

estimated assessment revenue for the 2001–02 crop year as a percentage of total grower revenue will be less than one percent.

This action increases the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs are offset by the benefits derived by the operation of the marketing order. In addition, the Committee's meeting was widely publicized throughout the California date industry, and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the August 16, 2001, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

This rule imposes no additional reporting or recordkeeping requirements on either small or large California date handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A proposed rule concerning this action was published in the **Federal Register** on October 15, 2001 (66 FR 52363). Copies of the proposed rule were also mailed or sent via facsimile to all date handlers. Finally, the proposal was made available through the Internet by the Office of the Federal Register. A 30-day comment period ending November 14, 2001, was provided for interested persons to respond to the proposal. No comments were received.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: <http://www.ams.usda.gov/fv/moab.html>. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it also found and determined that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because

handlers are already receiving 2001–02 crop commodity from growers, the fiscal period began October 1, and the rate applies to all dates received during the 2001–02 and subsequent seasons. Further, handlers are aware of this rule which was recommended at a public meeting. Also, a 30-day comment period was provided for in the proposed rule.

List of Subjects in 7 CFR Part 987

Dates, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 987 is amended as follows:

PART 987—DOMESTIC DATES PRODUCED OR PACKED IN RIVERSIDE COUNTY, CALIFORNIA

1. The authority citation for 7 CFR part 987 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 987.339 is revised to read as follows:

§ 987.339 Assessment rate.

On and after October 1, 2001, an assessment rate of \$0.25 per hundredweight is established for California dates.

Dated: January 3, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02–580 Filed 1–9–02; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 381 and 441

[Docket No. 01–046N]

RIN 0583–AC87

Retained Water in Raw Meat and Poultry Products: Suspension of Regulation

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final Rule; Suspension of regulation.

SUMMARY: The Food Safety and Inspection Service (FSIS) is suspending until January 9, 2003, regulations that limit water retained by raw meat and poultry products from post-evisceration processing to the amount that is unavoidable in meeting applicable food safety requirements and that require labeling for the amount of water retained. The original effective date of

these final regulations was January 9, 2002. FSIS is taking this action in response to a petition from four trade associations representing the meat and poultry industries. The petitioners requested the effective date be extended until August, 2004. However, FSIS has decided that a one-year suspension of the regulation will allow the meat and poultry industry sufficient time to complete necessary experimentation, including microbial testing and chilling system trials under FSIS-accepted data collection protocols; to fine-tune and stabilize newly adjusted processes; and to conduct regular measurements of retained water at packaging. Suspension of the regulation also will provide members of the meat and poultry industry sufficient time to order new supplies of labels with statements reflecting the amount of retained water in their raw products.

The final rule promulgating the retained water regulations also made numerous technical amendments in the sections of the poultry products inspection regulations that concern poultry chilling practices. The effective date of these amendments will remain January 9, 2002.

DATES: The effective date of the amendments of 9 CFR 381.65 and 381.66 published January 9, 2001 (66 FR 1750), as corrected by the **Federal Register** notice published April 17, 2001, at 66 FR 19713–19714, is and remains January 9, 2002. 9 CFR part 441 is suspended from January 9, 2002, until January 9, 2003.

FOR FURTHER INFORMATION CONTACT: Dr. Daniel L. Engeljohn, Director, Regulations and Directives Development Staff, OPPDE, FSIS, U.S. Department of Agriculture, Washington, DC 20250–3700; (202) 720–3219.

SUPPLEMENTARY INFORMATION:

Background

On January 9, 2001, FSIS published a final rule in the **Federal Register** (66 FR 1750) that, among other things, promulgated regulations limiting the amount of water that could be retained by raw, single-ingredient, meat and poultry products as a result of post-evisceration processing, such as carcass washing and chilling. Under these regulations (codified at 9 CFR 441.10), raw livestock and poultry carcasses and parts will not be permitted to retain water resulting from post-evisceration processing unless the establishment preparing those carcasses and parts demonstrates to FSIS, with data collected under a written protocol, that any water retained in the carcasses and parts is an inevitable consequence of the

process used to meet applicable food safety requirements. The labels of products covered by the rule must bear statements indicating the maximum percentage of retained water in the products. On June 29, 2001, FSIS issued instructions to its personnel (FSIS Notice 22-01) on procedures, including those for review of data collection protocols, that are to be followed during the period before the new water retention regulations become effective.

