Proposed Rules

Federal Register

Vol. 61, No. 73

Monday, April 15, 1996

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

FARM CREDIT ADMINISTRATION

12 CFR Parts 614 and 619

RIN 3052–AB64

Loan Policies and Operations; Definitions; Loan Underwriting

AGENCY: Farm Credit Administration.

ACTION: Proposed rule.

SUMMARY: The Farm Credit Administration (FCA), by the Farm Credit Administration Board (Board), proposes amendments to the regulations relating to loan underwriting in response to comments received from the Board's initiative to reduce regulatory burden, streamline the regulations, and set clear minimum regulatory standards where practicable. The proposed regulations would require each institution to adopt loan underwriting policies and standards, eliminate unnecessary regulations, and make other changes to the regulations governing prudent credit administration, the lending authority of production credit associations, and collateral evaluations.

DATES: Comments should be received on or before May 15, 1996.

ADDRESSES: Comments may be mailed or delivered 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 review by interested parties in the Office of Examination, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT:

John J. Hays, Policy Analyst, Regulation Development, Office of Examination, (703) 883–4498, TDD (703) 883–4444; or

Joy E. Strickland, Senior Attorney, Regulatory Enforcement Division, Office of General Counsel, (703) 883–4020, TDD (703) 883–4444.

SUPPLEMENTARY INFORMATION: On June 10, 1993, the FCA Board approved a notice seeking public comment on the appropriateness of requirements that the FCA regulations impose on the Farm Credit System (System or FCS). *See* 58 FR 34003 (June 23, 1993). The FCA has addressed many of those comments in previous rulemakings. Of the comments received in response to the notice, 24 were related to loan underwriting and the independent credit judgment rule for loan sale and purchase transactions through agents. This rulemaking addresses those issues. In addition to responding to the regulatory burden comments, the FCA is also proposing other amendments to refocus regulatory requirements for loan underwriting, make the regulations more understandable and useful to the reader, set minimum regulatory standards, and make conforming amendments.

In response to regulatory burden comments and in an attempt to achieve consistency throughout the regulations in subparts C through E of part 614, the FCA is proposing a substantial revision to the structure and content of the regulations. In addition, some areas that were addressed in loan underwriting are more properly the focus of subpart A, *Lending Authorities*, and the FCA is proposing relocating those items from subpart E to subpart A. The explanation of proposed amendments to subpart A is contained in the discussion of the proposed amendments to subpart E, *Loan Terms and Conditions*. Accordingly, the following discussion begins with subparts C and D.

In order to provide readers with a guideline for the changes proposed, the following is a list of changes for the proposed revisions in parts 614 and 619:

Subpart A—Lending Authorities

§§ 614.4000 through 614.4050—Revised.

Subpart C—Bank/Association Lending Relationship

§§ 614.4100, 614.4110, and 614.4130—No changes proposed.
§ 614.4120—Revised.
§§ 614.4135 through 614.4145—Deleted.

Subpart D—General Loan Policies for Banks and Associations

§ 614.4150—Revised.
§ 614.4160—Deleted.
§ 614.4165—Revised.

Subpart E—Loan Terms and Conditions

§ 614.4200—Revised.
§§ 614.4210 through 614.4230—Deleted.
§ 614.4231—Revised.
§§ 614.4232 and 614.4233—No changes proposed.

Subpart F—Collateral Evaluation Requirements

§§ 614.4245 and 614.4250—Revised. No other amendments proposed.

Subpart H—Loan Purchases and Sales

§ 614.4325—Revised. No other amendments proposed.

Subpart J—Lending Limits

§§ 614.4355 and 614.4358—Revised. No other amendments proposed.

Subpart Q—Banks for Cooperatives Financing International Trade

§ 614.4810—Revised. No other amendments proposed.

Part 619—Definitions

§§ 619.9165 and 619.9290—Removed. No other amendments proposed.

I. Subparts C and D—Bank/Association Lending Relationship and General Loan Policies for Banks and Associations

In response to the request for comments on regulatory burden, one association commented that most Farm Credit Banks (FCBs) have changed their relationship with associations from a supervisory to a wholesale lending relationship. The association stated that the FCA examiners encourage direct lender associations to adopt their own policies and procedures. FCA regulations, however, continue to contemplate a supervisory role for FCBs over association lending operations as if all banks retained direct (retail) lending authorities without recognizing the role of many banks as wholesale or discount lenders to Farm Credit associations. The association stated that operational policies for direct lenders should be developed by the associations rather than the banks, but noted that this practice is inconsistent with existing regulations and that clarifying language from the FCA would be helpful.

The criticized regulations, §§ 614.4135, 614.4140, and 614.4145, were promulgated in 1972 to implement the Farm Credit Act of 1971. These regulations, addressing credit supervision, have not been amended since their adoption. At that time, the banks in the Farm Credit System

performed many supervisory functions over associations, including conducting credit reviews. The FCA's primary focus at the time was to regulate the banks' own operations, including their supervision of associations and did not emphasize the agency's present practice of exercising its regulatory and enforcement authorities directly over associations.

Since 1972, the importance of direct lender associations in the Farm Credit System has increased substantially. As a result, many banks are becoming wholesale lenders rather than direct lenders. Statutory changes since 1972 in FCA's structure and authorities and in the relationship of associations with their funding banks result in a greater need for accountability of direct lender associations. The FCA believes that autonomy in association operations promotes accountability in many areas including prudent lending operations. Therefore, the FCA proposes to delete existing §§ 614.4135, 614.4140, and 614.4145 and clarify the role of Farm Credit Banks (and Agricultural Credit Banks) in supervision of association's credit operations. However, the FCA does not intend to minimize the importance of general bank oversight of association credit activities that may have a material impact on the bank and on the association's ability to perform on its direct loan(s) from the bank. These issues, however, can be appropriately addressed in the agreements governing the lending relationship between a bank and an association.

The FCA believes that each direct lender, through its board of directors, should adopt and follow its own policies and procedures for operations. The FCA agrees with the commenter that duplication and possibly conflict may result when an association is required by regulation to abide by district policies and at the same time is encouraged to develop its own local policies and procedures.

In order to emphasize that the responsibility for developing prudent loan policies and underwriting standards rests with each institution, the FCA proposes to delete certain existing regulations. For example, § 614.4150 currently defines ''sound loan.'' Rather than define ''sound loan'' by regulation, the FCA proposes to require each institution to adopt loan underwriting policies and standards that contain measurable criteria appropriate for the type of loan and the institution's risk-bearing capacity, which criteria can be used to determine whether the applicant's operational, financial, and management resources are sufficient to ensure repayment of the debt from cashflow, taking into account the borrower's other debt obligations.

