasonable valuation method that:

(1) Considers the income capitalization approach, the sales comparison approach, and/or the cost approach, as appropriate, to determine market value;

(2) Explains and documents the elimination of any approach not used.

(3) Reconciles the market values of the applicable approaches; and

(c) Where real estate appraisals or real estate collateral valuations for business loans in excess of \$250,000 that would not otherwise be exempted under § 614.4260(c) are required, such evaluations shall be completed in accordance with the USPAP and shall include a legal description of the subject property.

(d) At a minimum, the institution shall develop and document the evaluation of the income and debt servicing capacity for the property and operation where the transaction value exceeds \$250,000 and the real estate taken as collateral:

(1) Is an integral part of and supports the principal source of loan repayment; or

(2) Is not an integral part of and does not support the principal source of loan repayment, but has demonstrable rental market appeal, is statutorily required, and fully or partially constitutes an integral part of an agricultural or aquatic operation.

(e) The income-earning and debt-servicing capacity established under paragraph (d) of this section on such properties shall be documented as part of the credit analysis for any related loan action, whether or not the income capitalization approach value is used as the basis for the market value conclusion stated in the evaluation report.

(f) Collateral closely aligned with, an integral part of, and normally sold with real estate (fixtures) may be included in the value of the real estate. All other collateral associated with the real estate, but designated as personal property, shall be evaluated as personal property in accordance with §§ 614.4250 and 614.4266.

(g) The evaluation shall properly identify all nonagricultural influences, including, but not limited to, urban development, mineral deposits, and commercial building development value, and the reasoning supporting the evaluator's highest and best-use conclusion.

(h) Where an evaluation of real property is completed by a fee appraiser, as defined in § 614.4240(g), the institution's standards shall include provisions for periodic collateral inspections performed by the institution's account officer or appropriate designee.

§ 614.4266 Personal and intangible property evaluations.

(a) Personal property and intangibles shall be valued on the basis of market value in accordance with the institution's evaluation standards and policies.

(b) Personal property evaluations shall include a source of comparisons of value (i.e., equipment dealer listings, Blue Book, market sales reports, etc.) and a description of the property being evaluated, including location of the property and, where applicable, quantity, species/variety, measure/weight, value per unit and in total, type of identification (such as brand, bill of lading, or warehouse receipt), quality, condition, and date.

(c) Evaluations of intangibles shall include a review and description of the documents supporting the property interests and the marketability of the intangible property, including applicable terms, conditions, and restrictions contained in the document that would affect the value of the property.

(d) Where an evaluation of personal or intangible property is completed by a fee appraiser, as defined in § 614.4240(g), the institution's standards shall include provisions for periodic collateral inspections and verification by the institution's account officer or appropriate designee.

When a Farm Credit System institution deems an appraisal necessary, personal or intangible property shall be appraised in accordance with procedures and standards established by the institution by individuals deemed qualified by the institution to complete the work under the USPAP Competency and Ethics Provisions.

§ 614.4267 Professional association membership; competency.

(a) *Membership in appraisal organizations.* A State certified appraiser or a State licensed appraiser

may not be excluded from consideration for an assignment for a real estate-related transaction solely by virtue of membership or lack of membership in any particular appraisal organization.

(b) *Competency.* All staff and fee evaluators, including appraisers, performing evaluations in connection with real, personal, or intangible property taken as collateral in connection with extensions of credit must meet the qualification requirements of this subpart. However, an evaluator (as defined in § 614.4240(n)) may not be considered competent solely by virtue of being certified, licensed, or accredited. Any determination of competency shall be based on the individual's experience and educational background as they relate to the particular evaluation assignment for which such individual is being considered.

Subpart L—Actions on Applications; Review of Credit Decisions

3. Section 614.4443 is amended by revising paragraph (c) to read as follows:

§ 614.4443 Review process.

* * * * *

(c) *Independent collateral evaluations.*

(1) An applicant for a loan that has been denied may, as part of the request for a review, request an independent collateral evaluation by an independent evaluator, as defined in § 614.4440 of this subpart, of any interests in property securing the loan (other than the stock or participation certificates of the lender held by the borrower).

