

or small, in the United States because no entities currently import unmanufactured *Eucalyptus* wood products from South America into the United States.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

#### Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) State and local laws and regulations will not be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

#### National Environmental Policy Act

An environmental assessment has been prepared for this proposed rule. The assessment provides a basis for the conclusion that the importation of logs, lumber, and wood chips of tropical species of eucalyptus from South America and the alternate treatment for wood chips of species of eucalyptus from South America under the conditions specified in this proposed rule would not present a risk of introducing or disseminating plant pests and would not have a significant impact on the quality of the human environment.

The environmental assessment was prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) Regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

The environmental assessment is available for viewing on the Internet at <http://www.aphis.usda.gov/ppd/es/ppqdoc.html>. Copies of the environmental assessment are also available for public inspection in our reading room. (Information on the location and hours of the reading room is provided under the heading **ADDRESSES** at the beginning of this proposed rule). In addition, copies may be obtained by calling or writing to the individual listed under **FOR FURTHER INFORMATION CONTACT**.

#### Paperwork Reduction Act

This proposed rule contains no new information collection or recordkeeping

requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### List of Subjects in 7 CFR Part 319

Bees, Coffee, Cotton, Fruits, Honey, Imports, Logs, Nursery Stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

Accordingly, 7 CFR part 319 would be amended as follows:

#### PART 319—FOREIGN QUARANTINE NOTICES

1. The authority citation for part 319 would continue to read as follows:

**Authority:** 7 U.S.C. 450 and 7701–7772; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

2. In § 319.40–5, paragraph (c)(1) would be revised to read as follows:

##### § 319.40–5 Importation and entry requirements for specified articles.

\* \* \* \* \*

(c) \* \* \*

(1) *Debarked*. Tropical hardwood logs and lumber that have been debarked in accordance with § 319.40–7(b) may be imported subject to the inspection and other requirements of § 319.40–9, except that debarked logs and lumber of tropical species of *Eucalyptus* from South America must also be fumigated in accordance with § 319.40–7(f) or heat treated in accordance with § 319.40–7(c) prior to importation.

\* \* \* \* \*

3. In § 319.40–6, paragraph (c), the introductory text of paragraph (c)(1), and paragraph (c)(2)(i)(A) would be revised to read as follows:

##### § 319.40–6 Universal importation options.

\* \* \* \* \*

(c) \* \* \*

(1) *From Chile (pine) and South America (eucalyptus)*. Wood chips from Chile that are derived from Monterey or Radiata pine (*Pinus radiata*) logs and wood chips from South America that are derived from species of *Eucalyptus* may be imported in accordance with paragraph (c)(2) of this section or in accordance with the following requirements:

\* \* \* \* \*

(2) \* \* \*

(i) \* \* \*

(A) Derived from live, healthy, tropical species of plantation-grown trees grown in tropical areas; *Except that*: Wood chips derived from tropical species of *Eucalyptus* from South America must be treated as described in paragraph (c)(2)(i)(B) of this section; or

\* \* \* \* \*

#### § 319.40–7 [Amended]

4. In § 319.40–7, paragraph (e) would be amended as follows:

a. In the introductory text of the paragraph, by adding the words “and *Eucalyptus* wood chips from South America” after the word “Chile”.

b. In paragraph (e)(2), in the paragraph heading, by adding the words “and *Eucalyptus* wood chips from South America” after the word “Chile” and, in the first sentence following the paragraph heading, by adding the words “or on *Eucalyptus* wood chips from South America” after the word “Chile”.

Done in Washington, DC, this 8th day of September, 2003.

**Peter Fernandez,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 03–23432 Filed 9–12–03; 8:45 am]

BILLING CODE 3410–34–P

#### FARM CREDIT ADMINISTRATION

##### 12 CFR Parts 614, 620, 630

##### RIN 3052–AC07

#### Loan Policies and Operations; Disclosure to Shareholders; Disclosure to Investors in Systemwide and Consolidated Bank Debt Obligations of the Farm Credit System

**AGENCY:** Farm Credit Administration.

**ACTION:** Proposed rule.

**SUMMARY:** The Farm Credit Administration (FCA or agency) proposes to amend its regulations governing the Farm Credit System's (System) mission to provide sound and constructive credit and services to young, beginning, and small farmers and ranchers, and producers or harvesters of aquatic products (YBS farmers and ranchers or YBS). Additionally, the agency proposes to amend the System's disclosure to shareholders and investors to include reporting on its service to YBS farmers and ranchers.

**DATES:** You may send us comments by November 14, 2003.

**ADDRESSES:** Send us your comments by electronic mail to “[reg-comm@fca.gov](mailto:reg-comm@fca.gov)” or through the Pending Regulations section of our Web site, “[www.fca.gov](http://www.fca.gov)” or through the government-wide “[www.regulations.gov](http://www.regulations.gov)” portal. You may also send written comments to Robert Coleman, Director, Regulation and Policy Division, Office of Policy and Analysis, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090, or by facsimile transmission to (703) 734–5784. You

may review copies of all comments we receive at our office in McLean, Virginia.

#### FOR FURTHER INFORMATION CONTACT:

Robert E. Donnelly, Senior Policy Analyst, Office of Policy and Analysis, Farm Credit Administration, McLean, VA 22102-5090, (703) 883-4498, TTY (703) 883-4434, or

Wendy R. Laguarda, Senior Counsel, Office of General Counsel, Farm Credit Administration, McLean, VA 22102-5090, (703) 883-4020, TTY (703) 883-4020.

#### SUPPLEMENTARY INFORMATION:

##### I. Objective

The objective of the FCA's proposed rule is to ensure the System provides sound and constructive credit and services<sup>1</sup> to YBS farmers and ranchers.<sup>2</sup> To accomplish this objective, the agency proposes to amend existing regulations to provide:

1. Clear, meaningful, and results-oriented guidelines for System YBS policies and programs; and
2. Enhanced reporting and disclosure to the public on the System's performance and compliance with its statutory YBS mission (YBS mission or mission).

Through these amendments, the public will be able to measure the System's performance in fulfilling its YBS mission.

##### II. Background

The FCA's mission is to ensure the System provides a dependable source of credit and related services to agriculture and rural America as authorized by Congress. The System has a special public purpose concerning YBS farmers and ranchers. Since 1980, Congress has required the System to prepare programs for furnishing sound and constructive credit and services to YBS farmers and ranchers. Specifically, section 4.19(a) of the Farm Credit Act of 1971, as amended (Act) states:

Under policies of the district Farm Credit Bank board, each Federal land bank

association and production credit association shall prepare a program for furnishing sound and constructive credit and related services to young, beginning, and small farmers and ranchers. Such programs shall assure that such credit and services are available in coordination with other units of the Farm Credit System serving the territory and with other governmental and private sources of credit. Each program shall be subject to review and approval by the supervising bank.

YBS farmers and ranchers, like all those in agriculture today, face a wide range of challenges, including access to capital and credit; the impact of rising costs on profitability; urbanization and the availability of resources like land, water and labor; globalization; and competition from larger or more established farms. While all agricultural producers face these challenges, the hurdles that YBS farmers and ranchers face are often greater. The System's YBS mission is important to enable start-up farmers and ranchers to make a successful entry into agricultural production. The YBS mission is also critical to facilitate the transfer of agricultural operations from one generation to the next. For all these reasons, the agency is committed to ensuring that the System fulfills this important public purpose mission.