Existing § 614.4160 requires that each bank adopt policies to ensure that lending practices result in sound loans and specifies five credit factors that must be analyzed and documented in evaluating the creditworthiness of each loan applicant. The five credit factors listed, however, need not be given the same weight in every transaction and may be only a portion of the variables that should be considered in some transactions. The FCA believes that each institution should have the responsibility and the flexibility to adapt its loan underwriting program to its particular circumstances without regulatory mandates for the basic and well understood principles of prudent lending. Therefore, existing § 614.4160 would be deleted under the proposed regulations, and the mandate for an appropriate analysis of creditworthiness would be included in proposed § 614.4150(g) governing loan underwriting standards.

To implement the requirement that each institution must develop its own policies, the FCA proposes a new regulation that addresses credit supervision by each institution's board of directors and the establishment of loan policies and underwriting standards by each direct lending institution. In instances where direct lending authority has not been transferred to the Federal land bank associations (FLBAs), FCBs must still develop lending policies and standards that all FLBAs within their respective districts must follow in making credit decisions for the bank. Additionally, in certain circumstances where loss exposure accrues to individual FLBAs through loss sharing agreements with the FCB, loan policies and standards may be needed by FLBAs to augment and supplement those established by their supervisory banks.

The proposed rule, § 614.4150, addresses the responsibility of each institution's board of directors to adopt policies to guide lending. Under these policies, each direct lending institution would be required to adopt written standards for lending and issue written policies, operating procedures, and control mechanisms that reflect those standards for guidance in the extension and administration of sound credit. These requirements parallel the current requirements in existing § 614.4145, which address each bank's responsibilities to supervise credit operations in its district. This regulation would clearly establish that each direct lending institution's board of directors is not only accountable for providing policy direction for credit operations, but also is responsible for more specific guidance in the extension and administration of sound credit.

The FCA proposes to leave the prescription of specific credit policies and underwriting standards to each direct lender institution's board rather than to prescribe them by regulation. However, the proposed regulation would require certain minimum standards that must be addressed in the institution's policies. Proposed § 614.4150 would require that the institution's policies and procedures address minimum standards for credit information and verification, credit analysis, loan disbursement and servicing, collateral requirements, loan approval delegations and requirements for board reporting, loan pricing requirements, prudent loan underwriting standards, loan terms and conditions that are appropriate for a loan's purpose, and other areas necessary for the professional conduct of a lending organization.

Under the proposed rule, the FCA would evaluate the adequacy of each institution's policies to ensure that its board is providing sufficient direction, guidance, and internal controls for the institution's credit operations. The procedures implementing these policies should be in sufficient detail to properly manage and control risk in the institution's portfolio consistent with the institution's risk-bearing capacity. Each lending program should be guided by policies and underwriting standards that address the specific types of risks associated with the types of loans within an institution's overall lending program. The FCA believes that institutions should have the flexibility to develop different lending programs for the types of customers within their chartered territory. The FCA's primary concern is whether or not the programs are conducted in a safe and sound manner in compliance with the statute and the regulations.

The FCA is aware that some System institutions are making increased use of credit scoring techniques in the evaluation of certain types of loans. Credit scoring and other techniques used in minimum information programs, when fully understood and well managed by an institution and its board of directors, can be a valuable tool in making credit decisions. These proposed regulatory changes will allow System institutions the flexibility to use credit scoring and enhance minimum information programs in credit delivery decisions.

Proposed § 614.4150(g) would require each direct lending institution to develop written, measurable loan underwriting standards to be used to determine whether the applicant has the operational, financial, and management resources necessary to ensure repayment of the debt from cashflow, taking into consideration all other obligations. Such standards would be required to be applied to each loan transaction as appropriate, taking into consideration the amount of the loan, the loan's purpose, the nature and type of credit risk and enterprise being financed. The measurements should be quantitative to the extent feasible (as for financial information), but may be qualitative for factors that do not lend themselves to quantification, but are considered important to the credit decision. Such standards and their application would be required to be related to the institution's risk-bearing ability and to take into account future credit risk uncertainties. Under proposed § 614.4150(g), each institution would be required to embody the concepts underlying existing §§ 614.4150 and 614.4160 in a comprehensive, written loan policy. In addition, the proposed regulations would require that for any loans made that do not meet the loan underwriting standards, the written credit analysis must document the compensating factors or extenuating circumstances that demonstrate repayment capacity. The FCA recognizes that even among acceptable credits the level of perceived risk will vary. Accordingly, a well capitalized institution with strong capital and sound earnings potential will be better positioned to extend credit to a borrower who appears to have the capacity to repay but nonetheless presents a higher risk. A weaker institution will need to establish higher standards until it improves its risk-bearing capacity.

Proposed § 614.4150(h) would require that loan terms and conditions are appropriate for the purpose of a loan. In this regard, assets with a useful life of 5 to 10 years would not be financed with a loan that has a 30-year repayment obligation. This provision is added in order to retain the existing regulatory requirement in § 614.4160(e) that the institution has to consider the constructiveness and practicality of the loan amount, purpose, and terms and conditions.

Existing § 614.4165 requires that bank lending policies give special consideration to the credit needs of young, beginning, or small farmers, ranchers, and producers or harvesters of aquatic products. The regulation also defines terms and requires associations to make annual reports to the banks regarding the operations and achievements in these lending programs. The banks, in turn, are required to make annual reports to the FCA. Although two institutions commented that the FCA should eliminate the reporting requirements in § 614.4165, these requirements are statutory and cannot be eliminated. Section 4.19 of the Act obligates *each* institution to take the needs of young, beginning, and small farmers and ranchers into consideration and report annually on *its* progress. However, the reporting instructions can be eliminated as a regulatory requirement and be implemented instead through the Agency's call report instructions. The FCA proposes to retain the regulatory requirement to have a lending program for this segment of the market, as required by section 4.19 of the Act, but to transfer the instructions for reporting to the call report. The call report instructions will provide specific direction and timing for consistent reporting from System institutions to the FCA. The FCA will continue to report to the Congress as the Act requires.

II. Subpart E—Loan Terms and Conditions

Existing § 614.4200 requires institutions to set forth the terms and conditions of each loan in a written loan agreement between the borrower and the lender. Seven institutions commented that the FCA should eliminate the requirement that loan terms and conditions be set forth in a written loan agreement. Some of the commenters suggested that the reference to a loan agreement should be changed to reference a written instrument, thus permitting institutions to document loans in the most appropriate fashion. Other commenters requested that the FCA eliminate the loan agreement requirement for loans below a de minimus level, such as $250,000. Finally, one commenter noted that the requirement that loan terms and conditions be adequately disclosed to the borrower prior to closing is unclear and troublesome and should be deleted.