In the **Federal Register** of October 17, 2001 (66 FR 52715), FSIS published a notice on a petition by the National Chicken Council, the National Turkey Federation, the National Food Processors Association, and the American Meat Institute requesting that FSIS postpone until August 1, 2004, the effective date of the water retention regulations.

The petitioners assert that postponement of the effective date is necessary because affected companies will not be able to comply with the regulations until they have completed several steps for which the Agency did not allow sufficient time. The petitioners maintain that some companies will not be able to begin data collection under FSIS-accepted data collection protocols until late 2001; that testing to determine the relationship between *Salmonella* and water retention levels and seasonal variation in the moisture content of poultry will not be completed until early 2003; and that, after such testing, changes in labels and the labeling of many products affected by the final rule cannot be completed until mid-2004.

Comments on the Industry Petition

In the October 17, 2001, **Federal Register** notice, FSIS posed five questions:

1. Did the Agency allow the regulated industry sufficient time—one year from publication of the final rule—to prepare for implementation? Explain why the time for implementation was adequate or inadequate.

2. Is available laboratory capacity sufficient or insufficient to enable the industry to comply with the new regulations by the effective date?

3. Is there additional information on the time necessary to produce new labels for retained-water products that the Agency should consider?

4. Would postponement of the effective date be fair or unfair to anyone and, if so, how?

5. Would postponement of the effective date of the new retained water regulations (9 CFR 441.10) affect consumers and, if so, how?

In posing these questions, FSIS was seeking additional information not already available to help the Agency decide the matter addressed by the petition.

Most of the commenters responded to some or all of the five questions that FSIS posed in the notice. The Agency received 41 comments in response to the **Federal Register** notice on the petition. Thirty-seven comments were from poultry processing establishment managers or other poultry company officials. All favored postponing the effective date of the retained water regulations. A meat and poultry industry association also filed a comment supporting postponement. Two cattle producer associations and an FSIS employee opposed postponement.

Comments Supporting the Petition

Commenters that supported postponement of the effective date of the final rule stated that the time allowed the industry to prepare for implementation—one year—was insufficient. They noted that adequate guidelines for developing a moisture data collection protocol were not available from FSIS until summer 2001 and waiting for the FSIS to review protocols voluntarily submitted to the Agency consumed additional time. After completion of experimentation under the protocol, the commenters claimed, additional time would be necessary to develop a process control program and make the necessary adjustments to ensure its effectiveness.

Comments asserted that companies would have to have 2-to-12 months to exhaust their supplies of labeled packaging materials already in stock. Also, once reliable data on the amount of retained water in raw products had been developed, 2 to 3 months would be necessary for label suppliers to prepare new plates and labels for the products. Commenters noted that the development of new pre-labeled packaging for poultry products is a two-stage process involving, first, the development of new plates and second, the printing of new labels. They stated that there is insufficient label-making capacity in the industry to meet the demands for new labels of all companies trying to comply with the new regulations by the existing effective date.

Several managers of one firm argued that the short, one-year implementation time provided by the final rule would effectively force companies to label parts with “up to X% retained moisture” with X = the whole-bird retention amount. The reason for this is that the amount of retained moisture in

whole birds is easier to determine than that for parts. But that amount is also likely to be significantly higher than the retention amount for parts.

The commenters that favored postponement of the effective date of the final rule argued that laboratory capacity available to establishments was insufficient for them to be able to meet the effective date. Most commenting on this issue said that their establishments do not have on-premises capability to do *Salmonella* testing and that they had no drying oven to use in the oven-drying test for total moisture. They also stated that they needed to collect additional samples to determine whether they would be meeting generic *E. coli* process control criteria under the new rule.

Those supporting the petition tended to argue that postponement would be fair to both consumers and the industry. Not postponing could result in a virtual shutdown of the industry because product would suddenly be misbranded and could not be sold legally. As a result, with the amount of animal protein product available to consumers decreasing, such product would only be available to them at higher prices. Also, a shutdown in the industry would affect farmers, feed suppliers, truckers, warehouses, and many others. Unemployment would increase. Reduced tax revenues would adversely affect the Government.