(2) Within 30 days after a request for a collateral evaluation, the credit review committee shall present the applicant or borrower with a list of three independent evaluators approved by the qualified lender. The borrower shall select and engage the services of an evaluator from the list to perform the collateral evaluation. The collateral evaluation must be completed within a reasonable period of time. The cost of the evaluation shall be borne by the applicant or borrower.

(3) The credit review committee shall consider the results of any such collateral evaluation in any final determination with respect to the loan or restructuring, provided the applicant's or borrower's evaluator has provided a copy of the evaluation report to the lender not less than 15 business days prior to any scheduled meeting of the credit review committee.

(4) Any such collateral evaluations that are not completed in conformance with the collateral evaluation

requirements described in subpart F of this part, relative to collateral evaluation standards, independence requirements, and qualification requirements, need not be considered by the credit review committee. To facilitate the proper completion of such collateral evaluations, a copy of part 614, subpart F, shall be provided to the borrower for presentation to the borrower's evaluator, and a copy signed by the borrower's evaluator shall be a required exhibit in the subsequent evaluation report.

* * * * *

PART 618—GENERAL PROVISIONS

4. The authority citation for part 618 continues to read as follows:

Authority: Secs. 1.5, 1.11, 1.12, 2.2, 2.4, 2.5, 2.12, 3.1, 3.7, 4.12, 4.13A, 4.25, 4.29, 5.9, 5.10, 5.17 of the Farm Credit Act (12 U.S.C. 2013, 2019, 2020, 2073, 2075, 2076, 2093, 2122, 2128, 2200, 2211, 2218, 2243, 2244, 2252).

Subpart G—Releasing Information

5. Section 618.8320 is amended by adding a new paragraph (b)(11) to read as follows:

§ 618.8320 Data regarding borrowers and loan applicants.

* * * * *

(b) * * *
(11) Collateral evaluation reports may be released to a loan applicant, when required by the Equal Credit Opportunity Act or related regulations.

* * * * *

§ 618.8325 [Amended]

6. Section 618.8325 is amended by removing the words "appraisal" and "an appraisal" and adding in their place the words "collateral evaluation" and "a collateral evaluation" consecutively in the second and third sentences in paragraph (b).

Dated: September 1, 1994.
Curtis M. Anderson,
Secretary, Farm Credit Administration Board.
[FR Doc. 94-22220 Filed 9-9-94; 8:45 am]
BILLING CODE 6705-01-P

12 CFR Part 630

RIN 3052-AB23

Disclosure to Investors in Systemwide and Consolidated Bank Debt Obligations of the Farm Credit System

AGENCY: Farm Credit Administration.
ACTION: Final rule.

SUMMARY: The Farm Credit Administration (FCA), by the FCA Board, adopts new final regulations

governing the Farm Credit System's (FCS or System) preparation and reporting of Systemwide financial information to investors. The final rule requires that each bank of the System, the Federal Farm Credit Banks Funding Corporation (Funding Corporation), and the Farm Credit System Financial Assistance Corporation (Financial Assistance Corporation) jointly publish periodic reports to investors and potential investors in Systemwide debt obligations and consolidated bank debt obligations of the Farm Credit System (FCS debt obligations).

The purpose of the rule is to ensure that timely and accurate Systemwide financial information continues to be disclosed to investors and the public to assist them in making informed decisions regarding FCS debt obligations and System institutions. The required report to investors must present Systemwide combined financial statements, supplemental financial statement information, and related analyses pertaining to System institutions on a combined basis. The final rule covers Systemwide financial and non-financial information now regularly disclosed by the Funding Corporation in annual and quarterly information statements and press releases.

The final regulations generally parallel the existing Farm Credit System Disclosure Program (System Disclosure Program) and should not impose any significant additional burdens on System institutions. Consistent with the System Disclosure Program, the final rule preserves the existing reporting relationship between a System bank and its related associations.

EFFECTIVE DATE: The regulations shall become effective upon the expiration of 30 days after publication in the **Federal Register** during which either or both Houses of Congress are in session. Notice of the effective date will be published in the **Federal Register**.

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