The FCA originally adopted the requirement for a loan agreement between the lender and borrower in order to ensure that borrowers have the requisite information in order to meet all loan conditions and to provide institutions with a means of imposing a legal obligation on borrowers to provide certified financial statements. *See* 55 FR 24861 (June 19, 1990). Because the FCA is proposing amendments to its financial statement collection requirements and wishes to provide institutions with more flexibility, the FCA is proposing to delete the requirement that there be a loan agreement for each loan. Instead, proposed § 614.4200(a)(1) would require institutions to set forth the terms and conditions of each loan in a written instrument. Such written instrument could be a loan agreement, promissory note, or other instrument appropriate to the type and amount of the credit extended. The FCA notes that continued use of loan agreements is a prudent practice for complex loans, loans of above average risk, and loans with conditions that are not standard or that contain elements that the borrower must fulfill prior to loan closing or during the term of the loan. The FCA also notes that when periodic financial statements are required, the written instrument used to convey terms and conditions or the promissory note should create a legal obligation on the part of the borrower to provide the statements.

Proposed § 614.4200(a)(2) also would replace the current rules with a simple requirement that the borrower be given notice of the terms and conditions of the loan prior to loan closing. Existing § 614.4200 requires that if the loan closing will occur more than 15 days after notification of the approval is provided to the borrower, the notice of approval must set forth the terms and conditions on which credit will be extended. One institution commented that the regulator should not prescribe the contents of the notice of approval. The FCA does not wish to dictate to institutions what may be contained in its notice of approval to borrowers. However, the FCA continues to believe that it is important that borrowers receive prompt written notice of all terms and conditions on which credit will be extended. It is especially important that the borrower receive prompt written notice in situations where the borrower must take certain actions prior to loan closing. Therefore, the proposed regulations would require institutions to provide prompt written notice of approval of the loan and ensure that loan terms and conditions are properly and promptly disclosed to the borrower not later than loan closing. In addition, copies of all documents executed by a borrower in connection with the closing of a loan under titles I or II of the Act must be provided to the borrower at the time of execution and any time thereafter that the borrower requests copies. This is a requirement of section 4.13A of the Act for each

qualified lender and is restated in the regulation as a matter of convenience.

The FCA also notes that System institutions are subject to the requirements of the Federal Equal Credit Opportunity Act (ECOA), 15 U.S.C. 1691 *et seq.,* with respect to the timing and content of notification of action taken on credit applications. The ECOA generally requires creditors to provide applicants with notice that their credit request has been approved or denied within 30 days after receiving a completed application and entitles rejected applicants to learn the principal, specific reasons for the adverse decision. Proposed new § 614.4200(a)(3) incorporates by reference the requirements contained in the ECOA's implementing Regulation B, 12 CFR 202.9.

The FCA received comments from nine institutions regarding the requirements in existing § 614.4200 and the former requirement in section 1.10(a)(5) of the Act regarding obtaining financial statements from borrowers. Section 1.10(a)(5) of the Act, which required financial statements for long-term real estate loans at least every 3 years or sooner as determined by the FCA through regulation, was removed from the statute by the Farm Credit System Reform Act of 1996 (1996 Amendments)(Pub. L. 104–105, Feb. 10, 1996).

Several institutions commented that the requirement for obtaining annual financial statements from borrowers was excessive. One institution stated that institutions should obtain financial statements from borrowers based upon an institution's assessment of risk with respect to categories of loans. Another stated that the need for periodic financial information should be determined according to loan size, complexity, and performance history as well as the institution's risk-bearing ability. One commenter stated that the requirement to obtain periodic financial statements should be changed from obtaining statements annually to obtaining them every 3 years as required in the Act. Finally, one institution stated that there should be an annual requirement only for loans in excess of one million dollars.

The FCA agrees that as long as institutions have in place sufficient loan underwriting standards that include requirements for obtaining necessary financial information, annual submission of a verifiable balance sheet and an income statement is not needed for many loans. As a result, the FCA is proposing significant amendments to the existing financial information requirements in § 614.4200, including a proposed separation of the provisions requiring that financial statements be obtained when making or renewing a loan from the requirement for requiring periodic financial statements during the term of a loan. The FCA believes it is essential, for safety and soundness reasons, that appropriate financial information be required when making every loan, and that certain loans, i.e. those with larger balances and those not classified acceptable, should be supported with more detailed financial information, which is provided by a balance sheet and income statement.

The FCA proposes to retain the general requirement that when making, renewing, or taking a material servicing action, such as a release of a significant portion of the collateral, institutions obtain a verifiable balance sheet and income statement, certified true and correct by the borrower, for certain categories of loans made under title I or II of the Act. However, rural home loans and loans of $500,000 or less that are amortized monthly would be exempt from this regulatory requirement, and institutions would be given the flexibility to address this need through their own credit standards and lending policies. A borrower's monthly payment record on such a loan provides an ongoing indication to a lender of the borrower's financial condition and repayment capacity. The FCA is also proposing that all other loans and commitments with an aggregate outstanding balance of $100,000 or less per borrower be exempt from the requirement to obtain financial statements when making and servicing such loans. Under each exemption, however, institutions would be required to have adequate procedures and controls in place to obtain and verify sufficient financial information to establish repayment capacity and assess the risk in the loan.

The requirement for obtaining periodic financial statements is also modified in the proposed regulations. The regulation would require annual financial statements for all loans, except: (1) Rural home loans; (2) loans (other than rural home loans) amortized monthly of $500,000 or less; (3) loans classified acceptable that have an aggregate outstanding balance and commitment per borrower of $200,000 or less; and (4) loans that have an aggregate outstanding balance and commitment per borrower of $100,000 or less, regardless of credit classification.

The FCA believes that obtaining verifiable balance sheets and income statements is a necessary tool for managing adversely classified credit. As the credit risk in a particular loan increases, identified through its assigned credit classification, it is imperative that the lender have complete and accurate borrower financial information to appropriately monitor and service the account. For loans classified acceptable under $200,000, the FCA believes that institutions should have the flexibility to forego reviews of annual financial statements, but encourages institutions to require financial statements for loans under this threshold in which the risk level warrants closer monitoring. Such financial information would permit lenders to learn of any potential changes in the borrower's repayment capacity. The FCA acknowledges that there are no industrywide standards for the size or complexity of loans warranting current and complete financial information. However, prudent credit practices dictate that risk be assessed in each loan. The FCA believes that the best method for assessing risk in certain loans is through an analysis of a balance sheet and income statement and incorporates such practices in its proposed amendments to § 614.4200. The FCA proposes $200,000 as an appropriate threshold to require balance sheets and income statements, even for acceptable loans.

The FCA received four comments regarding the security requirements for long-term real estate loans. Existing § 614.4210(a) requires that long-term real estate mortgage loans must be secured by a first lien on an interest in real estate comprising agricultural property, an eligible farm-related business, an eligible rural residence, or real estate used as an integral part of an eligible aquatic operation. Additional security may be taken for long-term real estate loans, but it may not be included in meeting the requirement in § 614.4210(b) that funds only be advanced if the outstanding loan balance after the advance would not exceed 85 percent of the appraised value of the real estate taken as primary security.