Those supporting the petition argued that postponement of the effective date would be fair to consumers. Consumers would continue to have protein product choices in the marketplace. The effect of the postponement on their budgets would be minimal. They would still be able to make informed purchasing decisions based on past industry performance. And they would experience no change in the acceptability and safety of the products.

Some poultry company officials argued that postponement would allow time for industry and Government to develop “best practices,” with the goal of providing more accurate information to consumers.

Some poultry company officials argued that non-poultry entity arguments, especially regarding the alleged unfairness to red meat of allowing retained water in poultry products, are political and not supportable without testing.

The association representing both meat and poultry companies suggested that precautions taken since the recent anthrax attacks through the mail may have resulted in delayed delivery of some draft protocols to FSIS, and thus their review.

Commenters Opposing Postponement

Those opposing postponement of the effective date of the final rule argued that the issue of allowing retained water in poultry products has been before FSIS for more than seven years. To delay implementation of the new regulations would be to perpetuate an inequity.

Moreover, these comments pointed out, the industry has known since at least September 1998 that changes in the regulations were imminent. These comments stated that some companies have prepared for the January 9, 2001, changes and will be ready, while other companies have deliberately avoided preparing in hopes that the effective date would be postponed and current practices continued.

These commenters said that the time frame for implementing the final rule was adequate and that the poultry products industry is only dragging its feet. The trade association representing cattle producers agreed with these commenters and added that since the poultry industry and FSIS had in July 2001 finally reached agreement on a protocol framework for determining retained water in products, the effective date for the entire poultry industry should be no later than July 2002.

Another opponent of the petition stated that available testing facilities are adequate. Many establishments are capable of performing necessary tests.

One opponent of the petition stated that simple labeling changes are often made at the establishment and can be effected in a few minutes. Elaborate labeling changes can be accomplished in just a few days.

Several opponents of the petition said that postponement of the effective date of the final rule would be unfair both to consumers and to the red meat industry. The poultry industry would benefit by continuing to be able to sell water to consumers at poultry prices.

One opponent of the petition stated that postponement of the effective date would certainly affect consumers. Since July 1997, there has been no regulatory limit on water retention in most raw poultry products; therefore, the consumer does not know how much water the product may retain from processing because the amount is not on the label. This commenter calculated that a postponement of 660 days would allow an average large poultry establishment to gain \$30.2 million by in effect selling excess water without being held accountable for doing so.

One of the cattle producer associations stated that FSIS should acknowledge that the poultry industry

has made dramatic progress in reducing *Salmonella* prevalence in the wake of the PR/HACCP rulemaking. Therefore FSIS should not force the poultry industry to perform a complicated analysis of the relationship between water retention levels and *Salmonella* prevalence at this time. Rather, the Agency should focus on requiring the poultry industry to minimize the amount of retained water in meeting the time/temperature chilling requirements for poultry and HACCP requirements.

This association said that, given the fact that the poultry industry and FSIS did not agree on a data-collection protocol framework until July 2001, labeling should be in place by January 2002 for those companies that are capable of meeting that deadline and by July 2002 for the whole industry.

FSIS' Response to the Petition and Comments

Having considered the petition and the comments received, the Agency differs somewhat with the industry on several matters addressed in the petition. Among these are: the effect of FSIS review of data collection protocols on poultry industry chilling system tests and data collection; the burden that testing associated with implementation of the new regulations will impose on industry laboratory capacity; the need for additional data collection to account for seasonal variation in naturally occurring moisture in poultry; and, moisture levels having been determined, the need for up to 14 additional months for labels to be prepared for all affected products.

Review of Protocols

Although FSIS has established a procedure for Agency review of protocols submitted by industry, the new retained water regulations merely require an establishment subject to the regulations to notify the Agency and make the protocol available for review and gives the Agency 30 days to object to or require the establishment to make changes in the protocol. The regulations do not literally preclude the establishment from undertaking data collection under a sound protocol as soon as the protocol is developed. An establishment's decision to wait until it receives a "no objection" letter from the Agency is not mandated.