##### A. FCA's Focus on YBS Lending

In 1998, the FCA Board adopted a policy statement that called for a renewed commitment by the System to YBS lending; provided guiding principles for enhanced service to YBS farmers and ranchers; and revised definitions for "young," "beginning," and "small" farmers and ranchers.<sup>3</sup> To implement the policy statement, the FCA also issued a booklet that included the revised YBS definitions and YBS reporting procedures.<sup>4</sup> The revised reporting procedures were fully phased in by January 1, 2001. FCA requires the System to submit each year a report detailing its YBS program components.

Since 1999, YBS lending programs have been a "focus area" of agency examinations where, among other factors, the agency has looked at System institutions' YBS board policies and procedures; YBS credit enhancement programs and underwriting standards; YBS program coordination with Federal,

state, System or other credit sources; demographic studies; marketing, advertising, and other outreach programs; and the quality of YBS reporting to System institutions' boards and FCA.

In addition to this examination focus area, for the past 2 years, the FCA Board and staff have increased their focus on the System's mission to serve YBS farmers and ranchers. The agency, for example, recognized several System associations for their exemplary YBS programs.<sup>5</sup>

##### B. Report by the General Accounting Office

On March 8, 2002, the General Accounting Office (GAO) issued a report on the FCA's oversight of the System's mission to serve YBS farmers and ranchers.<sup>6</sup> The GAO, after conducting a review that began in July 2001, recommended that the agency strengthen its oversight role of the System's YBS lending, promote YBS compliance, and highlight the System's efforts to provide services to YBS farmers and ranchers by:

1. Promulgating a regulation that outlines specific activities and standards that constitute an acceptable program to implement the YBS statutory requirement;
2. Ensuring that examiners follow the guidance and complete the appropriate examination procedures related to YBS and adequately document the work performed and conclusions drawn during examinations; and
3. Publicly disclosing the results of the examinations for YBS compliance for individual System associations.

In its response to Congress, the FCA noted its commitment to address the issues raised in the GAO report.

##### C. FCA Gathers Public Input

The FCA values public input and has therefore sought public comment early in the rulemaking process in various ways. First, the agency sought public input through an advance notice of proposed rulemaking (ANPRM) seeking suggestions on possible YBS regulatory approaches and policy initiatives.<sup>7</sup> In response to the ANPRM, the agency received 65 comment letters on the

<sup>1</sup> The term "services" includes leases and related services to YBS farmers and ranchers.

<sup>2</sup> The Farm Credit Act of 1971 (1971 Act) gave the production credit associations and the banks for cooperatives the authority to finance "producers or harvesters of aquatic products" in addition to financing "farmers and ranchers." The 1980 amendments to the 1971 Act gave the Federal land banks expanded authority to finance "producers or harvesters of aquatic products" and put such producers and harvesters on the same footing as "farmers and ranchers." Thus, in accordance with the amendments to the 1971 Act, whenever we refer to "YBS farmers and ranchers" or "YBS borrowers" in this proposed rule, we are including "producers or harvesters of aquatic products."

<sup>3</sup> FCA-PS-75, Farm Credit System Service to Young, Beginning, and Small Farmers and Ranchers, effective December 10, 1998, available on the FCA Web site, [www.fca.gov](http://www.fca.gov) (under Legal Info., FCA Handbook).

<sup>4</sup> FCA BL-040, Policy and Reporting Changes for Young, Beginning, and Small Farmers and Ranchers Programs, issued December 11, 1998, available on the FCA Web site, [www.fca.gov](http://www.fca.gov) (under Legal Info., FCA Handbook).

<sup>5</sup> See remarks by the Honorable Michael M. Reyna before the 19th and 20th Annual Farm Credit Council meetings, January 22, 2002, and January 20, 2003, respectively, available on the FCA Web site, [www.fca.gov](http://www.fca.gov) (under About FCA, FCA Board, Testimony, Statements and Speeches).

<sup>6</sup> Farm Credit Administration: Oversight of Special Mission to Serve Young, Beginning, and Small Farmers Needs to be Improved (GAO-02-3040, available on the GAO Web site, [www.gao.gov/cgi-bin/getrpt?GAO-02-3040](http://www.gao.gov/cgi-bin/getrpt?GAO-02-3040)).

<sup>7</sup> See 67 FR 59479, Sept. 23, 2002.

subject. Commenters included the Farm Credit Council (Council), System institutions, the American Bankers Association (ABA), the Independent Community Bankers of America (ICBA), and other associations or trade groups involved in agriculture such as the Sustainable Agriculture Coalition and the National Corn Growers Association. Second, the FCA held a public meeting on November 13, 2002, in Kansas City, Missouri, to hear about ways to enhance the System's service to YBS farmers and ranchers. The agency heard from 24 different speakers at this public meeting, including small farmers, agricultural lenders, farm advocates, representatives of the academic community, and government officials.

### III. Responses to Comments Received

The comment letters and testimony reflect a multitude of opinions on the issue of whether the agency should provide more guidance to the System on YBS policies and programs. Generally speaking, the comments can be divided into two categories—those that oppose the issuance of a revised YBS regulation and those that support additional regulatory requirements.

#### A. Comments Advocating No Additional YBS Regulatory Requirements

Many commenters advocated that a revised regulation governing YBS lending is unnecessary because the System is already successfully fulfilling its YBS mission—a mission, they point out, that is only part of the System's overall purpose to serve all of American agriculture. These commenters noted that a revised regulation would not be based in law; would be unduly burdensome and costly; would not result in more YBS lending; and would be inconsistent with the agency's limited oversight of the YBS mission as set forth in section 4.19 of the Act.

We do not agree with the assertion by some commenters that a revised regulation would be inconsistent with section 4.19 of the Act. The agency has clear statutory authority to promulgate regulations to implement section 4.19 of the Act. The agency's general rulemaking authority under section 5.17(a)(9) of the Act authorizes FCA to “prescribe rules and regulations necessary or appropriate” for carrying out the Act. In fact, since 1980, when Congress first added section 4.19 to the Act, the agency has had regulatory and policy guidance on the System's YBS mission to supplement the Act's general YBS requirements for System banks and direct lender associations. We continue to believe a YBS regulation and other supplemental guidance is necessary and

appropriate for the System's achievement of its YBS mission and for the agency's effective oversight of the System in carrying out this mission. Moreover, a significant number of requirements in this proposed rule are similar to current agency YBS policy guidance and reporting requirements. Therefore, we do not believe the proposed rule creates significant additional burdens or costs for the System in fulfilling its YBS mission. Finally, we believe that this proposed rule will help the System achieve even greater results in fulfilling its YBS mission.

Many of these same commenters noted that each System direct lender association understands the needs of the YBS farmers and ranchers in its territory. Such commenters advocated, therefore, that it is more appropriate for each direct lender association, rather than the agency, to develop its own YBS policies and programs. For this reason, many of these commenters opposed a YBS regulation that would include specific YBS targets or other quantitative guidelines, as well as special credit treatment for loans to YBS borrowers. Some commenters claimed that such YBS targets or other quantitative guidelines would limit an association's ability to develop its own unique YBS programs. In addition, other commenters noted that, because the risk-bearing capacity of each direct lender association is different, one uniform approach for YBS lending would not be reasonable.

The proposed rule does not prescribe a “one size fits all” YBS program for all System associations. Instead, the agency gives each direct lender association the flexibility to design its own program tailored to the needs of the YBS farmers and ranchers in its territory. However, the proposed rule provides more results-oriented direction for System direct lender associations by setting forth minimum components that must be included in their YBS programs. Such minimum components will help ensure that System associations are making every effort possible to achieve their YBS mission. The proposed rule also promotes more transparency in YBS reporting, ensuring that the public is well informed of the System's commitment to, and efforts in, fulfilling its YBS mission.