One commenter requested that the FCA remove the requirement that the primary security for a loan be agricultural land and suggested that the requirement creates an eligibility test for both the borrower and the collateral. Another commenter suggested that any additional security taken should be considered toward meeting the loan-to-value limitation in § 614.4210(b). Two commenters suggested that the FCA eliminate the existing requirement to report regularly to the institution's board any advance of funds by an

institution to protect the institution's collateral position.

In response to the commenters and in order to achieve the goal of adequately collateralized loans and safe and sound lending activities with a minimum of regulatory burden, the FCA is proposing to delete existing § 614.4210. Requirements relating to security for long-term loans would be placed in revised § 614.4200, *General requirements.* Under the proposal, § 614.4200(c)(1) would continue to require long-term real estate mortgage loans to be secured by a first lien on real estate. The proposed regulation would also maintain the existing requirement regarding the agricultural nature of the real estate security and continue to permit other real estate to be taken as additional security. The proposal would, however, delete the requirement in existing § 614.4210(b) that only the value of the agricultural property be considered for the purpose of meeting the loan-to-value ratio. When both agricultural and nonagricultural property is taken as security, the total value of the real estate may be considered, provided that the security is primarily agricultural, in that the value of the agricultural property is greater than the other real estate security.

The FCA believes that this modification preserves the rural focus of long-term mortgage lenders contemplated by section 1.7 of the Act and also implements the safety and soundness concern reflected in the loan-to-value requirements of section 1.10. At the same time, the proposal would offer institutions greater flexibility to take the type of real estate collateral that best secures each loan. If the proposed regulations are adopted, the FCA will require institutions to include standards for real estate collateral that ensure safe and sound lending practices in their loan policies and underwriting standards, pursuant to proposed § 614.4150 and subpart F of part 614.

The FCA is also proposing to delete the requirement to report periodically to the institution's board of directors in situations in which the institution has advanced funds in order to protect its collateral position. Instead, the FCA expects the board of directors of each institution to direct management to establish appropriate procedures and reporting requirements for monitoring and controlling the advance of funds to protect collateral. Institutions should document that the advance is in the institution's best interest despite the fact that the real estate may not fully secure the advance.

The FCA is proposing another modification to implement a provision of the 1996 Amendments regarding the loan security requirements. Existing § 614.4210(b) requires that no funds can be advanced if the outstanding loan balance after the advance exceeds 85 percent (or 97 percent if guaranteed by a Government agency) of the appraised value of the real estate taken as primary security. Section 202 of the 1996 Amendments provides that a loan on which private mortgage insurance (PMI) is obtained may exceed 85 percent of the appraised value of the real estate security to the extent that the loan amount in excess of 85 percent is covered by PMI. The proposed regulations would incorporate this change in revised § 614.4200(c)(1).

The FCA also received a comment relating to the requirements for intermediate-term loans in existing § 614.4220. The commenter stated that the FCA should eliminate the requirement that intermediate-term loans be specifically identified and have a regular level amortization schedule (i.e., no graduated schedules, balloons, or bullet maturities). The institution asserts that good credit sense should dictate loan terms, rather than limiting them through regulation.

In response, the FCA notes that loans that currently must be amortized and specifically identified are loans that are made for major capital items, such as new equipment and new or remodeled buildings and facilities. Existing § 614.4220(b)(2) requires that the maturity of such loans must be shorter than the useful life of the item, and the amount outstanding must at all times be less than the value of the item after normal depreciation.

The FCA believes that existing § 614.4220(b)(2) contains an important credit philosophy that should be maintained by Farm Credit lenders. However, the FCA believes that matters such as loan amortization and maturity for short-term loans are more appropriately addressed in each lender's loan underwriting policies and standards and that prudent underwriting standards would reflect such a philosophy. Therefore, the FCA proposes to delete the requirements in § 614.4220(b)(2). The items in § 614.4220 that address loan terms would be relocated to § 614.4040 in subpart A, and the items addressing loan underwriting standards and loan security requirements are contained in the proposed amendments to § 614.4200. As a result of incorporating the provisions relating to short- and intermediate-term loans in §§ 614.4040 and 614.4200, existing § 614.4220 is proposed to be deleted. In addition, the proposed regulations would codify guidance that the FCA has provided to institutions regarding loans made by production credit associations (PCAs) that have amortization schedules longer than 7 years.

Proposed § 614.4200(c)(3) would continue the provision in existing § 614.4220(b)(1) that short- and intermediate-term loans may be secured or unsecured as the documented creditworthiness of the borrower warrants. Institutions would be expected to include collateral standards for short-and intermediate-term loans in the loan underwriting standards adopted pursuant to proposed § 614.4150. Existing § 614.4040 would be amended to specify the terms for which PCAs can make loans. Authority would continue for PCAs to make loans with maturities of up to 7 years and make loans with maturities in excess of 7, but not more than 10 years, if authorized in policies adopted by the funding bank. The FCA is proposing to add flexibility for PCAs to make loans with maturities of 10 years or less having amortization schedules of up to 15 years when such loans are authorized in policies approved by the funding bank.

The FCA notes that neither the Act nor FCA regulations prohibit PCAs from offering borrowers a loan amortization period greater than the term of the loan with a balloon payment at maturity. Nor are PCAs precluded from refinancing such loans when safety and soundness conditions are met and the circumstances warrant such action. Therefore, the FCA is clarifying in the proposed regulations that PCAs may make loans with maturities of 10 years or less that are amortized over a period of up to 15 years, the longest period that Congress has considered appropriate for production lenders. This authority is subject to the following restrictions:

(1) The loan may be refinanced only if the lender determines at maturity that the loan meets its current loan policy and loan underwriting criteria;

(2) Any refinancing of the loan may not extend beyond 15 years from the date of the original loan; and

(3) The loan must be for refinancing or acquisition of a capital asset or other permissible purpose and may not be made solely to finance the acquisition of real estate.

The FCA notes that in making loans with an amortization in excess of 10 years, institutions cannot include an explicit or implicit guarantee or promise of refinancing. However, prudent lending criteria dictate that PCAs should determine whether a borrower's circumstances are likely to warrant refinancing of the balloon payment at

the maturity date. Also, the FCA clarifies that although loans cannot be made solely for the purpose of acquiring real estate, loans may be made for facility expansions that include the purchase of real estate on which to build the facilities. Finally, the FCA reiterates that any loans made by PCAs with an amortization in excess of 7 years must be authorized in policies adopted by the funding bank. In adopting such policies, the FCA expects the bank boards to consider the competitive impact on other chartered System institutions operating in the district territory and minimize any disruptive impact of new lending programs to the extent possible, consistent with the authority to make loans with an amortization of up to 15 years.