On the point that the industry has had only since July 2001 to begin data collection under acceptable protocols, it is the case that questions about a "model" protocol were resolved by that time. However, the Agency's expectations respecting the necessary elements of such a protocol were known

well before then. The Agency has encouraged the industry to undertake data collection since at least December 9, 1997, when FSIS published a **Federal Register** notice (62 FR 64767) detailing the elements of a data collection protocol for water retention in raw meat and poultry products.

In its petition, the industry asserts that because of the time needed for FSIS review of protocols, not all establishments will be able to begin data collection on retained water until December 2001. At present, FSIS has reviewed well over 200 protocols (238 by December 6, 2001) that were submitted for the most part by poultry slaughtering establishments. As the review of submitted protocols has proceeded, the review time per protocol has decreased and the review procedures have been perfected to the point that the Agency's Office of Policy, Program Development, and Evaluation will soon be able to turn over protocol review responsibilities to the Office of Field Operations.

FSIS understands that most establishments whose protocols have been reviewed are now well into the process of collecting retained water data and will soon have reliable information to support new product labels. This fact indicates to us that a typical poultry establishment may not need more than a few weeks to carry out trials of its chilling system using different sets of variables and obtain data that is sufficient to support retained water labeling.

Laboratory Capacity

Since the protocol review process is resulting in a phased beginning of data collection in the industry, the laboratories employed by the establishments can be expected to adjust to the gradually rising load on their analytical resources. Nor do the retained water regulations entail laboratory testing on a grandiose scale. Consequently, the scenario of an overburdened industry laboratory capacity as envisioned by the industry petition should not develop.

In their comments on the petition, many establishments expressed an interest in the oven drying method discussed in the final rule. These establishments noted that few of their laboratories were equipped with the apparatus necessary to apply the method. The need to send samples to an outside laboratory to obtain definitive total and retained water measurements would result in delaying results. Further, with many establishments requiring the same tests, the laboratory capacity available to the industry for

these tests would quickly become overburdened.

FSIS observes that, although the Agency does not discourage them from doing so, FSIS is not requiring establishments to perform microbiological testing on the scale contemplated by the industry in its petition. Nor does FSIS specifically require the use of the oven-drying method to determine the moisture content of raw products. FSIS merely has presented the method as the one that the Agency plans to use in its in-distribution sampling of products subject to the new regulations. Establishments may use other procedures to which they may be more accustomed to determine retained water in their products. For example, they may weigh product before and after chilling or other processing to determine whether the product weight has increased, and use this difference as a basis for calculating water retention. But they are not restricted to using any one method.

Seasonal variation: Regarding the effect of seasonal variation in the naturally occurring moisture in poultry on the total amount of water in raw products, FSIS disagrees with the industry's contention. The industry states in its petition, and supplies a chart to illustrate, that in some months naturally occurring moisture levels in poultry are higher than the annual mean, while in other months the levels are below the mean. Therefore, according to the petition, it will be necessary for any given establishment to have a full year's worth of data to be able to know precisely, on an on-going basis, what the total amount of water, and hence the retained water level in its product, will be.

In FSIS Notice 22-01 discussed above, FSIS states that the Agency will enforce the labeling provisions of the regulations in a manner similar to its enforcement of the nutrition labeling regulations. That is, FSIS plans to allow the labeled amount of retained water to vary by as much as 20 percent of the actual amount of retained water in the product. Such a variation is typically allowed to account for such factors as seasonal fluctuations in the occurrence of specific nutrients in raw food ingredients. The industry has indicated in its petition that the seasonal variation in poultry carcass yield, which is partly affected by changes in the amount of naturally occurring moisture in poultry, is typically just a small percent of yield weight. Since retained water is computed as a percent of the product weight, a small percentage point change in the natural product weight should

not lead to discrepancies between actual and labeled retained water amounts that would ordinarily exceed the 20 percent allowable variation. Thus, it is unlikely that the variability in raw product moisture content would be so great as to cause FSIS to take an enforcement action against the establishment. That being the case, while more precise data are desirable, the need to collect additional data on seasonal variation in naturally occurring water should not influence a decision on the effective date of the retained water regulations.