Finally, the commenters noted that the agency can use its enforcement powers rather than its regulatory authority to ensure the System serves eligible YBS farmers and ranchers. Promulgating a proposed rule, which requires notice and comment procedures, will enhance the agency's

ability to use its enforcement tools to ensure that the System is fulfilling its YBS mission.

#### B. Comments Advocating Additional YBS Regulatory Requirements

In contrast to the foregoing comments, a significant number of commenters noted a need for more regulatory direction on YBS credit and services. These commenters suggest the System is not fulfilling its public purpose as a Government-sponsored enterprise (GSE) because it is not adequately providing credit and services to YBS farmers and ranchers. Many of these commenters noted that serving the needs of YBS farmers and ranchers is crucial for the future of American agriculture.

The agency believes the System's YBS mission is important, not only to the System in its public purpose role as a GSE, but also in its mission as a provider of sound, constructive, and dependable credit and services to all of American agriculture. In the agency's effort to ensure that the System remains focused on its important YBS mission, the proposed rule provides enhanced requirements for YBS policies and programs.

Many of these same commenters also noted that section 4.19 of the Act, which requires the System to submit YBS reports to the agency, is clear evidence that the agency has the authority to oversee and regulate the System's YBS mission. Many of these commenters recommended, therefore, that the agency issue a detailed rule to improve the System's YBS service, data collection, and disclosure. These commenters suggested that the agency adopt a “hard target” system that would require strict performance and reporting guidelines and impose penalties when such guidelines were not met.

We agree with these commenters that section 4.19 of the Act, as well as the agency's general rulemaking authority in section 5.17(a)(9), gives FCA the authority to oversee and regulate the System's YBS mission. The proposed rule sets forth minimum components for effective YBS policies and programs. Included in these components are requirements for direct lender associations to establish quantitative targets and qualitative goals within their risk-bearing capacities. The proposed rule also requires such targets and goals to be incorporated into an association's operational and strategic business plan. Incorporating these components into regulatory requirements will enhance the agency's ability to enforce each direct lender association's establishment of YBS targets and goals. The proposed rule also creates increased transparency

to the public by enhancing the System's reporting of YBS results.

Some commenters noted that the costs and risks associated with entrance into agriculture are prohibitive. These commenters also noted that the demographic data confirms that the pool of potential YBS borrowers continues to shrink. Therefore, many of these commenters recommended that a proposed rule require the System to provide special credit treatment to YBS borrowers. The agency recognizes that YBS farmers and ranchers often fall into a category of borrowers that have low equity, limited cash flow, and little, if any, managerial and business planning experience. The agency believes it is important for the System to recognize the special needs of YBS farmers and ranchers and to make every effort to provide special credit programs and services for this group. However, the agency believes that each direct lender association must decide for itself, within its risk-bearing capacity, how best to meet the needs of the YBS farmers and ranchers in its territory. This is a business judgment that should be exercised by each association rather than the regulator. In meeting the special credit needs of YBS farmers and ranchers and maintaining sound credit management practices, the proposed rule suggests that associations can make use of fee waivers, specialized loan underwriting standards, loan guarantees, or loan participation programs.

Finally, several of these commenters suggested that a proposed YBS rule include provisions that would prohibit the System from engaging in predatory pricing or financing credit needs not closely related to agriculture.<sup>8</sup> Sections 1.8(b) and 2.4(c)(2) of the Act provide that "it shall be the objective" of System lenders to set interest rates and other charges "at the lowest reasonable cost" on a sound business basis<sup>9</sup> taking into consideration the lender's cost of funds, necessary reserves, and the cost of providing services to its members. Through our examination process, the agency evaluates whether interest rates charged are consistent with law, regulations, sound business practices, and the institution's loan policies. In addition, the agency ensures that interest rates charged are sufficient to cover the institution's costs and

adequately capitalize the institution, while maintaining safety and soundness. With YBS farmers and ranchers facing multiple economic challenges, the agency believes it is important for this group of potential borrowers to have access to credit at competitive rates. Moreover, the System is fulfilling its public purpose under the Act when it provides interest rates at the lowest reasonable cost on a sound business basis.

### *C. YBS Services and Coordination*

Commenters offered suggestions on how to enhance services and coordination with other System institutions and other governmental and private sources of credit for YBS farmers and ranchers. Many commenters suggested that System institutions take greater advantage of Farm Service Agency loan guarantees, aggie bonds, and other risk-pooling programs as a means of providing credit to YBS borrowers while reducing exposure to risk. Other commenters noted the System is currently doing a good job coordinating with these programs and no further guidance on this issue is needed. Many of these same commenters supported collaborative efforts among System institutions, government agencies, non-profit organizations, and other lenders as a means of reaching and serving YBS borrowers. These commenters also suggested that outreach efforts include partnerships with sustainable agriculture and alternative agriculture production programs. Several commenters emphasized the need for outreach programs designed to connect YBS farmers and ranchers with existing lending and support programs. Many commenters also noted the System could do a better job of advertising its services and credit programs to YBS farmers and ranchers. Several commenters also recommended that the System better facilitate intergenerational transfers where land or farm equipment is passed from retiring farmers or ranchers to YBS farmers or ranchers. Several of these same commenters recommended that the System establish mentoring programs to connect seasoned farmers and ranchers with young or beginning farmers and ranchers.

Section 4.19 of the Act requires System direct lender associations to develop YBS programs that assure that credit and services to YBS farmers and ranchers are available in coordination with other System institutions and other governmental and private sources of credit. In accordance with the Act, the agency believes the System should be

making every effort possible to ensure that its YBS credit and service programs are made in coordination with others. To this end, we have included in the proposed rule a YBS program component that requires each direct lender association to establish qualitative YBS goals. Such goals include offering directly, or in coordination with others, credit programs and services and undertaking outreach efforts, including educational programs and advertising campaigns.

One commenter recommended that the agency prevent System institutions from distributing patronage refunds until some of the System's profits are used to fund special low interest programs to YBS farmers and ranchers. Congress established the System as a cooperative structure in which System borrowers are also the owners. The agency believes it would be contrary to Congressional intent to prevent a System institution, operating safely and soundly, from exercising a fundamental principle of cooperatives, namely the distribution of patronage dividends.

Another commenter suggested the agency create an Affordable Farming Program modeled after the Affordable Housing Program of the Federal Home Loan Bank System. The program suggested by the commenter is required by the Federal Home Loan Bank Act. There is no authority under the Act for the agency to require the System to establish a similar program. Absent such statutory authority, the agency believes this idea is best left to the consideration of System institutions using their sound business judgment.

Another commenter noted the need for more educational programs for socially disadvantaged farmers and ranchers, particularly, women farmers and ranchers. Section 1.1(a) of the Act declares the policy of Congress that System institutions improve the income and well being of American farmers and ranchers. Although the Act does not contain explicit provisions for the System to serve socially disadvantaged or minority farmers, the System's mission is to serve all American farmers and ranchers. Moreover, service to YBS farmers and ranchers often includes service to socially disadvantaged and minority farmers and ranchers. Thus, the results-oriented direction in this proposed rule should also enhance the System's service to socially disadvantaged and minority farmers and ranchers.

Finally, some commenters noted that FCA should articulate a strong policy on the System's YBS mission and do a better job of recognizing strong YBS programs. The FCA believes that

<sup>8</sup> The commenter does not define the term "predatory pricing" and this term is not used in the Act. The agency notes there is no uniform national law that defines what is meant by predatory pricing and such a term is open to widely differing interpretations.