The PCAs will continue to have the authority to make loans with terms of up to 15 years to producers and harvesters of aquatic products for major capital expenditures. Such loans are not subject to the restrictions delineated above.

The FCA also proposes to continue the requirement that all short- and intermediate-term loans be made with maturities that are appropriate for the purpose of the loan and comply with the institution's loan underwriting standards. This requirement would be moved to § 614.4040.

III. Other Proposed Amendments

The FCA is proposing a clarifying amendment to § 614.4050 that would recognize the authority of agricultural credit associations (ACAs) to make long-term real estate mortgage loans of not less than 5 nor more than 40 years, rather than not less than 10 nor more than 40 years as stated in the existing regulation. The current provision was adopted in order to recognize that ACAs have the option to make loans under their short- and intermediate-term lending authority without requiring a first lien on real estate if the term is 10 years or less. The proposed amendment would clarify that an ACA has the option of making loans with maturities between 5 and 10 years under either its long-term or its short- and intermediate-term lending authority as appropriate.

The FCA received a comment relating to regulatory burden that pertains to the independent credit judgment requirements of § 614.4325(e). The commenter states that this regulation eliminates the ability of FCS institutions to fully utilize an agent in the administration of loan participations. The regulation requires that independent credit judgment be applied by an employee of the purchasing participant, and does not allow the authority to be delegated to an agent who is not an employee.

The FCA agrees that an institution may sometimes find it advantageous to use an agent in connection with its loan purchase authorities. The FCA observes, however, that the institution's board remains fully accountable for transactions through agents and fully responsible for the sound administration of all loans, whether made directly by the institution or purchased through the institution's participation authority. Therefore, the FCA proposes, by adding a new § 614.4325(h), to allow transactions through agents as long as the institution remains accountable for all the agent's actions by ensuring that the agent complies with the institution's specific underwriting and other criteria for the purchase of loans. The FCA proposes that these types of transactions are permissible, only if: (1) The institution's board establishes the necessary criteria in a written agency agreement that outlines the scope of the agent relationship and obligates the agent to follow the institution's loan underwriting standards; and (2) the agent relationship is reviewed periodically by the institution's board to determine if the agent's actions are in the best interest of the institution. In order to maintain the independent judgment of the institution, the proposed regulation also requires that the agent must be independent of the seller or any intermediate broker in the transaction.

The FCA Board believes that these actions represent the minimum practices that will not only outline the authority of the agent, but also establish how the institution will hold the agent accountable for compliance with the institution's loan policies and underwriting standards. The FCA Board expects an agent agreement to outline the type of business that is acceptable to the board and specific authorities with respect to approval levels, reporting requirements, and other performance elements that the board of directors could utilize to ensure that the agent relationship is in the institution's best interest. Given the supervisory role of a bank and its control over the association's funding, the FCA believes it would not be practical for an association to attempt to hold its funding bank accountable. Therefore, under proposed § 614.4325(h)(3), a funding bank will be specifically prohibited from being an agent for an association it funds.

The FCA Board is also proposing amendments that are not a result of the regulatory burden comments, but are nonetheless consistent with FCA's initiatives to reduce burden and clarify existing regulations where necessary.

The FCA proposes to delete § 614.4222, non-farm rural home loans, and relocate the provisions to § 614.4200(c)(4) that pertain to general security requirements for such rural home loans. This action is proposed to achieve more consistent and concise regulations. The FCA notes that there is an outstanding proposed amendment to § 614.4222, and this proposal will be in addition to the amendment proposed at 60 FR 47121 (September 11, 1995).

The FCA proposes to delete § 614.4230 and include the provisions on security for title III loans in a new § 614.4200(c)(5), in the same manner as is proposed for § 614.4222. The provisions in § 614.4230(a) pertain to loan underwriting and must be considered by the institution pursuant to proposed § 614.4150.

The FCA proposes to significantly revise § 614.4231, which contains the specific requirements outlined for different commodity programs, and instead require that loans on commodities covered by government programs comply with the criteria established for those programs. This revision is proposed because of the changing nature of the government programs for the listed commodities.

Since their publication in 1995, the FCA has received several requests to review certain provisions of the collateral regulations contained in this subpart. Specifically, Farm Credit institutions and examiners have pointed out two potentially burdensome areas: (1) The applicability of the collateral evaluation requirements in § 614.4250 within an institution's small loan program; and (2) the income capitalization approach to valuing collateral and related provisions of § 614.4265.

Comments received suggest the amount of documentation specifically required by § 614.4250 (a)(4), (a)(5), and (a)(6) is burdensome and yields little extra risk protection for loans that qualify under an institution's small loan program. In addition to comments received from System institutions, FCA examiners have observed some instances in which these particular collateral evaluation requirements may be impeding prudent underwriting of certain loans in some institutions. Some lending officials have made unsecured loans in the institution's small loan program rather than taking available collateral to avoid the documentation burden of § 614.4250. The FCA now recognizes that certain elements of

collateral evaluations required in the existing regulation may not be conducive to the effective and efficient delivery of credit demanded by the current market place for certain small, low risk loans. The FCA believes such programs can be structured to ensure prudent lending practices are imposed and remain in place while alleviating the burden of the existing regulations.

The FCA proposes to amend §§ 614.4245 and 614.4250 by making parts of § 614.4250 requirements inapplicable to an institution's small loan program. However, each System institution must establish appropriate procedures for the valuation of collateral taken to secure loans under any small loan program. At a minimum, these procedures should require documentation and certification of the value of the collateral taken for small loans by an individual sufficiently skilled to assign values to the collateral taken. The FCA believes certain minimum requirements for collateral evaluations will sufficiently document valuations for loans qualifying under an institution's small loan program and meet the central, but not all, requirements of the Uniform Standards of Professional Appraisal Practice (USPAP) guidelines. The FCA, through this proposal, seeks to ensure that the most essential requirements of § 614.4250 for small loan programs, namely paragraphs (a)(1), (a)(2), (a)(3), and (a)(7), are retained. To accomplish this change, a new paragraph § 614.4245(d) is proposed to permit an institution to adopt policies and standards for a small loan program that exclude documentation requirements presently existing in § 614.4250 (a)(4) through (a)(6). A corresponding modification is proposed for § 614.4250. This proposal would allow greater flexibility to institutions and require that policies and standards be adopted that address small loan program collateral criteria.