Label Changes

The industry says in its petition that not until early 2003 will all establishments know the amount of retained moisture in their products. Also, according to the petition, the label printing capacity available to the industry is limited by the fact that only a few hundred label changes a month can be made, while about 6,500 poultry labels will have to be changed. Therefore, argues the industry, not until summer 2004 can new labels be printed for all establishments.

FSIS believes that most establishments will know the minimized levels of retained water in their products well before 2003, and indeed, some establishments already are in a position to change their labels. FSIS does not think the industry will have to study seasonal variation in naturally occurring moisture in poultry for a full year before it will be in a position to include retained water statements on product labels. Further, as one commenter on the petition noted, labeling changes are often made at the establishment. Simple labeling changes can be made in a few minutes; elaborate labeling changes can be accomplished in a few days. Of course, where printing plates for labels must be retooled, the change may take longer. Extending the effective date for one year should allow all establishments ample time to have the necessary changes made in their labels.

FSIS therefore thinks that most necessary product label changes can be made in the course of a year. Thus, FSIS does not think it necessary to postpone the effective date of the regulation for an extended period to allow for the completion, first, of seasonal variation studies and then of label changes.

FSIS' Response to Comments Opposing the Petition

FSIS agrees that postponement of the petition until August 2004 is not warranted. However, as discussed in the following section of this notice, FSIS believes that a one-year postponement is

necessary and appropriate. In response to the comments concerning inequity between the meat and poultry industry and benefits to consumers resulting from the water retention regulations, FSIS does not believe that these comments are relevant to the date of enforcement of the regulations. With regard to the comments on labeling changes, FSIS agrees that an extension until August 2004 is not necessary. However, as discussed above, FSIS recognizes that if printing plates for labels must be retooled, the change may take longer than the opposing comments suggested. Finally, in response to the comment that FSIS should not force the poultry industry to perform a complicated analysis of the relationship between water retention levels and *Salmonella* prevalence at this time and that the Agency should focus instead on requiring the poultry industry to minimize the amount of retained water in meeting the time/temperature chilling requirements for poultry and HACCP requirements, FSIS believes the type of hazard most likely to be identified as susceptible of being controlled by the post-evisceration processes envisioned by the retained water regulations is a biological hazard. Similar arguments for postponement of the effective date of the regulations could be made on the basis of the need for microbial tests to verify HACCP controls as for microbial tests to verify that *Salmonella* performance targets are being met. Also, it should be noted that the Agency is developing a proposed rule to eliminate the time/temperature chilling requirements for poultry.

FSIS's Reasons for Granting a One-Year Suspension

FSIS is granting a one-year suspension of the water retention regulations in 9 CFR 441 because the Agency recognizes that some establishments in the poultry industry are not yet in a position to operate in compliance with the new regulations. Also, some small meat slaughtering and processing operations have yet to determine whether or not they are subject to the regulations and need some guidance respecting the kind of information they need to have to demonstrate that their raw products do not retain water. With additional time, if these establishments find that they are subject to the regulations, they will be able to take steps to ensure that they are in compliance with it.

A one-year suspension will allow the industry sufficient time to complete necessary experimentation, including microbial testing and chilling system trials, under FSIS-accepted data

collection protocols; to fine-tune and stabilize newly adjusted processes; and to conduct regular measurements of retained water at packaging. Members of this industry would have sufficient time to order new supplies of labels with statements reflecting the amount of retained water in raw products.

FSIS did not agree that an extension of the effective date until August 1, 2004, would be necessary for the reasons explained above in FSIS' response to the petition and comments. First, FSIS does not believe that industry laboratory capacity would become overburdened as a result of this rule. Second, FSIS does not believe that establishments would need to have a full year's worth of data on seasonal variation in naturally occurring water to be able to comply with the labeling requirements in the rule. Finally, FSIS believes that most necessary product label changes can be made in the course of a year.

In summary, FSIS believes that a one-year suspension of the water retention provisions in 9 CFR part 441 is appropriate and necessary. However, FSIS does not believe a further suspension would be warranted and does not intend to suspend the regulation beyond January 9, 2003.