<sup>9</sup> The word "cost" is used in the singular only in section 2.4(c)(2) of the Act.

through this proposed rule and previous guidance on YBS policies and programs, the agency has articulated its strong commitment to ensuring that the System fulfills its YBS mission. In addition, the proposed rule requires each direct lender association to articulate its YBS policy by including it in a mission statement, which is now a required component of each association's YBS program. For the past two years, the agency also has recognized those System associations with exemplary YBS programs in order to highlight successful efforts and provide model programs for other System institutions to emulate.

#### *D. Measuring the System's YBS Performance*

In response to how the agency should measure the System's YBS performance, a significant number of commenters indicated that nationwide performance measures would be inappropriate, unworkable, and ineffective; that Congress did not authorize the agency to establish YBS performance measures; and that no YBS performance system is necessary because the agency already collects adequate information to measure the System's performance. Several commenters advocated that the agency establish a formal rating program for the System's YBS performance to measure not only each direct lender association's performance against the YBS demographics in its territory, but also how well each association's YBS performance compares to other System associations.

The agency believes it is important to measure the System's YBS performance. The proposed rule provides the public with a complete and accurate picture of the System's YBS performance through enhanced reporting requirements. The reporting requirements will provide the public with an understanding of each association's YBS performance as compared to the YBS demographics in its territory. The agency believes the reporting requirements will provide a sound understanding of each direct lender association's YBS performance.

In addition to the enhanced YBS reporting requirements for the System, the agency will also complete a rating for each direct lender association's overall YBS program. The YBS program performance rating will be based on a review of the direct lender association's YBS program components, as discussed in the proposed rule. The examination of an association's YBS program will be the result of an enhanced examination assessment and will normally be completed during regular safety and soundness examination activities. The

FCA's rating will identify the association's YBS program performance as either "Pass" or "Fail." The FCA Board will publicly disclose the results of the System's YBS compliance.

Finally, many commenters noted problems with measuring the System's YBS performance based on the YBS demographic data available to the System, including the limited applicability and accuracy of the data. Many commenters also noted the prohibitive costs associated with conducting independent YBS demographic studies. Other commenters noted that a conflict of interest exists if System institutions are allowed to conduct their own demographic studies. Still other commenters suggested that System institutions hire independent researchers to study the YBS demographics of their lending territories.

One of the minimum components for YBS programs set forth in the proposed rule requires that each direct lender association develop quantitative targets based on the YBS demographic data in its territory. The agency recognizes that YBS demographic data available to the System has limitations. The agency also recognizes that it could be costly and burdensome for System associations to conduct their own studies, or hire an independent source to complete such studies, when reasonably reliable census data exists. In recognition of these limitations, the proposed rule permits direct lender associations to use existing YBS demographic data to establish quantitative targets for their YBS lending as long as they can support that such data is reasonably reliable. In addition to demographic data reliability, it is just as important for direct lender associations to ensure that their quantitative targets reasonably reflect the YBS demographics in their territory and to be able to explain any inconsistencies between the YBS demographics in their territory and their association's YBS data. For example, if the demographic is based on the number of potential YBS borrowers in the territory and an association's quantitative target is based on some variation of loans, an association must disclose this difference when reporting its YBS data.

#### *E. Reporting and Disclosure of YBS Performance*

A significant group of commenters stated that current reporting and disclosure requirements are adequate with no additional changes needed. Many of these commenters pointed out that information on the System's YBS performance is already available to the

public through the FCA's annual report. Many of these commenters also believe that FCA lacks authority to require more reporting and disclosure than what is already set forth in section 4.19 of the Act.<sup>10</sup> Many of these commenters also noted that YBS disclosure by individual direct lender associations would be misleading to the public because of territorial differences. Several commenters argued that additional reporting would only serve to increase costs that would be passed on to the borrower with no positive effect on YBS lending. Finally, several commenters expressed concern over the possibility of publicly disclosing individual examination reports on YBS performance.

Another group of commenters noted that increased YBS reporting and disclosure would be beneficial. These commenters articulated that increased reporting and disclosure would apply pressure on System institutions to enhance their YBS lending. Specifically, many of these commenters suggested that YBS reporting be included in the System's annual reports to shareholders. Other commenters noted that the System's status as a GSE compels more reporting and public disclosure of the System's YBS performance. These same commenters suggested that YBS examination results be published in each direct lender association's annual reports.

The agency believes enhanced YBS reporting and disclosure would be beneficial to the public and the System. Additional reporting and disclosure would help the System focus on its YBS performance to better fulfill its YBS mission. In turn, additional YBS reporting and disclosure will give the public a better understanding of the System's YBS performance. The agency has authority to require, in its oversight and regulatory role, the reporting and disclosure we believe necessary for the System's fulfillment of its YBS mission. Further, we do not believe the enhanced reporting requirements in the proposed rule add significant burdens or costs to System banks or direct lender associations.

The proposed rule requires each direct lender association to report, in its

<sup>10</sup> Section 4.19(b) of the Act sets forth YBS reporting requirements for Farm Credit System banks and associations. Specifically, section 4.19(b) provides: The Farm Credit Bank for each district shall annually obtain from associations under its supervision reports of activities under programs developed pursuant to subsection (a) of this section and progress toward program objectives. On the basis of such reports, the bank shall provide to the FCA an annual report summarizing the operations and achievements in its district under such programs.

annual report to shareholders, on each component of its YBS program. As many commenters recommended, the proposed rule also requires both System banks and direct lender associations to include YBS performance results in their annual reports to shareholders. The proposed rule also requires System banks to include, in their annual reports to investors, consolidated, quantitative YBS performance results for their affiliated direct lender associations.

Finally, some commenters expressed concern over disclosing individual examination reports on YBS performance. We believe it is not necessary to disclose confidential examination report information. We believe the additional transparency provided by the enhanced reporting and disclosure requirements in the proposed rule will give the public a sound understanding of the System's YBS performance results and will therefore preclude the need for disclosing FCA examination reports on System YBS performance.

#### *F. YBS Data Collection Issues*

In response to whether the agency should count the number of YBS borrowers or loans, many commenters expressed a preference for counting loans while others expressed a preference for counting borrowers. Many other commenters said the issue of consistency in data collection was a key issue rather than whether the agency counts YBS loans or borrowers. Other commenters stated the System should not be allowed to inflate its YBS numbers by allowing the same loan to be counted separately in each applicable YBS category.

In 1998, the agency announced it would collect YBS data from the System based on the number of loans that benefit "young," "beginning," or "small" farmers and ranchers rather than the number of borrowers. This change was consistent with the new definitions the agency developed in 1998, which captured more complete information on loans to partners and family members and thus made it more difficult to track borrowers. The agency believes, along with many of the commenters, that the key issue in YBS data collection is consistency. We believe the reasons for changing our data collection procedures from borrowers to loans in 1998 are still valid, making it unnecessary to change our approach once again.

In 1998, the agency also changed how the System should categorize loans to YBS borrowers. The agency previously required reporting a YBS borrower in one of four mutually exclusive

categories: Young borrowers; beginning borrowers; small borrowers; and borrowers that met at least two of the definitions. The agency now requires System banks and direct lender associations to report a loan in each applicable YBS category. If a loan is made to a borrower who is young, beginning, and small, it is reported in each category. This practice is consistent with other GSE mission-related reporting, such as Fannie Mae and Freddie Mac reports on their annual housing goals.<sup>11</sup>

In the agency's annual Performance and Accountability Report, the information on the System's YBS lending explicitly states that YBS categories are not mutually exclusive and therefore each category cannot be added together for a total number of System YBS loans. We believe that this method of categorizing and counting the System's YBS loans provides the most accurate and complete picture of how the System institutions are fulfilling their YBS mission. We also believe that this method is consistent with the intent of Congress to report on the System's service to each category of YBS farmers and ranchers.