Requirements contained in (a)(1), (a)(2), (a)(3), and (a)(7) of § 614.4250 would continue to apply to an institution's small loan program. These provisions require all collateral evaluations to be based on the property's market value, be in a written format, consider the property's use or intended use, and contain a certification by a competent appraiser/evaluator. The FCA further observes that the use of a limited or restricted appraisal, completed in accordance with USPAP Standard 2.2, is a valid statement of value under the revisions to this section. While the FCA is proposing to exempt certain requirements contained in § 614.4250(a), institutions are reminded that if real estate is taken as collateral and State-sanctioned (certified or licensed) appraisers are used for the valuation process, the proposed exclusion of the provisions contained in § 614.4250 (a)(4) through (a)(6) may cause the resulting evaluations not to comply with USPAP and State certification or licensing standards in certain instances. In such cases, appraisers/evaluators may not meet terms and conditions under which those States have certified or licensed them. This, however, is considered a professional issue and institutions may include the provisions of § 614.4250(a)(4) through (a)(6) as they deem appropriate.

The second area concerning the Agency's collateral regulations centers on the clarification of requirements of the departure provisions and income capitalization approach to valuing collateral found in § 614.4265. The FCA has received several comments and suggestions to reconsider the appropriate use of, or exclusion of, one or more of the three recognized approaches to valuation of real estate. Most comments focused on § 614.4265(b) and the intent and purpose of the requirements of § 614.4265 (d) and (e). Upon review and consideration of comments received and the changes proposed herein, the FCA concludes that no revisions to the existing requirements of § 614.4265 should be made. However, the FCA believes it is necessary to clarify the purposes of, and alternatives provided by, § 614.4265 (d) and (e), and the FCA intends to make this clarification through its bookletter process.

Finally, the FCA proposes to clarify that § 614.4325, purchase and sale of interests in loans, also applies to transactions involving pools of loans in the same manner as they apply to transactions pertaining to individual loans. The FCA proposes an expanded definition of the term ''interests in loans'' in § 614.4325(a)(1) to include transactions involving a pool of loans. The FCA is proposing this amendment to relieve any potential regulatory burden and clarify how pool transactions are to be handled.

The FCA proposes many conforming amendments within subparts A, C, H, J, and Q of part 614, and in part 619 so that affected regulations are consistent with the substantive changes proposed. Certain conforming amendments in subpart A are in regulation sections that are proposed to be revised as conforming amendments in the proposed rule addressing eligibility and scope of financing. *See* 60 FR 47103 (September 11, 1995). The conforming amendments in this rulemaking are in addition to those proposed on September 11, 1995, and include §§ 614.4000, 614.4010, 614.4020, 614.4030, 614.4040, 614.4050, 614.4222, and 614.4810.

List of Subjects

12 CFR Part 614

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

12 CFR Part 619

Agriculture, Banks, Banking, Rural areas.

For the reasons stated in the preamble, parts 614 and 619 of chapter VI, title 12 of the Code of Federal Regulations are proposed to be amended to read as follows:

PART 614—LOAN POLICIES AND OPERATIONS

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

Authority: 42 U.S.C. 4012a, 4104a, 4101b, 4106, and 4128; 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, 4.18A, 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, 2019, 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, 2206a, 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.

Subpart A—Lending Authorities

2. Section 614.4000 is amended by removing the words ''agricultural credit association of a Federal land credit association'' and adding in its place, the words ''agricultural credit association or a Federal land credit association'' in the introductory text of paragraph (f), and revising paragraph (a) to read as follows:

§ 614.4000 Farm Credit Banks.

(a) *Long-term real estate lending.* Except to the extent such authorities are transferred pursuant to section 7.6 of the Act, Farm Credit Banks are authorized to make, subject to the requirements in § 614.4200 of this part, real estate mortgage loans with maturities of not less than 5 years nor more than 40 years and continuing commitments to make such loans.

* * * * *

3. Section 614.4010 is amended by removing the reference ''§ 614.4230''

and adding in its place, the reference "§ 614.4200" in paragraphs (d)(1) and (d)(2); and revising paragraph (a) to read as follows:

§ 614.4010 Agricultural credit banks.

(a) *Long-term real estate lending.* Except to the extent such authorities are transferred pursuant to section 7.6 of the Act, agricultural credit banks are authorized to make, subject to the requirements of § 614.4200, real estate mortgage loans with maturities of not less than 5 years nor more than 40 years and continuing commitments to make such loans.

* * * * *

§ 614.4020 [Amended]

4. Section 614.4020 is amended by removing the reference "614.4230" and adding in its place, the reference "614.4200" in paragraphs (a)(1) and (a)(2).

5. Section 614.4030 is amended by revising paragraph (a) to read as follows:

§ 614.4030 Federal land credit associations.

(a) *Long-term real estate lending.* Federal land credit associations are authorized to make, subject to the requirements of § 614.4200, real estate mortgage loans with maturities of not less than 5 years nor more than 40 years and continuing commitments to make such loans.

* * * * *

6. Section 614.4040 is amended by removing paragraph (b); redesignating paragraphs (c) and (d) as new paragraphs (b) and (c), respectively; removing the reference "paragraph (c)(2)" and adding in its place, the reference "paragraph (b)(2)" in newly designated paragraph (b)(1) introductory text; and by revising paragraph (a) to read as follows:

§ 614.4040 Production credit associations.

(a) *Loan terms.*

(1) Production credit associations are authorized to make or guarantee loans and other similar financial assistance for the following terms:

(i) Repayable in not more than 7 years;

(ii) Repayable in more than 7 years, but not more than 10 years, subject to authorization in policies approved by the funding bank;

(iii) Repayable in not more than 15 years to producers or harvesters of aquatic products for major capital expenditures, including but not limited to the purchase of vessels, construction or purchase of shore facilities, and similar purposes directly related to the producing or harvesting operation; 'and

(2) Subject to policies approved by the funding bank, production credit associations may make loans authorized under paragraph (a)(1) of this section that are amortized over a period not to exceed 15 years, provided that:

(i) The loan may be refinanced only if the lender determines, at the time of maturity, that the loan meets its loan policy and underwriting criteria;

(ii) Any refinancing may not extend repayment beyond 15 years from the date of the original loan; and

(iii) The loan is not being made solely for the purpose of acquiring real estate;

(3) Short- and intermediate-term loans shall be made with maturities that are appropriate for the purpose of the loan and that comply with the institution's loan underwriting standards adopted pursuant to § 614.4150 and the general requirements of § 614.4200 of this part.

* * * * *

7. Section 614.4050 is amended by adding introductory text and by revising paragraphs (a) and (b) to read as follows:

§ 614.4050 Agricultural credit associations.

Agricultural credit associations are authorized to make, subject to the requirements of § 614.4200 of this part:

(a) *Long-term real estate mortgage loans* with maturities of not less than 5 nor more than 40 years, and continuing commitments to make such loans; and

(b) *Short- and intermediate-term loans* and provide other similar financial assistance for a term not more than 10 years (15 years for aquatic producers and harvesters).