Technical Amendments

The final rule promulgating the retained water regulations made numerous technical amendments in the sections of the poultry products inspection regulations that concern poultry chilling practices to improve consistency with the Pathogen Reduction/Hazard Analysis and Critical Control Points regulations, eliminate "command- and control" features, and reflect current technological capabilities and good manufacturing practices. FSIS also revised the definition of "ready-to-cook" poultry to account for the elimination of the requirement to remove kidneys from mature birds and removed several redundant provisions from the poultry products inspection regulations. These technical amendments were not controversial, and the effective date of these amendments will remain January 9, 2002.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to better ensure that minorities, women, and persons with disabilities are aware of this notice, FSIS will announce the meeting and provide copies of this **Federal Register** publication in the FSIS Constituent Update. FSIS provides a

weekly FSIS Constituent Update, which is communicated via fax to over 300 organizations and individuals. In addition, the update is available on-line through the FSIS web page located at <http://www.fsis.usda.gov>. The update is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and any other types of information that could affect, or would be of interest to, our constituents/ stakeholders. The constituent fax list consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals that have requested to be included. Through these various channels, FSIS is able to provide information to a much broader, more diverse audience. For more information and to be added to the constituent fax list, fax your request to the Congressional and Public Affairs Office, at (202) 720-5704.

For the reasons set out in the preamble, 9 CFR Part 441, added at 66 FR 1771, January 9, 2001, is suspended from January 9, 2002, until January 9, 2003.

Done at Washington, DC, on January 8, 2002.

Margaret O'K. Glavin,

Acting Administrator.

[FR Doc. 02-738 Filed 1-8-02; 3:58 pm]

BILLING CODE 3410-DM-P

FARM CREDIT ADMINISTRATION

12 CFR Parts 614 and 619

RIN 3052-AB93

Loan Policies and Operations; Definitions; Loan Purchases and Sales

AGENCY: Farm Credit Administration.

ACTION: Final rule.

SUMMARY: The Farm Credit Administration (FCA, Agency, we, or our) issues this final rule to amend our loan participation regulations. This final rule will enable Farm Credit System (FCS or System) institutions to better use existing statutory authority for loan participations by eliminating unnecessary regulatory restrictions that may have impeded effective participation relationships between System institutions and non-System lenders. We believe that these regulatory changes will improve the risk management capabilities of both System and non-System lenders and thereby, enhance the availability of reliable and competitive credit for agriculture and rural America.

EFFECTIVE DATE: This regulation will be effective 30 days after publication in the **Federal Register** during which either or both Houses of Congress are in session. We will publish a notice of the effective date in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT:

Mark L. Johansen, Policy Analyst, Office of Policy and Analysis, Farm Credit Administration, McLean, VA 22102-5090, (703) 883-4498, TDD (703) 883-4444.

Or

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

SUPPLEMENTARY INFORMATION

I. Objectives

Our objectives for this rule are to:

- Improve System institutions' ability to participate in today's loan participation market with both System and non-System lenders;
- Increase the flow of credit to agriculture and rural America; and
- Encourage improved working relationships between System institutions and non-System lenders.

The rule will help to achieve these objectives by:

- Removing two restrictive definitions of a "loan participation" which will permit System institutions to purchase or sell 100-percent loan participations;
- Removing the 10-percent retention requirement when loan servicing remains with a non-System lender; and
- Making technical and clarifying changes in the Federal Agricultural Mortgage Corporation's (Farmer Mac) participation authorities.

II. Background

Our existing rule limits the amount a System institution can participate in a non-System lender's loan to 90 percent of the outstanding principal when the non-System lender retains the servicing to the borrower. If the System institution acquires the servicing rights, it can participate in more of the loan, but is limited to an amount less than 100 percent of the outstanding principal due to the "fractional undivided" language contained in two regulatory definitions of "loan participation."

Our present regulations do not specifically refer to Farmer Mac as an "other System institution" for purposes of loan participation authorities because Farmer Mac's authority to buy, sell, hold, or assign loans was granted after the present regulations were written. These final regulations correct this omission.