#### *G. Definitions*

Many of the commenters expressed concerns about the current agency definitions for "young," "beginning," and "small" farmers and ranchers. Several commenters recommended tightening the parameters on YBS definitions. These commenters suggested that FCA reduce the "beginning" farmer definition from the current 10 years to 5 years.

Current agency definitions for "young," "beginning," and "small" farmers and ranchers are set forth in 1998 FCA guidance.<sup>12</sup> The guidance defines "young" as a farmer, rancher, or producer or harvester of aquatic products who is age 35 or younger as of the loan transaction date. The current guidance is a change from the previous definition of "less than 35 years old." The current definition remains similar to the United States Department of Agriculture's *National Agricultural Statistics Service Census of Agriculture* (USDA Census of Agriculture), which defines a "young" farmer as being less than 35 years old.

The current guidance defines "beginning" as a farmer, rancher, or producer or harvester of aquatic products who has 10 years or less

farming or ranching experience as of the loan transaction date. Before 1998, the definition of beginning had been a "farmer, rancher and producer or harvester of aquatic products means one who is in the process of establishing an agricultural operation and who has not assumed the full control and risk of such an operation for longer than 5 years." The current definition of "10 years or less" is consistent with section 343 of the Consolidated Farm and Rural Development Act, as amended, which defines, in part, a "qualified beginning farmer or rancher" as an applicant "who has not operated a farm or ranch, or who has operated a farm or ranch for not more than 10 years."<sup>13</sup>

Several commenters also recommended that FCA reduce the small farmer definition from \$250,000 in gross annual sales to something less, such as \$100,000 in gross annual sales. The guidance defines "small" as a farmer, rancher, or producer or harvester of aquatic products who normally generates less than \$250,000 in annual gross sales of agricultural or aquatic products. Before 1998, the definition of small was one who has "sustained gross sales from agricultural or aquatic production and a net worth as prescribed by the FCA." The agency's current definition of "small" is significantly more conservative than the definitions used by other Federal financial regulatory agencies for Community Reinvestment Act<sup>14</sup> reporting of small farmer loans. The Small Business Administration considers most agricultural production enterprises as "small" if their annual receipts do not exceed \$750,000.<sup>15</sup> Commercial banks and savings associations use thresholds of \$1,000,000 for annual sales and a loan size of less than \$500,000 for small loans.<sup>16</sup> The National Commission on Small Farms<sup>17</sup> (Commission) recommended that the United States Department of Agriculture (USDA) focus its programs on farm operations that generate less than \$250,000 in annual gross agricultural sales. The Commission believed such a level of income represents small farm operators and, after expenses, is equivalent to the net disposable income that the average non-farm family receives. As these various definitions indicate, there is no

<sup>13</sup> 7 U.S.C. 1991.

<sup>14</sup> See, for example, 12 CFR 25.42(h)(1)(iv).

<sup>15</sup> See section 3(a)(1) of the Small Business Act, Pub. L. 85-536, as amended.

<sup>16</sup> Depository lenders report on loans to small farm operators as part of their compliance with the Community Reinvestment Act.

<sup>17</sup> USDA, A Report to the USDA National Commission on Small Farms, January 1998.

<sup>11</sup> The annual housing goals are established and supervised by the Department of Housing and Urban Development, Fannie Mae's and Freddie Mac's mission regulator.

<sup>12</sup> See *supra* note 4.

uniform description of a small farm. The agency adopted the most conservative of these thresholds, \$250,000 in annual gross agricultural sales.

Several commenters recommended that FCA exclude loans that are \$5,000 or less from any YBS reporting. The agency's current definitions for YBS farmers and ranchers include all loans, even those that fall under a *de minimis* loan amount, such as \$5,000. We do not believe a *de minimis* exclusion would provide an accurate and complete picture of the System's YBS lending.

One commenter recommended making "small" the umbrella category for "young" and "beginning" farmers and ranchers. This commenter also recommended creating a category for "small" loans to farmers and ranchers who are not "young" or "beginning." Section 4.19 of the Act requires that the System have programs for "young," "beginning," and "small" farmers and ranchers. The agency has interpreted this statutory provision as requiring System policies, programs, and reporting to be based on these three distinct YBS categories. The agency believes that changing these categories by making any one of them the umbrella for other categories, as suggested by the commenter, would be inconsistent with Congressional intent. Moreover, the agency's current "small" category already captures small farmers and ranchers who are not "young" and "beginning." Therefore, to rearrange the categories, as suggested by the commenter, would be unnecessarily burdensome and not more useful.

One commenter noted the inconsistency between the FCA and the USDA definitions for certain categories of YBS borrowers. The agency has considered a variety of data, including USDA benchmarks, in developing what it believes to be YBS definitions most appropriate for the System's mission.

A few commenters noted that a borrower should have a "material stake" in the agricultural operation before he or she can be counted in one of the YBS categories. The current definitions for young and beginning farmers and ranchers apply to individuals who benefit from System loans. Loans to sole proprietors and partners qualify for reporting purposes if a young or beginning borrower is obligated on the loan. Loans to a closely held legal entity qualify for reporting purposes if a young or beginning borrower has an ownership interest in the entity. The current definitions do not require that a young or beginning borrower have a material stake in the agricultural operation. We believe a material stake requirement is inconsistent with the purpose of YBS

lending, which is to provide credit and services to those borrowers who are just getting started in agriculture and often have a low equity position, thereby precluding their ability to have a "material stake" in an agricultural operation.

Finally, one commenter noted that System institutions do not consistently apply YBS definitions. The agency's 1998 guidance for YBS reporting provided a phase-in period for the new definitions, which required compliance by January 2001. During this transition period, System institutions may have adopted different implementation dates for their reporting changes. The agency annually reviews and provides instructions to each System direct lender association for its YBS reporting to ensure that it is both accurate and complete. In addition, FCA examiners evaluate and test the direct lender associations' internal controls to verify whether the designation of YBS farmers and ranchers is correct, the accuracy of the direct lender associations' databases, and the quality of reporting to association boards and FCA.

In summary, the agency believes the current YBS definitions reflect the changes in agriculture occurring over the years and provide the most accurate picture of the System's service to YBS farmers and ranchers. The definitions for YBS categories are not included in the proposed rule, but continue to remain in agency guidance set forth in an agency booklet (1998 BL-040).

#### H. Other Authorities To Enhance YBS Lending

A significant number of commenters offered suggestions on ways to improve credit and services to YBS farmers and ranchers in lieu of issuing a revised YBS regulation. These suggestions included:

1. Reviving the national charter issue to eliminate territorial restrictions and thereby improve competition, availability, and access to credit to YBS farmers and ranchers;
2. Removing the existing scope of lending restrictions limiting lending to less than full-time farmers so that part-time farmers have more access to credit;
3. Removing restrictions on rural home loan lending;
4. Authorizing System institutions to make investments in rural America;
5. Expanding the System's lending authority to include lending to businesses located in rural areas; and
6. Enhancing the System's lending to other financing institutions. One commenter opposed any initiatives that would expand the System's lending authorities.

The proposed rule focuses only on System YBS policies and programs. The agency's regulatory performance plan (which is available on the agency's Web site) includes many of the topics raised by the commenters. As the regulatory performance plan indicates, many of these topics may be addressed in separate agency rulemakings.