* * * * *

Subpart C—Bank/Association Lending Relationship

§ 614.4120 [Amended]

8. Section 614.4120 is amended by removing the words "the factors set forth in §§ 614.4150 and 614.4160" and adding in their place, the words "the loan underwriting policies and standards adopted pursuant to § 614.4150" in the last sentance of paragraph (a).

§§ 614.4135, 614.4140, and 614.4145 [Removed]

9. Sections 614.4135, 614.4140, and 614.4145 are removed.

Subpart D—General Loan Policies for Banks and Associations

§§ 614.4150, 614.4160 [Removed]

10. Sections 614.4150 and 614.4160 are removed.

11. New section 614.4150 is added to read as follows:

§ 614.4150 Lending policies and loan underwriting standards.

Under the policies of its board, each institution shall adopt written standards for prudent lending and shall issue written policies, operating procedures, and control mechanisms that reflect prudent credit practices and comply with all applicable laws and regulations. Written policies and procedures shall, at a minimum, prescribe:

(a) The minimum supporting credit information, frequency for submission of information, and verification of information required in relation to loan size, complexity and risk exposure;

(b) The procedures to be followed in credit analysis;

(c) The minimum standards for loan disbursement, servicing and collections;

(d) Requirements for collateral and methods for its administration;

(e) Loan approval delegations and requirements for reporting to the board;

(f) Loan pricing practices;

(g) Loan underwriting standards that include measurable standards for determining that an applicant has the operational, financial, and management resources necessary to repay the debt from cashflow, are appropriate for each loan program and the institution's risk-bearing ability, and consider the nature and type of credit risk, amount of the loan, and enterprise being financed;

(h) Requirements that loan terms and conditions are appropriate for loan purposes; and

(i) Such other requirements as are necessary for the professional conduct of a lending organization, including documentation for each loan transaction of compliance with the loan underwriting standards or the compensating factors or extenuating circumstances that establish repayment capacity notwithstanding the failure to meet any single loan underwriting standard.

12. Section 614.4165 is amended by removing paragraphs (b) and (c); redesignating paragraphs (d) and (e) as new paragraphs (b) and (c); and revising paragraph (a) to read as follows:

§ 614.4165 Special credit needs.

(a) The board of each direct lender institution shall adopt policies to establish programs to provide credit and related services to young, beginning, and small farmers, ranchers, and producers or harvesters of aquatic products.

* * * * *

Subpart E—Loan Terms and Conditions

13. Section 614.4200 is revised to read as follows:

§ 614.4200 General requirements.

(a) *Terms and conditions.* (1) The terms and conditions of each loan made by a Farm Credit bank or association shall be set forth in a written document, such as a loan agreement, promissory note, or other instrument appropriate to the type and amount of the credit extension, in order to establish loan conditions and performance requirements and, where appropriate, to obligate the borrower to provide financial statements, certified true and correct by the borrower, as required or requested during the term of the loan. Copies of all documents executed by the borrower in connection with the closing of a loan made under titles I or II of the Act shall be provided to the borrower at the time of execution and at any time thereafter that the borrower requests additional copies.

(2) The terms and conditions of all loans shall be adequately disclosed in writing to the borrower not later than loan closing. For loans made under titles I and II of the Act, the institution shall provide prompt written notice of the approval of the loan.

(3) Applicants shall be provided notification of the action taken on each credit application in compliance with the requirements of 12 CFR 202.9.

(b) *Obtaining borrower financial statements.* As part of the loan underwriting policies adopted pursuant to § 614.4150, each direct lender institution must adopt policies and procedures for obtaining sufficient financial information from all borrowers in order to establish repayment capacity and assess the risk inherent in each loan. In addition, for loans, except rural home loans, made under titles I or II of the Act:

(1) Farm Credit banks and associations shall require from each borrower a verifiable balance sheet and income statement that has been certified true and correct as a condition precedent to making, renewing or extending the terms of a loan or taking any material servicing action for the following loans:

(i) Monthly payment loans with an aggregate outstanding balance of loans and commitments per borrower greater than $500,000; and

(ii) Loans, except monthly payment loans, with an aggregate outstanding balance of loans and commitments per borrower greater than $100,000.

(2) Farm Credit banks and associations shall require annually from each borrower a verifiable balance sheet and income statement that has been certified true and correct for the following loans:

(i) Monthly payment loans with an aggregate outstanding balance of loans and commitments per borrower greater than $500,000;

(ii) Loans, except monthly payment loans, with an aggregate outstanding balance of loans and commitments per borrower greater than $200,000; and

(iii) Loans, except monthly payment loans, that are classified as less than acceptable and that have an aggregate outstanding balance of loans and commitments per borrower greater than $100,000.

(c) *Security.* (1) Long-term real estate mortgage loans must be secured by a first lien interest in real estate. No funds shall be advanced, under a legally binding commitment or otherwise, if the outstanding loan balance after the advance would exceed 85 percent (or 97 percent as provided in section 1.10(a) of the Act) of the appraised value of the real estate, except that a loan on which private mortgage insurance is obtained may exceed 85 percent of the appraised value of the real estate to the extent that the loan amount in excess of 85 percent is covered by such insurance. Real estate securing long-term mortgage loans must be comprised primarily of agricultural or rural property, including agricultural land, a farm-related business, a marketing or processing operation, a rural residence, or real estate used as an integral part of an aquatic operation.

(2) Notwithstanding the requirements of paragraph (c)(1) of this section, the lending institution may advance funds for the payment of taxes or insurance premiums with respect to the real estate, reschedule loan payments, grant partial releases of security interests in the real estate, and take other actions necessary to protect the lender's collateral position. Any action taken that results in exceeding the loan-to-value limitation shall be in accordance with a policy of the institution's board of directors and adequately documented in the loan file.

(3) Short- and intermediate-term loans may be secured or unsecured as the documented creditworthiness of the borrower warrants.

(4) In addition to the requirements in paragraph (c)(1) of this section, a long-term, non-farm rural home loan, including a revolving line of credit, shall be secured by a first lien on the property, except that it may be secured by a second lien if the institution also holds the first lien on the property. A short- or intermediate-term loan on a rural home, including a revolving line of credit, must be secured by a lien on the property unless the financing is provided exclusively for repairs, remodeling, or other improvements to the rural home, in which case the credit may be secured by other property or unsecured if warranted by the documented creditworthiness of the borrower.

(5) Except as provided in § 614.4231, loans made under title III of the Act may be secured or unsecured, as appropriate for the purpose of the loan and the documented creditworthiness of the borrower.

§§ 614.4210, 614.4220, 614.4222, 614.4230 [Removed]

14. Sections 614.4210, 614.4220, 614.4222, and 614.4230 are removed.

15. Section 614.4231 is revised to read as follows:

§ 614.4231 Certain seasonal commodity loans to cooperatives.