#### IV. Regulatory Approach

As discussed above, the agency received contrasting comments on whether further guidance is necessary to strengthen the System's mission to provide sound and constructive credit and services to YBS farmers and ranchers. After reviewing the comment letters and public testimony, the agency is proposing a regulation that balances the needs for additional direction while allowing System direct lender associations the flexibility to design YBS programs unique to the needs of their territories and within their risk-bearing capacities.

The proposed rule outlines the minimum components that must be a part of each direct lender association's YBS program. Thus, it is responsive to the GAO report recommendation for a regulation that "outlines specific activities and standards that constitute an acceptable program to implement the YBS statutory requirement."

GAO also recommended publicly disclosing the results of the examinations for YBS compliance for individual System associations. The Federal financial regulatory agencies, including the FCA, have a longstanding policy of keeping examination results confidential to everyone other than the board of directors of the affected institution.<sup>18</sup> The purposes of this policy are to protect financial institutions by withholding reports that contain candid evaluations of their stability and to promote cooperation and communication between the institution and examiners.

We believe the proposed rule meets the intent of the GAO recommendation for improved public disclosure of the System's YBS performance results. The agency will assign a rating for each direct lender association's overall YBS program. The rating will identify the association's YBS program performance as either "Pass" or "Fail." The FCA Board will publicly disclose the results

<sup>18</sup> An exemption under the Freedom of Information Act permits the agency to withhold from the public any agency record "contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions." See 5 U.S.C. 552(b)(8).



of the System's YBS compliance. The proposed rule also requires System banks and direct lender associations to discuss their YBS programs and results in their annual reports to shareholders and investors. We believe these reporting and disclosure requirements will create more meaningful and transparent disclosure of the System's YBS program results than would the reporting of YBS examination results. Moreover, we believe such reporting and disclosure requirements will provide an added incentive to System banks and direct lender associations to focus on and enhance their YBS policies and programs.

Finally, the GAO recommended more consistent and complete YBS examination procedures. In response to this recommendation, FCA has made numerous changes to improve the YBS examination process. Such changes included implementing additional controls to provide assurance that examiners are fully completing the comprehensive YBS examination procedures. Before the GAO review, examiners had been completing YBS examination procedures using a "risk-based" approach, focusing attention on those areas deemed to be significant to that particular institution. Shortly after receiving the GAO report, the "risk-based" approach was discontinued and comprehensive scope examinations became mandatory in all association examinations, with full documentation of work performed and conclusions drawn. Senior examiners are now required to provide close supervision of the YBS examination program, and quality assurance examiners review the work completed and certify that the examiners followed all applicable guidance. After reviewing the agency's progress in this area, the GAO concluded that our corrective action plan satisfies the recommendation contained in the report regarding YBS examination activities.

The agency proposes to revise its YBS regulation by removing the current rule in its entirety and replacing it with the proposed rule discussed below.

## V. Section-by-Section Analysis

### *Section 614.4165(a)—Definitions*

We have added a definition section to clarify that the term "credit" includes all loans and interests in participations made by System banks and direct lender associations operating under title I or II of the Act. This section also clarifies that the term "services" as used in section 4.19(a) of the Act includes all leases made under title I or II authorities and all related services made by System

banks and direct lender associations operating under title I or II of the Act.

### *Section 614.4165(b)—Farm Credit Bank Policies*

This section implements certain provisions of section 4.19 of the Act, which require each:

1. Direct lender association to adopt a YBS program under the policies of its funding<sup>19</sup> Farm Credit bank board;
2. Direct lender association to coordinate with other System institutions in its territory, and other Governmental and private sources of credit in extending credit and services to YBS farmers and ranchers;
3. Direct lender association to report annually on its YBS programs and performance results to its funding bank; and
4. Farm Credit bank to report annually to the FCA, summarizing the YBS program operations and achievements of its affiliated direct lender associations.

Direct lender associations have gained more autonomy from their funding banks since 1980, when section 4.19 of the Act was added. In recognizing this autonomy, we are proposing that the Farm Credit bank policies be kept to a minimum. Instead, the proposed rule focuses on ensuring that the direct lender associations establish YBS programs that fulfill the provisions of section 4.19 of the Act.

### *Section 614.4165(c)—Direct Lender Association YBS Programs*

This section sets forth the minimum components that each direct lender association must include in its YBS program. This section allows each direct lender association to design a YBS program unique to the needs of the YBS farmers and ranchers in its territory. Setting forth minimum components for YBS programs conveys FCA's expectations for specific activities and standards that constitute an acceptable YBS program.

The first component of this section requires each direct lender association to develop a mission statement for its YBS program. The exercise of developing a mission statement will compel each direct lender association to focus on the objectives of its YBS program and the steps it must take to accomplish such objectives.

The second and third components of this section require each direct lender association to develop annual

quantitative targets and qualitative goals to be incorporated into its operational and strategic business plan. Although the proposed regulation provides several suggestions on how to establish quantitative targets, these are suggestions only and are not mandatory. Each direct lender association has the flexibility to establish quantitative targets that best fit the needs of its territory. These targets must be established for each category of YBS borrowers. We note that no matter how direct lender associations establish their quantitative targets, the agency will continue to require annual YBS reports on loan volume and numbers.

The proposed rule requires that quantitative targets reasonably relate to the demographic data in each direct lender association's territory. We realize, based on the comments received, that the demographic data available to the System is not a perfect representation of the potential pool of eligible YBS borrowers in each direct lender association's territory. However, demographic data available from the *Census of Agriculture*, for example, is suitable as long as the direct lender association makes a reasonable effort to determine the reliability of the data. Moreover, quantitative targets must reasonably reflect the YBS demographics in each direct lender association's territory.

The quantitative targets and qualitative goals outlined in the proposed rule are similar to current FCA policy and reporting requirements for System YBS programs. Therefore, we do not believe these components impose significant new burdens for System direct lender associations.

The fourth component of this section requires each direct lender association to have methods to ensure that it conducts its YBS program in a safe and sound manner and within its risk-bearing capacity. It is possible that YBS farmers and ranchers pose a higher credit risk than other System borrowers. However, through the use of loan participations, capital pooling, guarantors such as the Farm Service Agency and state organizations that address specific YBS lending needs, a direct lender association can better manage its risk and increase opportunities for its YBS borrowers. The use of credit enhancements is one method to manage risk while providing more opportunities.

### *Section 614.4165(d)—YBS Advisory Committee*

Under this section, each direct lender association may establish and maintain an advisory committee comprised of

<sup>19</sup> Although section 4.19 of the Act refers to "district" and "supervising" Farm Credit bank, we use the term "funding" bank, which we believe more appropriately reflects the current relationship between a Farm Credit bank and its affiliated direct lender associations.



young, beginning, and small farmers and ranchers. We believe a YBS advisory committee could help each association determine the credit and services needs of YBS farmers and ranchers in the association's territory. Similarly, this committee could serve as the association's conduit to the YBS community and other agricultural interest groups and lending sources serving the needs of YBS farmers and ranchers. For example, an advisory committee could reach out to the YBS community to inform such potential borrowers of the association's credit and services programs designed to serve YBS farmers and ranchers. For these reasons, we believe this committee will be extremely helpful to System associations.

*Section 614.4165(e)—Review and Approval of YBS Programs*

This section implements section 4.19(a) of the Act, which requires each YBS program to be subject to review and approval by the funding bank. We recognize that because System associations are now all direct lenders, their relationship with their funding banks has significantly changed since 1980, when section 4.19 was added to the Act. Direct lender associations have been increasingly more responsible for their own programs and operations. Accordingly, we have limited each funding bank's review and approval of YBS programs to whether or not the YBS programs are complete and include the necessary components required in the proposed rule.

*Section 614.4165(f)—YBS Program and the Operational and Strategic Business Plan*

This paragraph requires direct lender associations to include their YBS quantitative targets and qualitative goals in their operational and strategic business plan. The annual targets and goals will establish the steps by which the association hopes to reach its longer-term YBS program objectives as identified in its operational and strategic business plan.

*Section 614.4165(g)—YBS Program Internal Controls*

Proper oversight and control of a YBS program will help ensure that the program is managed effectively and will contribute to its overall success. Therefore, we believe comprehensive and detailed internal controls are a critical component of a YBS program. These internal controls include establishing clear lines of responsibility for YBS program implementation, YBS performance results, and YBS quarterly

reporting. Regular and reliable reporting to the board of directors helps the association to assess the strengths and weaknesses of its YBS program. The quarterly reporting requirement in the proposed rule will provide the board of directors an opportunity to assess its YBS program and consider any necessary changes or adjustments to its program components.

*Section 620.5(n)—Contents of the Annual Report to Shareholders*

A significant number of commenters noted how successfully the System is fulfilling its YBS mission. However, many commenters also noted that the System could do a better job of sharing its YBS mission accomplishments with the public. Therefore, the proposed rule includes a requirement for each direct lender association and Farm Credit bank to report on its YBS mission accomplishments in its annual report to shareholders. The reporting information required in the proposed rule is not significantly different than the information solicited by the agency each year from each direct lender association through its funding bank. Therefore, the agency believes this reporting requirement will not be significantly burdensome or costly to the System.

Reporting requirements for the direct lender associations are more detailed than the Farm Credit bank disclosure requirements. Each direct lender association must provide a description of its YBS program, including a status report on each program component as set forth in § 614.4165(c), and the definitions of "young," "beginning," and "small" farmers and ranchers. Each direct lender association must also describe the YBS demographics in its territory and the source of its demographic data as well as any differences between this data and the association's YBS data. For example, if an association uses the USDA Census of Agriculture to report on the demographics of its territory, it must cite this source. Furthermore, if there are differences between the demographic data and the YBS data being collected by the association, the differences must be explained in the report. For instance, the USDA Census of Agriculture reports on number of farmers and ranchers, whereas System associations report on the number of loans.

In addition, each association must discuss any other information necessary for a comprehensive understanding of the association's YBS program and its results. For example, the association may need to describe the choice of services that it offers to its YBS farmers

and ranchers. The association may also need to discuss any significant changes in quantitative targets or qualitative goals between reporting periods.

Section 4.19(b) of the Act requires each Farm Credit bank to summarize the YBS operations and achievements for all its affiliated direct lender associations and report such information to the agency. The proposed rule requires each Farm Credit bank to include such information in its annual report to shareholders. Specifically, the proposed rule requires the banks to include in its annual report to shareholders a summary report of the quantitative YBS data from its affiliated direct lender associations. The annual report to shareholders must also include the definitions of "young," "beginning," and "small" farmers and ranchers. We note that the proposed rule requires each Farm Credit bank to report on quantitative data only. However, a narrative report may be necessary for an ample understanding of the YBS mission results.

We believe reporting to shareholders and the public will create more transparent disclosure of the System's YBS mission accomplishment. Such transparency will underscore the importance of the YBS mission to the System, not only in its role as a provider of sound, constructive, and dependable credit to all of American agriculture, but also in its public purpose role as a GSE.

To increase the transparency of the System's YBS disclosure, we would encourage all System banks and direct lender associations to provide Web site access to their annual reports to shareholders. We note that much of the YBS information currently reported to the agency by System banks and associations is available on our Web site.

*Section 630.20—Contents of the Annual Report to Investors*

In order to strive for more transparency in the System's fulfillment of its YBS mission, the proposed rule requires Farm Credit banks to include, in their annual report to investors, a report on consolidated YBS lending data of their affiliated direct lender associations. The annual report to investors must also include the definitions of "young," "beginning," and "small" farmers and ranchers.

**VI. Regulatory Flexibility Act**

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the FCA hereby certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities. Each of the

banks in the System, considered together with its affiliated associations, has assets and annual income in excess of the amounts that would qualify them as small entities. Therefore, System institutions are not "small entities" as defined in the Regulatory Flexibility Act.

#### List of Subjects

##### 12 CFR Part 614

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

##### 12 CFR Part 620

Accounting, Agriculture, Banks, banking, Reporting and recordkeeping requirements, Rural areas.

##### 12 CFR Part 630

Accounting, Agriculture, Banks, banking, Organization and functions (Government agencies), Reporting and recordkeeping requirements, Rural areas.

For the reasons stated in the preamble, parts 614, 620, and 630, chapter VI, title 12 of the Code of Federal Regulations are proposed to be amended 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, 4104b, 4106, and 4128; secs. 1.3, 1.5, 1.6, 1.7, 1.9, 1.10, 1.11, 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, 4.25, 4.26, 4.27, 4.28, 4.36, 4.37, 5.9, 5.10, 5.17, 7.0, 7.2, 7.6, 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, 2097, 2121, 2122, 2124, 2128, 2129, 2131, 2141, 2149, 2183, 2184, 2199, 2201, 2202, 2202a, 2202c, 2202d, 2202e, 2206, 2206a, 2207, 2211, 2212, 2213, 2214, 2219a, 2219b, 2243, 2244, 2252, 2279a, 2279a-2, 2279b, 2279c-1, 2279f, 2279f-1, 2279aa, 2279aa-5); sec. 413 of Pub. L. 100-233, 101 Stat. 1568, 1639.

#### Subpart D—General Loan Policies for Banks and Associations

2. Section 614.4165 is revised to read as follows:

##### § 614.4165 Young, beginning, and small farmers and ranchers.

###### (a) Definitions.

(1) For purposes of this subpart, the term "credit" includes:

(i) Loans made to farmers and ranchers and producers or harvesters of aquatic products under titles I or II of the Act; and

(ii) Interests in participations made to farmers and ranchers and producers or harvesters of aquatic products under titles I or II of the Act.

(2) For purposes of this subpart, the term "services" includes:

(i) Leases made to farmers and ranchers and producers or harvesters of aquatic products under titles I or II of the Act; and

(ii) Related services to farmers and ranchers and producers or harvesters of aquatic products under titles I or II of the Act.

(b) *Farm Credit bank policies.* Each Farm Credit Bank and Agricultural Credit Bank must adopt written policies that direct:

(1) The board of each affiliated direct lender association to establish a program to provide sound and constructive credit and services to young, beginning, and small farmers and ranchers and producers or harvesters of aquatic products (YBS farmers and ranchers or YBS). The terms "bona fide farmer or rancher," and "producer or harvester of aquatic products" are defined in § 613.3000 of this chapter.

(2) Each affiliated direct lender association to include in its YBS farmers and ranchers program provisions ensuring coordination with other Farm Credit System institutions in the territory and other governmental and private sources of credit.

(3) Each affiliated direct lender association to provide, annually, a complete and accurate YBS farmers and ranchers operations and achievements report to its funding bank.

(4) The bank to provide the Farm Credit Administration a complete and accurate annual report summarizing the YBS program operations and achievements of its affiliated direct lender associations.

(c) *Direct lender association YBS programs.* The board of directors of each direct lender association must establish a program to provide sound and constructive credit and services to YBS farmers and ranchers in its territory. Such a program must include the following minimum components:

(1) A mission statement describing program objectives and specific means for achieving such objectives.