Loans on certain commodities that are part of government programs shall comply with the criteria established for those programs. Security taken on program commodities shall be consistent with prudent lending practices and ensure compliance with the government program. The bank shall provide for periodic review by bank officials of any custodial activities and shall provide notice to the custodians that their activities are subject to review and examination by the Farm Credit Administration.

Subpart F—Collateral Evaluation Requirements

16. Section 614.4245 is amended by adding a new paragraph (d) to read as follows:

§ 614.4245 Collateral evaluation policies.

* * * * *

(d) An institution's board of directors may adopt modified collateral evaluation requirements, consistent with § 614.4250(b), for loans designated as part of a small loan program, which shall be limited to loans to borrowers with aggregate outstanding balances to the institution of $100,000 or less.

* * * * *

17. Section 614.4250 is amended by removing the words "Specifically, all collateral evaluations must:" and adding in their place, the words "Except for security taken on loans that are designated as part of an institution's small loan program, all collateral evaluations must:" in paragraph (a) introductory text; redesignating paragraph (b) as new paragraph (c) and adding new paragraph (b) to read as follows:

§ 614.4250 Collateral evaluation standards.

* * * * *

(b) Collateral evaluations of property that secures a loan designated as part of an institution's small loan program must comply only with the requirements of paragraphs (a)(1), (a)(2), (a)(3), and (a)(7) of this section.

* * * * *

Subpart H—Loan Purchases and Sales

18. Section 614.4325 is amended by removing the reference ''§ 614.4160'' and adding in its place, the words ''the loan underwriting standards adopted pursuant to § 614.4150'' in the fourth sentence of paragraph (e); revising paragraph (a)(1); and adding new paragraph (h) to read as follows:

§ 614.4325 Purchase and sale of interests in loans.

(a) * * *

(1) *Interests in loans* means ownership interests in the principal amount, interest payments, or any aspect of a loan transaction and transactions involving a pool of loans, including servicing rights.

* * * * *

(h) *Transactions through agents.* Transactions pertaining to purchases of loans, including the judgment on creditworthiness, may be performed through an agent, provided that:

(1) The institution establishes the necessary criteria in a written agency agreement that outlines, at a minimum, the scope of the agency relationship and obligates the agent to comply with the institution's underwriting standards;

(2) The institution periodically reviews the agency relationship to determine if the agent's actions are in the best interest of the institution;

(3) Restrictions.

(i) An association's funding bank cannot act as its agent; and

(ii) The agent must be independent of the seller or intermediate broker in the transaction.

Subpart J—Lending Limits

§ 614.4355 [Amended]

19. Section 614.4355 is amended by removing the word ''seasonal'' and adding in its place, the word ''commodity'' the second place it appears in paragraphs (a)(6) and (b)(1) respectively, and in paragraph (a)(8).

§ 614.4358 [Amended]

20. Section 614.4358 is amended by removing the words ''on the credit factors set forth in § 614.4160'' and adding in their place, the words ''under the loan underwriting standards adopted pursuant to § 614.4150'' in paragraph (a)(1)(ii).

Subpart Q—Banks for Cooperatives Financing International Trade

§ 614.4810 [Amended]

21. Section 614.4810 is amended by removing the words ''credit factors listed in § 614.4160'' and adding in their place, the words ''the loan underwriting standards adopted pursuant to § 614.4150'' in paragraph (b).

PART 619—DEFINITIONS

21. The authority citation for part 619 continues to read as follows:

Authority: Secs. 1.7, 2.4, 4.9, 5.9, 5.12, 5.17, 5.18, 7.0, 7.6, 7.7, 7.8 of the Farm Credit Act (12 U.S.C. 2015, 2075, 2160, 2243, 2246, 2252, 2253, 2279a, 2279b, 2279b–1, 2279b–2).

§§ 619.9165 and 619.9290 [Removed]

22. Sections 619.9165 an 619.9290 are removed.

* * * * *

Dated: April 9, 1996.

Floyd Fithian,

Secretary, Farm Credit Administration Board.

[FR Doc. 96–9155 Filed 4–12–96; 8:45 am]

BILLING CODE 6705–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 94–NM–197–AD]

Airworthiness Directives; Boeing Model 727 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Proposed rule; withdrawal.

SUMMARY: This action withdraws a notice of proposed rulemaking (NPRM) that proposed a new airworthiness directive (AD), applicable to Boeing Model 727 series airplanes. That action would have superseded an existing AD to require repetitive visual inspections to detect cracking in the elevator rear spar and repair, if necessary; provide for an optional terminating action for the repetitive inspections; and add a one-time inspection of certain airplanes for clearance between the shear plate and the radii of the rear spar. Since the issuance of the NPRM, the Federal Aviation Administration (FAA) has issued other rulemaking that requires actions equivalent to those proposed. Accordingly, the proposed rule is withdrawn.

FOR FURTHER INFORMATION CONTACT: Walter Sippel, Aerospace Engineer, Airframe Branch (ANM–121S), Seattle Aircraft Certification Office, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2774; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add a new airworthiness directive (AD), applicable to Boeing Model 727 series airplanes, was published in the Federal Register as a Notice of Proposed Rulemaking (NPRM) on January 4, 1995 (60 FR 386). The proposed rule would have superseded AD 87–24–03, amendment 39–5769 (52 FR 43742, November 16, 1987), which was issued in 1987 to require repetitive visual inspections to detect cracking in the elevator rear spar and repair, if necessary. AD 87–24–03 also provided for an optional terminating action for the repetitive visual inspections. The issuance of AD 87–24–03 was prompted by reports of cracking in the rear spar of the elevator at the hinge fitting attachment of the control tab and reports of loose hinge fittings at the crack locations.

The NPRM would have superseded AD 87–24–03 to continue to require the repetitive visual inspections, but also to add an additional one-time inspection of certain airplanes for clearance between the shear plate and the radii of the rear spar. The NPRM also would have provided additional instructions for the terminating action. The actions specified by both the NPRM and AD 87–24–03 were intended to prevent cracking of the elevator rear spar, which could cause excessive free play of the elevator control tab and possible tab flutter, and could result in loss of controllability of the airplane.

Since the issuance of that NPRM, the FAA has issued AD 96–06–05, amendment 39–9542 (61 FR 11529, March 21, 1996), which is applicable to Boeing Model 727 series airplanes. That AD supersedes AD 87–24–03, as well as AD 84–22–02, amendment 39–4951 (49 FR 45743, November 20, 1984). It requires various repetitive inspections to detect cracks and loose brackets of the elevator rear spar, and repair, if necessary; and provides for a terminating modification for the inspections. That AD was prompted by reports of cracking in the spar radii at the tab hinge location of the elevator rear spar on certain airplanes. The actions specified by that AD are intended to prevent cracking in elements of the elevator rear spar assembly, which could result in excessive free play of the elevator control tab and possible tab flutter.