(2) Annual quantitative targets for credit to YBS farmers and ranchers that are based on reasonably reliable demographic data and that reasonably reflect the YBS demographics in the lending territory. Such targets may include:

(i) Loan volume and loan number goals for "young," "beginning," and

"small" farmers and ranchers in the territory;

(ii) Percentage goals representative of the demographics for "young," "beginning," and "small" farmers and ranchers in the territory;

(iii) Percentage goals for loans made to new borrowers qualifying as "young," "beginning," and "small" farmers and ranchers in the territory;

(iv) Goals for capital committed to loans made to "young," "beginning," and "small" farmers and ranchers in the territory.

(3) Annual qualitative YBS goals that must include efforts to:

(i) Offer related services, either directly or in coordination with others that are responsive to the needs of the "young," "beginning," and "small" farmers and ranchers in the territory;

(ii) Take full advantage of opportunities for coordinating credit and services offered among other Farm Credit System institutions in the territory and other Governmental and private sources of credit who offer credit and services to those who qualify as "young," "beginning," and "small" farmers and ranchers;

(iii) Implement effective outreach programs to attract YBS farmers and ranchers, which may include advertising campaigns, and educational, credit and services programs beneficial to "young," "beginning," and "small" farmers and ranchers in the territory.

(4) Methods to ensure that credit and services offered to YBS farmers and ranchers are provided in a safe and sound manner and within a direct lender association's risk-bearing capacity. Such methods could include customized loan underwriting standards, loan guarantee programs, fee waiver programs, or other credit enhancement programs.

(d) *YBS Advisory Committee.* The YBS program of each direct lender association may include an advisory committee comprised of "young," "beginning," and "small" farmers and ranchers to provide views on how the credit and services of the direct lender association could best serve YBS farmers and ranchers.

(e) *Review and approval of YBS programs.* The YBS program of each direct lender association is subject to the review and approval of its funding bank. However, the funding bank's review and approval is limited to a determination that the YBS program contains all required components as set forth in paragraph (c) of this section. Any conclusion by the bank that a YBS program is incomplete must be communicated to the direct lender association in writing.

(f) *YBS program and the operational and strategic business plan.* Targets and goals outlined in paragraphs (c)(2) and (c)(3) of this section must be included in each direct lender association's operational and strategic business plan for at least the succeeding 3 years (as set forth in § 618.8440 of this chapter).

(g) *YBS program internal controls.* Each direct lender association must have internal controls that establish clear lines of responsibility for YBS program implementation, YBS performance results, and YBS quarterly reporting to the association's board of directors.

## PART 620—DISCLOSURE TO SHAREHOLDERS

3. The authority citation for part 620 continues to read as follows:

**Authority:** Secs. 5.17, 5.19, 8.11 of the Farm Credit Act (12 U.S.C. 2252, 2254, 2279aa–11); sec. 424 of Pub. L. 100–233, 101 Stat. 1568, 1656.

### Subpart B—Annual Report to Shareholders

4. Amend § 620.5 by adding a new paragraph (n) to read as follows:

#### § 620.5 Contents of the annual report to shareholders.

\* \* \* \* \*

(n) *Credit and services to young, beginning, and small farmers and ranchers and producers or harvesters of aquatic products.*

(1) Each direct lender association must describe the YBS demographics in its territory and the source of the demographic data. If there are differences in the methods by which the demographic and YBS data are presented, these differences must be described.

(2) Each direct lender association must provide a description of its YBS program, including a status report on each program component as set forth in § 614.4165(c) of this chapter and the definitions of “young,” “beginning,” and “small” farmers and ranchers. The discussion must provide such other information necessary for a comprehensive understanding of the direct lender association's YBS program and its results.

(3) Each Farm Credit bank must include a summary report of the quantitative YBS data from its affiliated direct lender associations as described in the Farm Credit Administration's instructions for the annual YBS yearend report. The report must include the definitions of “young,” “beginning,” and “small” farmers and ranchers. A narrative report may be necessary for an

ample understanding of the YBS mission results.

## PART 630—DISCLOSURE TO INVESTORS IN SYSTEMWIDE AND CONSOLIDATED BANK DEBT OBLIGATIONS OF THE FARM CREDIT SYSTEM

5. The authority citation for part 630 continues to read as follows:

**Authority:** Secs. 5.17, 5.19 of the Farm Credit Act (12 U.S.C. 2252, 2254).

### Subpart B—Annual Report to Investors

6. Amend § 630.20 by adding a new paragraph (p) to read as follows:

#### § 630.20 Contents of the annual report to investors.

\* \* \* \* \*

(p) *Credit and Services to young, beginning, and small farmers and ranchers and producers or harvesters of aquatic products.* The Farm Credit banks must include a report on consolidated YBS lending data of their affiliated associations. The report must include the definitions of “young,” “beginning,” and “small” farmers and ranchers. A narrative report may be necessary for an ample understanding of the YBS mission results.

Dated: September 10, 2003.

**Jeanette C. Brinkley,**  
Secretary, Farm Credit Administration Board.  
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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

#### Planned Establishment of the Sanford Airport Class C Airspace Area, Sanford, FL, and Modification of the Orlando International Airport Class B Airspace Area, FL

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of public meetings.

**SUMMARY:** This document announces two fact-finding informal airspace meetings to solicit information from airspace users, and others, concerning a plan to establish a Class C airspace area at the Orlando-Sanford International Airport, Sanford, FL, and to modify the Orlando, FL, Class B airspace area. This planned establishment of a Class C airspace area is expected to increase the level of safety and efficiency in that airspace; and, the planned modification of the Class B airspace area at the

Orlando International Airport, FL, is expected to make the Orlando Class B airspace area's design more efficient and user-friendly. The planned modifications are a result of a 6-month review of the Sanford Class D airspace area and the Orlando Class B airspace area. The purpose of these meetings is to provide interested parties an opportunity to present views, recommendations, and comments on the plan to establish a Class C airspace area at the Orlando-Sanford International Airport, Sanford, FL, and the planned modification the Orlando, FL, Class B airspace area. All comments received during these meetings will be considered prior to any revision or issuance of a notice of proposed rulemaking.

**DATES:** These informal airspace meetings will be held on Thursday, November 6, 2003, from 7 p.m.–10 p.m.; and Friday, November 7, 2003, at 7 p.m.–10 p.m. Comments must be received on or before December 8, 2003.

**ADDRESSES:** On Thursday, November 6, the meeting will be held at the Orlando-Sanford International Airport, Terminal A, Vigilante Room, 1200 Red Cleveland Blvd, Sanford, FL. On Friday, November 7, the meeting will be held at the Orlando Airport Marriott, 7499 Augusta National Drive, Orlando, FL.

**Comments:** Send comments on the proposal in triplicate to: Manager, Air Traffic Division, Southern Region, ASO–500, Federal Aviation Administration, P.O. Box 20636, Atlanta, GA 30320.

**FOR FURTHER INFORMATION CONTACT:** Donna Gropper, Manager, Orlando International Airport Traffic Control Tower, Orlando International Airport, 9399 Airport Blvd., Orlando, FL, telephone (407) 852–7500.

#### SUPPLEMENTARY INFORMATION:

##### Meeting Procedures

(a) These meetings will be informal in nature and will be conducted by one or more representatives of the FAA Southern Region. A representative from the FAA will present a formal briefing on the planned establishment of a Class C airspace area at the Orlando-Sanford International Airport, Sanford, FL, and modification of the Orlando, FL, Class B airspace area. Each participant will be given an opportunity to deliver comments or make a presentation at the meetings. Only comments concerning the plan to establish a Class C at the Orlando-Sanford Airport, Sanford, FL, and to modify the Orlando, FL, Class B airspace area will be accepted.

(b) These meetings will be open to all persons on a space-available basis.